

WLK04AIP

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: **EASEMENT**

NAME OF PROPERTY OWNER OR GRANTOR: WALKER FIELD, PUBLIC AIRPORT AUTHORITY

PURPOSE: NON-EXCLUSIVE EASEMENT FOR DRAINAGE

TAX PARCEL #: 2701-234-00-940
2701-234-00-941
2705-312-00-949
2705-313-00-941

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 2004

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

EASEMENT DEED AND AGREEMENT

WALKER FIELD, COLORADO, PUBLIC AIRPORT AUTHORITY, a body corporate and politic and constituting a political subdivision of the State of Colorado ("Grantor") for good and valuable consideration, the receipt of and sufficiency of which are hereby acknowledged, hereby conveys and quitclaims to the **CITY OF GRAND JUNCTION, COLORADO**, its heirs, successors, assigns and personal representatives (hereinafter collectively referred to as "Grantee"), a **NON-EXCLUSIVE EASEMENT** (the "Easement") over the Facilities as defined herein. This Easement is subject to the following terms and conditions (including Exhibits A, B1, B2, B3, B4, C and Attachment 1, each attached hereto and incorporated herein by reference) by which Grantee agrees to abide and be bound, pursuant to its execution of this Easement Deed and Agreement in the space provided below:

- 1) **LIMITED PURPOSE.** Grantee's use of the Easement shall be strictly limited to the purpose set forth in the attached Exhibit A. The Easement shall not be used by Grantee for unrelated activities.
- 2) **LIMITED AREA.** The Easement shall not be extended for any purposes outside the Facilities boundaries set forth in the attached Exhibits B1 - B4.
- 3) **LIABILITIES AND COSTS.** All costs associated with the Easement and any liability for personal injury to Grantee, its employees, agents and invitees, or any third persons, as a result of or arising out of or relating to the use of the Easement shall be borne by Grantee.
- 4) **TITLE.** This Easement is granted without any warranty of title and is subject to all prior liens, encumbrances, easements, restrictions, reservations and rights of way affecting Grantor's property.
- 5) **EASEMENT NON-EXCLUSIVE.** This Easement shall be non-exclusive. Grantor reserves the right to utilize the Facilities for its own purposes, and to authorize other third parties to utilize the Facilities, upon such terms and conditions as the Grantor deems appropriate, provided that the use of the Facilities by Grantor, or such other third parties, shall not unreasonably interfere with the Grantee's use of said Easement and the Facilities, and further provided, that any damage to the Facilities caused by the Grantor or a third party shall be the responsibility of the Grantor or third party, respectively, to repair.
- 6) **TERM.** The Easement granted hereby shall be possessed and enjoyed by Grantee for so long as Grantee abides by the terms and conditions stated in this instrument. Should Grantee breach any of the terms and conditions of this instrument, the Grantor shall have the right to terminate the easement rights granted to Grantee hereunder, as described in more detail in Section 17, hereof. Should this Easement be terminated, either voluntarily by Grantee's and Grantor's written agreement or at Grantor's election following Grantee's default hereunder, title to all improvements that may have been installed by Grantee on, along or surrounding the Easement shall pass to Grantor, and Grantor shall be the sole and exclusive owner of said property, without paying any consideration to Grantee therefor, and free and clear of all liens and encumbrances of any kind or nature whatsoever. Should any liens or encumbrances burden these improvements at said time, Grantee shall be responsible for discharging, and shall hold Grantor harmless from, said liens and encumbrances.
- 7) **CONSIDERATION.** Grantee shall pay all expenses connected with the cost of construction and maintenance of the Independent Ranchman's Detention Basin and the Leach Creek Detention Basin. Also as consideration for entering this Agreement, Grantor shall have the right to impound up to 30.5 acre feet of storm water in the Independent Ranchman's Detention Basin for the duration of this Agreement. Grantor will not be responsible for payment

to Grantee for any expenses in connection with construction or maintenance of the Facilities. The Facilities shall be constructed by Grantee at Grantee's sole cost. The real estate on which the Facilities are located shall remain the sole property of Grantor, subject to Grantee's rights as set forth in this Agreement. Full and faithful performance of the various promises, conditions, terms and covenants of this Agreement are acknowledged by the parties to be due and adequate consideration. Grantee shall not impose or exact any fees (including a drainage impact fee) or charges on or from Grantor as a result of any activity contemplated by this agreement.

8) **JURISDICTION.** The Facilities are within the Aircraft Operations Area (AOA) of Grantor. The Facilities shall be under the jurisdiction of Grantee for the purposes of constructing, operating, maintaining, altering or otherwise changing a Facility, and the Facilities shall be under the sole jurisdiction of Grantor for the purpose of administering aircraft overflight, and airport operations and the management of same.

9) **AUTHORITY'S RIGHT TO IMPOUND WATER.** Grantor reserves the right to impound up to 30.5 acre feet of water in the Independent Ranchman's Detention Basin, as needed, for the control of storm water drainage generated on or passing through Grantor property for the duration of this Agreement.

10) **USER SAFETY.** Grantee recognizes that Grantor's primary concern is the safety of users of the Airport; thus, consistent with FAA Advisory Circular AC150/5200-33, as it may be amended from time to time, Grantee will, at Grantee's expense, ensure that the Facilities shall NOT be allowed to become a bird and wildlife attractant beyond the quantity and type of birds and wildlife present prior to the construction of the detention basins ("Wildlife Attractant") as determined by the FAA and described in more detail in Section 16.f. hereof.

11) **ACCESS.** Because the Facilities are in the AOA, Grantee shall (other than during an emergency) coordinate its access to and from the Facilities with Grantor, and observe Grantor's rules and regulations concerning vehicle and equipment operation in the AOA. Other specific responsibilities of Grantee and Grantor shall be stated in the Operation and Maintenance Manual attached hereto as Exhibit C, which describes the Facilities and the routine and emergency operation and maintenance of the same. This Easement confers to the Grantee a right of reasonable and continuous access to the Facilities, subject to applicable provisions of this Agreement. The Grantor may change the access, subject to the requirement of reasonable and continuous access by the Grantee. Access may be changed by the Grantor only after providing written notice to the Grantee.

12) **RELOCATION.** The Grantor reserves the right to relocate any part or all of the Facilities and related equipment and facilities and the Easement granted by this Easement and Agreement in its sole discretion. Any relocation of part or all of the Facilities or related equipment or facilities pursuant to this Section 12 will be at the Grantor's expense and after such relocation, the total capacity and functionality of the Facilities will be, in all material respects, the same as prior to such relocation.

13) **AGREEMENT.** This Agreement shall commence on signature. The rights, obligations and benefits provided hereunder shall accrue to the parties and their successors in

interest as provided herein until the Agreement is amended, if ever, in writing by the parties or terminated as provided herein.

14) **DEFINITION OF "FACILITY" AND "FACILITIES"**. For the purposes of this Agreement, the terms "Facility" and "Facilities" mean the Leach Creek Detention Basin, the Independent Ranchman's Detention Basin, and any pipe, inlet, grate, manhole, box, dam, spillway, drainage way or other physical improvement associated with, constructed or connected to such detention basins. A Facility does not mean any future storm water ponds, basins or improvements now contemplated, designed or later constructed by Grantor as depicted or described in Grantor's 2003 Airport Master Plan Update. The legal description of the Facilities appears at Exhibit B1 and B2 attached hereto.

15) **DESIGN**. As limited by Section 22 hereof, the Facilities are expressly designed and constructed for the benefit of areas that are downstream of the Airport in the Leach Creek and Independent Ranchman's drainages and the future storm water drainage needs of Grantor. Grantor acknowledges that it has or may have independent duties under federal and or state law to control, monitor and discharge storm water from other improvements. Each Facility is intended to improve 100-year storm event flood protection. The Leach Creek Detention Basin shall impound no less than 32.66 acre feet of water. The Independent Ranchman's Detention Basin shall impound no less than 51.45 acre feet of water, 30.5 acre feet of which is for the direct use and benefit of Grantor. The design for each Facility is shown on Exhibits B1 (Leach Creek) and B2 (Independent Ranchman's). Before construction may begin on the Facilities, Grantee shall have received approval of the relevant design plans from the FAA, the City of Grand Junction and any other governmental authority with jurisdiction over the Facilities, including state and federal entities.

16) **OPERATION AND MAINTENANCE**. Grantee will operate and maintain the Facilities in accordance with an Operations and Maintenance Manual which is incorporated by this reference as if fully set forth. The essential principles of that manual, which is Exhibit C to this Agreement, are:

a) **Security and Safety**. Grantee recognizes that security for the Airport is important as well as overall knowledge of operations within or near the Airport. Except in an emergency, Grantee shall notify Grantor by telephone, email or mail at least one day prior to visiting the sites and at least three days prior to any minor maintenance activities and twenty-one (21) days prior to any major earth moving activities. Grantor shall have the right to impose any other safety or security measures it deems appropriate.

b) **Silt and Sediment**. Grantee shall not permit silt/sediment to accumulate such that it impairs the operational capability or integrity of the Facilities. Grantee shall generally maintain the Facilities so that the soil is not regularly wet, thereby creating habitat for birds or other animals.

c) **Outlets**. Grantee shall maintain the Facilities' outlet structures to allow for them to function as designed.

d) **Trash and Debris.** Grantee shall regularly remove trash and other debris that accumulates on or around the Facilities.

e) **Vegetation.** Grantee shall cut and otherwise take all necessary action to inhibit the growth of vegetation in and near the Facilities. Grantee shall use best management practices to inhibit vegetation that may grow and/or accumulate as a food supply for birds or other animals.

f) **Wildlife.** The FAA may, in its sole discretion, determine that the Facilities have become a Wildlife Attractant. In the event of such determination, Grantor or the FAA shall provide Grantee written notice of such determination. Upon receiving such notice, Grantee and Grantor shall work cooperatively to evaluate available options and technologies and cooperatively develop and implement a Wildlife Hazard Management Plan which is in compliance with the FAA's standards and requirements (including timing of required mitigation) at the sole expense of Grantee. The cost of mitigation shall be borne by Grantee in accordance with this Agreement and shall be in compliance with all FAA rules, regulations and directives, including any written communications received by the Grantor or Grantee regarding the Facilities.

g) **Frequency of Maintenance Activities.**

i) **Bi-annual Inspections.** Grantee and Grantor shall meet at least bi-annually during the term of this Agreement to conduct inspections of the Facilities. Such inspections shall be conducted at times which are mutually convenient for both parties. The purposes of the bi-annual inspections are to: (1) determine whether the Facilities are functional and operational; (2) assess the condition of the Facilities to ensure Grantee has complied with its duties and obligations under the terms of this Agreement; and, (3) to develop a documented plan and scope of any work Grantee may be required to perform to comply with Grantee's duties and obligations under this Agreement.

ii) **Inspections after Rain Events.** After each rain that exceeds a 5-year event interval measured by Grantee at the outlet of each basin, Grantee shall inspect the Facilities to evaluate silt/sediment/debris buildup within five (5) working days of the event and ensure that the basins detain and drain water as designed. Grantee will install monitoring devices, such as staging rods, to measure the depth, volume, and frequency of each rain event.

h) **Requested Maintenance.** Grantor may request in writing at any time that Grantee perform scheduled or unscheduled maintenance to the Facilities. Any problem identified in Grantor's request will be corrected within five (5) working days unless an extended schedule is mutually agreed to.

i) **Hazardous Materials, Spill Prevention and Cleanup.** Grantor shall be solely responsible for the management, cleanup and remediation of any spills, releases or contamination of the Facilities that result from or as a direct or proximate cause of any of Grantor's operations. Grantee shall be solely responsible for the management,

cleanup and remediation of any spills, releases or contamination of the Facilities that result from or as a direct or proximate cause of any of Grantee's operations.

j) **Governmental Immunity.** Notwithstanding any other provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver of any provision of the Colorado Governmental Immunity Act 24-10-101, *et. seq.*, C.R.S., as now or hereafter amended. The parties hereto understand and agree that liability for claims for injuries to persons or property and other injuries which lie in tort or could lie in tort that arise out of the negligence of Grantee, Grantor, and/or their respective officers, agents and employees may be controlled and limited by the provisions of 24-10-101, *et. seq.*, C.R.S., as now or hereafter amended.

To the extent that the provisions of this Agreement conflict with the Operations and Maintenance Manual, attached as Exhibit C hereto, the provisions of this Agreement shall control.

17) **TERMINATION.**

Grantor reserves the right to terminate this Easement, at its discretion, if Grantee breaches any of the terms or conditions of this Easement or otherwise fails to perform its obligations hereunder, however, the following termination procedures shall be followed to completion before the termination becomes operative.

a. **General:** If Grantor determines that Grantee is in default under this Easement for any reason other than creating a Wildlife Attractant, Grantor shall send notice of such determination to Grantee ("Breach Notice"). The Breach Notice shall state with reasonable specificity the particular breach(es) and the required curative actions. Unless Grantee disputes the existence of the relevant breach(es) and implements the procedure identified in paragraph b. below, Grantee shall have thirty (30) days from the receipt of the Breach Notice to begin taking the curative actions specified in the Breach Notice and ninety (90) days from the receipt of the Breach Notice ("Standard Cure Period") to complete all curative actions identified in the Breach Notice.

b. **Disputed Breach:** If after receiving a Breach Notice, Grantee does not agree with Grantor that Grantee is in default under this Easement, then the parties shall submit their dispute to the Judicial Arbiter Group, Inc. or a similar non-judicial entity ("Arbiter") for resolution. The parties agree that if a dispute regarding breach of this Easement is submitted to an Arbiter, such Arbiter's determination of whether there was in fact a breach of this Easement will be final and non-appealable.

c. **Timing:** If at the conclusion of the Standard Cure Period, ninety (90) days after an Arbiter has determined Grantee has breached this Agreement or at a date determined by the Arbiter ("Arbiter Cure Period"), breach(es) identified in the Breach Notice or by the Arbiter, as appropriate, have not been cured, the Grantor may send a notice of termination ("Termination Notice") to Grantee. The Termination Notice shall state the date on which this Easement is terminated ("Termination Date"). This Easement shall not in fact terminate until such time after the Termination Date that Grantor has fully drawn down all funds available pursuant to the Performance Bond and applied the same to cure the relevant breach(es) ("Final Termination Date").

d. **Wildlife Attractant:** Irrespective of any other provision herein, if the FAA determines any aspect of the Facilities has become a Wildlife Attractant and provides notice of such to the Grantor and/or Grantee, and Grantee does not mitigate the problem to the FAA's satisfaction in all respects, including timing of the mitigation, then this Easement shall immediately terminate.

e. **Mutual Termination:** The parties may also mutually agree to terminate this Easement.

18. **PERFORMANCE BOND.** Grantee shall post for the benefit of the Grantor a 50 year \$100,000 performance bond ("Performance Bond") as a source of funds for Grantee to draw upon if a Termination Date is reached. If a Termination Date is reached, Grantor shall draw upon the Performance Bond as an initial source of funds for all of its costs (including attorney and other professional fees) in providing cover, mitigation, remediation and enforcement of this Agreement in connection with the relevant breach(es) before and after any Standard Cure Period or Arbiter Cure Period. If Grantor draws upon the Performance Bond, Grantor shall provide Grantee with reasonable notice of the Final Termination Date. If the Performance Bond is insufficient to satisfy the obligations running from Grantee to Grantor, the remaining obligations after the Performance Bond is fully drawn remain valid obligations of the Grantee.

19. **PROJECTS.** From time to time there may be projects related to the Facilities which Grantee and Grantor agree to install cooperatively. Separate agreements for such projects may include this Agreement by reference.

20. **INDEMNIFICATION.** Grantee shall protect, defend, indemnify and hold Grantor, its officers, employees, boards, agents (including Grantor's agents performing maintenance on the Facilities or related acts after the Grantee breaches this Easement), and commissions, harmless from and against any and all liabilities, demands, suits, claims, losses, fines, judgments or other legal proceedings arising by reason of injury of any type including claims related to water rights violations or water damages, a violation of rights or death of any person or damage to any property, including all reasonable costs from investigation and defense thereof (including but not limited to attorney fees, court costs, and expert fees), of any nature whatsoever in any way arising out of or connection with or resulting from the exercise by Grantee of any of the rights granted hereunder, or failure to perform any obligations hereunder regardless of where injury, death or damage may occur. This indemnity provision shall not create any third party rights and shall not be interpreted as a waiver by Grantor of any immunities or limitations on damages available to Grantor pursuant to federal or state law.

21. **NOTICES.** Notices concerning this Agreement shall be made in writing by Grantee to Grantor at 2828 Walker Field Drive, Suite 301, Grand Junction, CO 81506 and by Grantor to Grantee at 250 North 5th Street, Grand Junction, Colorado 81501 with a copy to the Office of the City Attorney at 250 North 5th Street, Grand Junction, Colorado 81501, by prepaid United States mail, return receipt requested. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service.

22. **NO THIRD PARTY BENEFICIARIES.** The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to Grantee and Grantor and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of Grantee and Grantor that any other person or entity other than Grantor or Grantee receiving any benefits from this Agreement shall be deemed to be incidental beneficiaries only.

23. **CHOICE OF LAW/CHOICE OF VENUE.** This Agreement shall be deemed to have been made in, and shall be construed and interpreted in accordance with the laws of the State of Colorado. Any action brought under or arising out of this Agreement shall be brought in the Mesa County District Court or in the United States District Court for the District of Colorado, except as provided in Section 17, hereof.

24. **AUTHORITY.** The persons signing this Agreement are authorized to sign and bind the entity for which they sign. The provisions of this Agreement are not mere recitals but are contractual in nature.

DATED: 4-20-04.

WALKER FIELD, COLORADO, PUBLIC AIRPORT AUTHORITY

Date: 4-21-04

By Miles C. McCormack
 Its Chairman

STATE OF COLORADO)
) ss.
 COUNTY OF MESA)

Acknowledged before me this 21st day of April, 2004, by Miles C. McCormack on behalf of Walker Field, Colorado, Public Airport Authority, a body corporate and politic and constituting a political subdivision of the State of Colorado.

Witness my hand and official seal.
 My commission expires: ~~My Commission Expires 10/31/2005~~

[Signature]

 Notary Public

SIGNATURES CONTINUED ON NEXT PAGE.

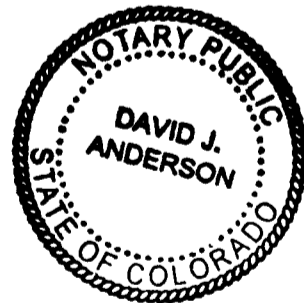


EXHIBIT A
PURPOSE, BOUNDARY AND DESIGN

The Easement being granted will encumber the Facilities for the purpose of allowing Grantee to enter onto the Facilities to: (a) construct a new detention basin for the purposes of detaining storm water within a natural tributary known as Leach Creek ("Leach Creek Detention Basin") with a design detaining capacity of 32.66 acre feet of storm water as depicted on the attached Exhibit B1; (b) enlarge the storm water detaining capacity of an existing detention basin which has been previously constructed and maintained by Grantor ("Independent Ranchman's Detention Basin") from its current detaining capacity of 5.3 acre feet of storm water to a design detaining capacity of 51.45 acre feet of storm water as depicted on the attached Exhibit B2; (c) install and maintain inlets, outlets, piping, grates, manholes, dams, spillways and other physical improvements necessary or appropriate for the prudent and proper operation of the Facilities and (d) to perform both scheduled and unscheduled maintenance of the Facilities.

All of these activities will be undertaken by Grantee at Grantee's sole expense. The Leach Creek Detention Basin is located approximately 2500 feet northwest of the west end of Runway 11/29 as shown on Exhibit B3. The Independent Ranchman's Detention Basin is located approximately 900 feet northwest of Runway 4/22 as shown on Exhibit B4. The Independent Ranchman's Detention Basin and the Leach Creek Detention Basin consist of a total of 29.99 acres (14.72 acres located in the Leach Creek Detention Basin, and 14.267 acres located in the Independent Ranchman's Detention Basin). The Facilities are outlined on the attached Exhibits B1 - B4.

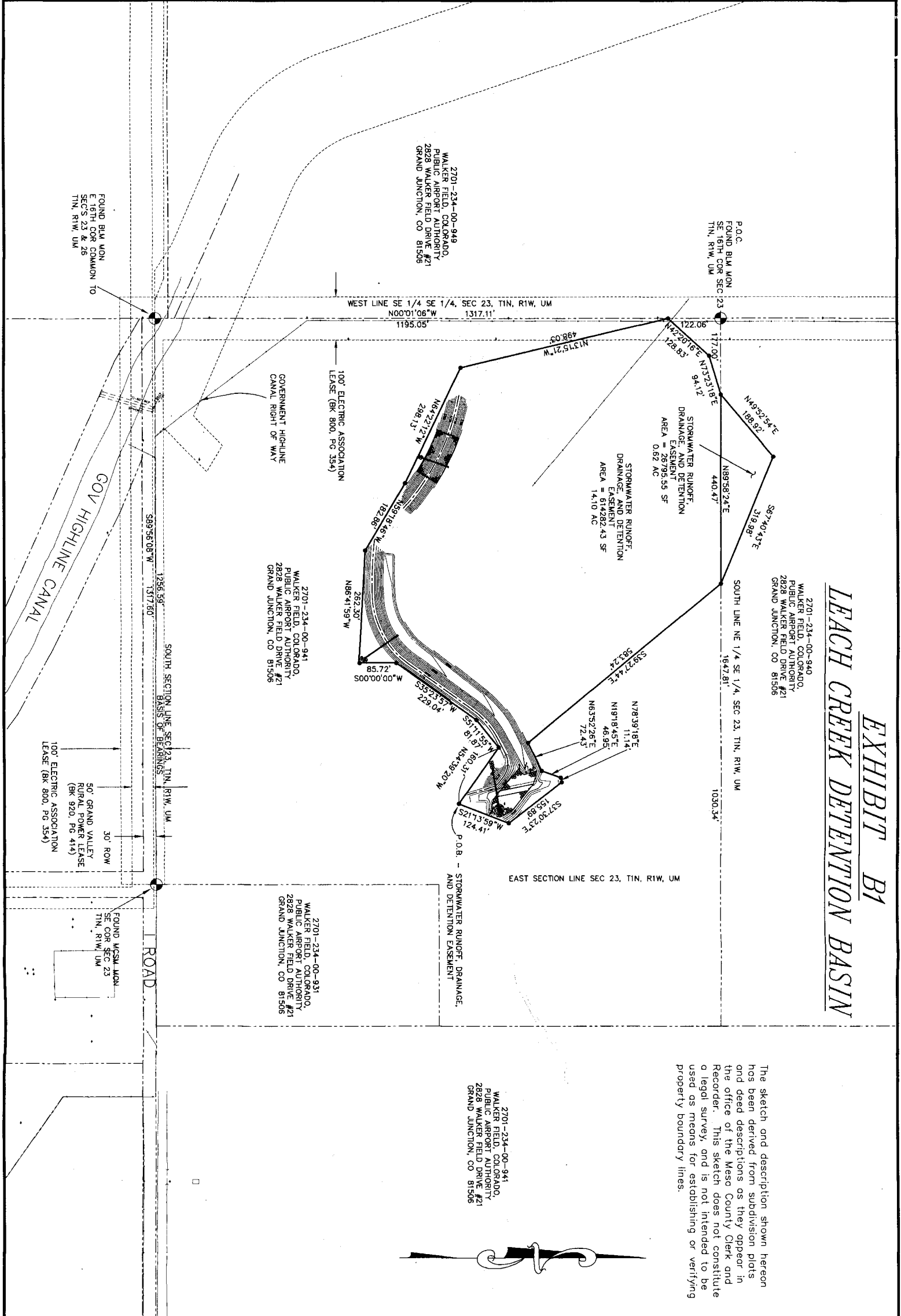
EXHIBIT B1
LEACH CREEK DETENTION BASIN

RECORDER'S NOTE :
THE FOLLOWING PAGE(S)
ARE OVERSIZE

Book 3641 Page(s) 795

Of Reception # 2189351

EXHIBIT B1 LEACH CREEK DETENTION BASIN



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 means for establishing or verifying property boundary lines.



DRAWN BY: JCS
 DATE: 2-27-03
 SCALE: 1" = 200'
 APPR. BY: IW
 1-03 basin.dwg

**LEACH CREEK
 DETENTION BASIN
 EASEMENT DESCRIPTION MAP**

**DEPARTMENT OF PUBLIC WORKS
 ENGINEERING DIVISION
 CITY OF GRAND JUNCTION**

EXHIBIT B3
LEACH CREEK DETENTION BASIN
AND RUNWAY 11/29

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 means for establishing or verifying property boundary lines.



2500' ±

RUNWAY 11/29

DRAWN BY: JCS
 DATE: 2-27-03
 SCALE: 1" = 300'
 APPR. BY: JW
 1-03 basin.dwg

LEACH CREEK
DETENTION BASIN
EASEMENT DESCRIPTION MAP

DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION
CITY OF GRAND JUNCTION

EXHIBIT B1
LEACH CREEK DETENTION BASIN
Description of Easement

The following described Easement is situate in and a part of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ ("SE $\frac{1}{4}$ SE $\frac{1}{4}$ ") and the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ ("NE $\frac{1}{4}$ SE $\frac{1}{4}$ ") of Section 23, Township 1 North, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado. The Basis of Bearings is S 89°56'08" W a distance of 1,317.60 feet between the found Mesa County Brass Cap Survey Marker set for the Southeast corner of said Section 23 and the found BLM Brass Cap Survey Marker set for the East 1/16th corner common to said Section 23 and Section 26, all in Township 1 North, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado.

Commencing at the found Mesa County Survey Marker set for the Southeast corner of Section 23, Township 1 North, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado; thence S 89°56'08" W along the South line of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 23 a distance of 50.82 feet; thence leaving the South line of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 23, N 11°03'36" W a distance of 717.78 feet to the Point of Beginning;

1. thence N 54°39'20" W a distance of 160.31 feet;
2. thence S 51°11'55" W a distance of 81.87 feet;
3. thence S 35°23'57" W a distance of 229.04 feet;
4. thence S 00°00'00" W a distance of 85.72 feet;
5. thence N 86°41'59" W a distance of 262.30 feet;
6. thence N 59°18'46" W a distance of 182.86 feet;
7. thence N 64°22'12" W a distance of 298.13 feet;
8. thence N 13°15'21" W a distance of 498.03 feet to a point on the West line of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 23 from whence the found BLM Monument set for the SE 1/16th corner of said Section 23 bears N 00°01'06" W a distance of 122.06 feet;
9. thence leaving the West line of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 23, N 42°20'16" E a distance of 128.83 feet;
10. thence N 73°23'18" E a distance of 94.12 feet to a point on the South line of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 23 from whence the found BLM Monument set for the SE 1/16th corner of said Section 23 bears S 89°58'24" W a distance of 177.00 feet;
11. thence leaving the South line of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 23, N 49°52'54" E a distance of 188.92 feet;
12. thence S 67°40'43" E a distance of 319.98 feet to a point on the South line of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 23;
13. thence leaving the South line of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 23, S 39°27'44" E a distance of 583.24 feet;
14. thence N 63°52'26" E a distance of 72.43 feet;
15. thence N 19°18'45" E a distance of 46.95 feet;

16. thence N $78^{\circ}39'18''$ E a distance of 11.14 feet;
17. thence S $37^{\circ}30'23''$ E a distance of 155.89 feet;
18. thence S $21^{\circ}13'59''$ W a distance of 124.41 feet to the Point of Beginning,
containing 14.72 acres, more or less, as described.

EXHIBIT B2
INDEPENDENT RANCHMAN'S DETENTION BASIN
Description of Easement

The following described Easement is situate in and a part of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ ("NW $\frac{1}{4}$ SW $\frac{1}{4}$ ") and the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ ("SW $\frac{1}{4}$ NW $\frac{1}{4}$ ") of Section 31, Township 1 North, Range 1 East of the Ute Meridian, County of Mesa, State of Colorado. The Basis of Bearings is N 89°51'16" W a distance of 1,316.06 feet between the found Mesa County Brass Cap Survey Marker set for the C-W 1/16th corner of said Section 31 and the found Mesa County Brass Cap Survey Marker set for the West $\frac{1}{4}$ corner of said Section 31, all in Township 1 North, Range 1 East of the Ute Meridian, County of Mesa, State of Colorado.

Beginning at the found Mesa County Survey Marker set for the C-W 1/16th corner of Section 31, Township 1 North, Range 1 East of the Ute Meridian, County of Mesa, State of Colorado, the Point of Beginning;

1. thence S 00°02'40" W along the East line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 31 a distance of 214.47 feet;
2. thence leaving the East line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 31, S 79°04'06" W a distance of 276.41 feet;
3. thence N 86°20'12" W a distance of 107.73 feet;
4. thence S 45°27'23" W a distance of 338.98 feet;
5. thence S 19°43'49" W a distance of 126.67 feet;
6. thence 145.58 feet along the arc of a curve concave to the Northwest, having a radius of 100.00 feet, a central angle of 83°24'32", and a long chord bearing S 61°26'05" W a distance of 133.06 feet;
7. thence N 76°51'39" W a distance of 118.91 feet;
8. thence N 16°17'35" W a distance of 151.65 feet;
9. thence N 16°51'23" E a distance of 410.54 feet;
10. thence N 03°20'42" E a distance of 117.41 feet to a point on the South line of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 31 from whence the West $\frac{1}{4}$ corner of said Section 31 bears N 89°51'16" W a distance of 503.32 feet;
11. thence leaving the South line of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 31, N 16°54'04" E a distance of 112.58 feet;
12. thence 287.73 feet along the arc of a non-tangent curve concave to the West, having a radius of 562.96 feet, a central angle of 29°17'03", and a long chord bearing N 02°15'32" E a distance of 284.61 feet;
13. thence N 60°53'01" E a distance of 291.75 feet;
14. thence S 41°10'55" E a distance of 189.44 feet;
15. thence 157.48 feet along the arc of a curve concave to the Northeast, having a radius of 185.00 feet, a central angle of 48°46'25", and a long chord bearing S 65°34'08" E a distance of 152.77 feet;

16. thence S 89°57'20" E a distance of 200.34 feet;
17. thence N 63°28'46" E a distance of 55.90 feet to a point on the East line of the SW¼ NW¼ of said Section 31;
18. thence S 00°02'40" W along the East line of the SW ¼ NW ¼ of said Section 31 a distance of 355.17 feet to the Point of Beginning,

containing 15.181 acres, more or less, as described.

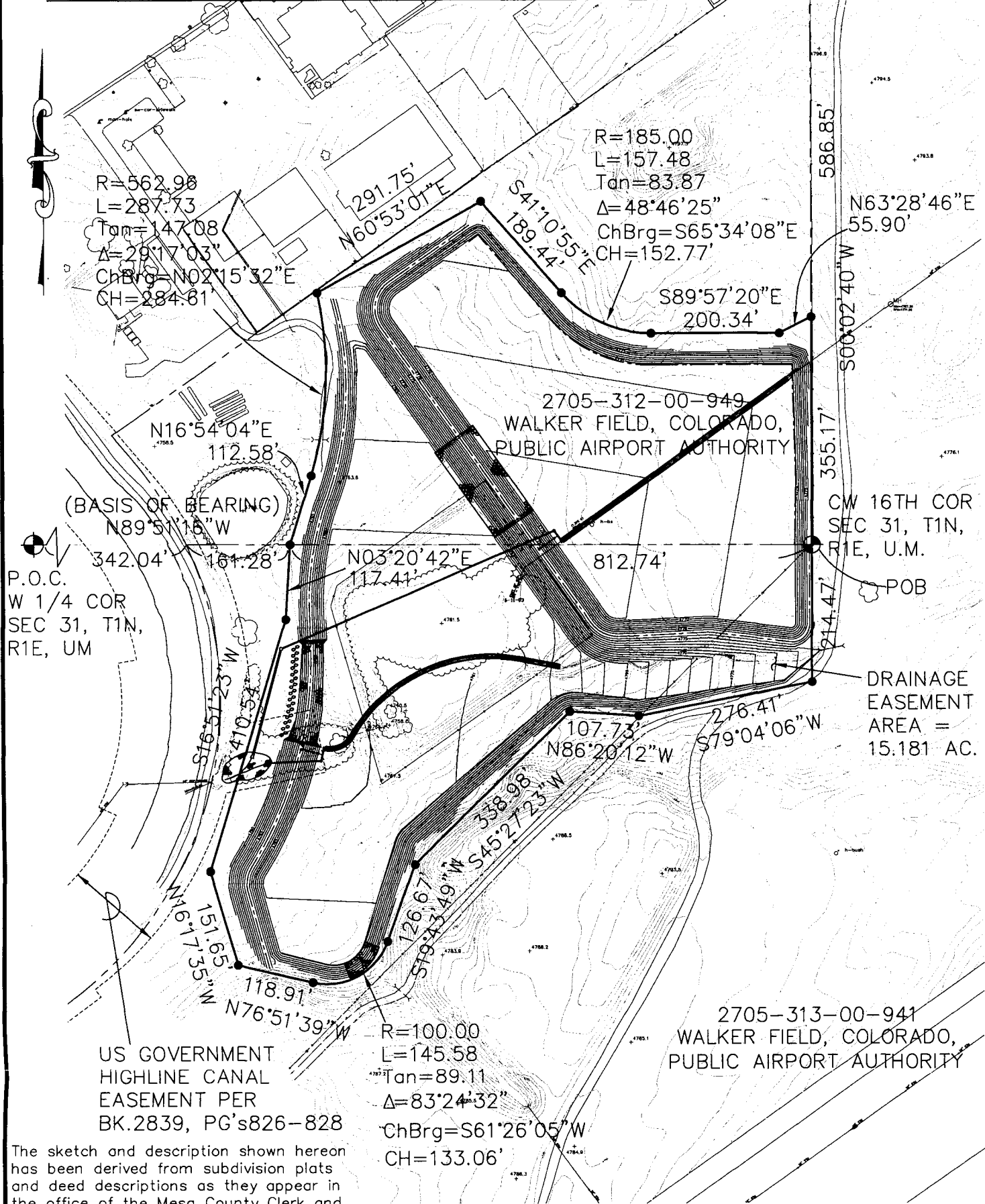
RECORDER'S NOTE :
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ARE OVERSIZE

Book 364 | Page(s) 802

Of Reception # 2189351

EXHIBIT B2

INDEPENDENT RANCHMAN'S DETENTION BASIN



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 means for establishing or verifying property boundary lines.

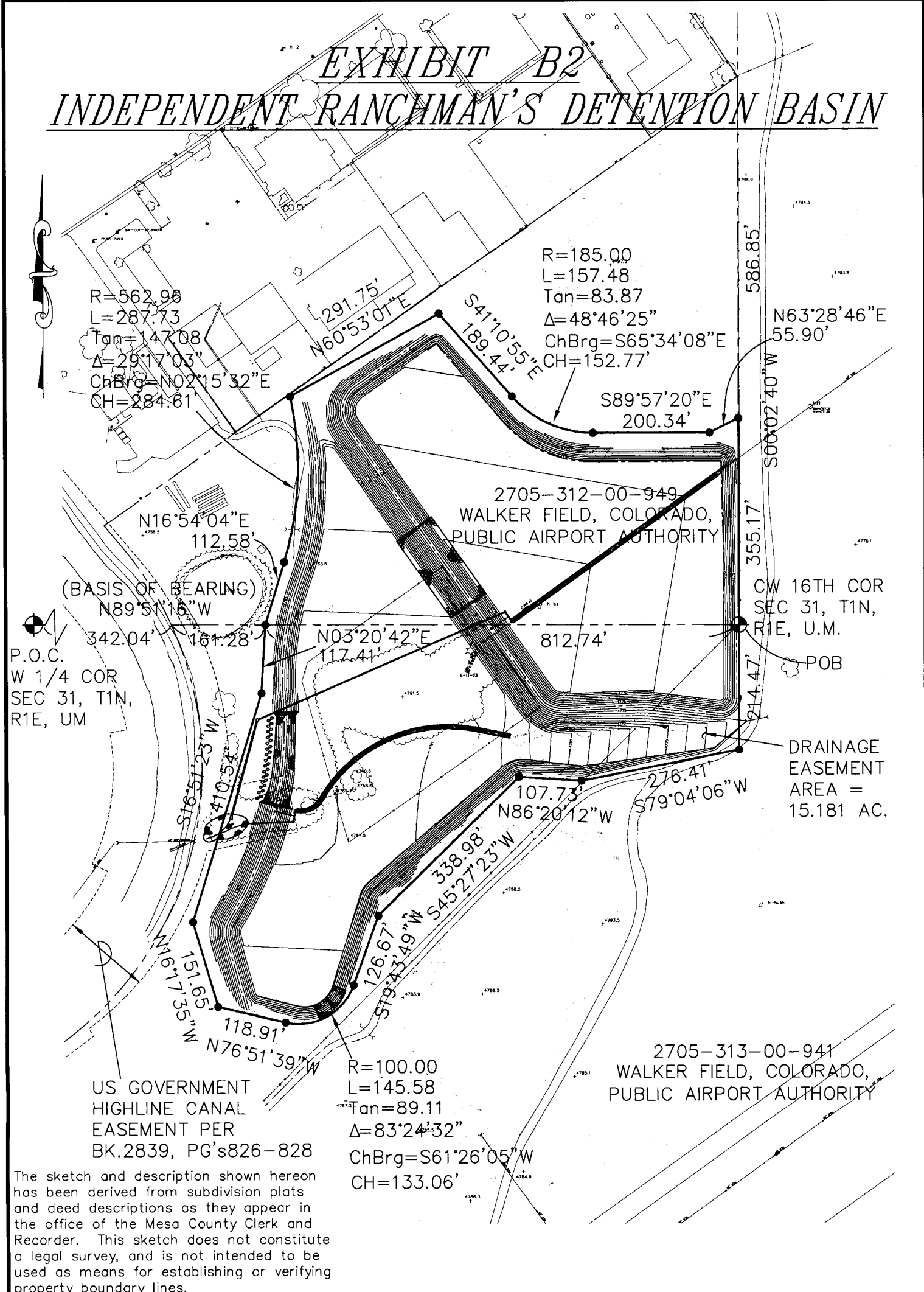
DRAWN BY: JCS
 DATE: 3-11-2004
 SCALE: 1" = 200'
 APPR. BY: TW
 des 6-11-03.dwg

EASEMENT DESCRIPTION MAP

DEPARTMENT OF PUBLIC WORKS
 ENGINEERING DIVISION
 CITY OF GRAND JUNCTION
 PAGE 1

EXHIBIT B2

INDEPENDENT RANCHMAN'S DETENTION BASIN



R=562.98
L=287.73
Tan=147.08
Δ=29°17'03"
ChBrg=N02°15'32"E
CH=284.61

R=185.00
L=157.48
Tan=83.87
Δ=48°46'25"
ChBrg=S65°34'08"E
CH=152.77

N16°54'04"E
112.58'
(BASIS OF BEARING)
N89°51'16"W

P.O.C.
W 1/4 COR
SEC 31, T1N,
R1E, UM

CW 16TH COR
SEC 31, T1N,
R1E, U.M.
POB

DRAINAGE
EASEMENT
AREA =
15.181 AC.

US GOVERNMENT
HIGHLINE CANAL
EASEMENT PER
BK.2839, PG's826-828

R=100.00
L=145.58
Tan=89.11
Δ=83°24'32"
ChBrg=S61°26'05"W
CH=133.06'

2705-313-00-941
WALKER FIELD, COLORADO,
PUBLIC AIRPORT AUTHORITY

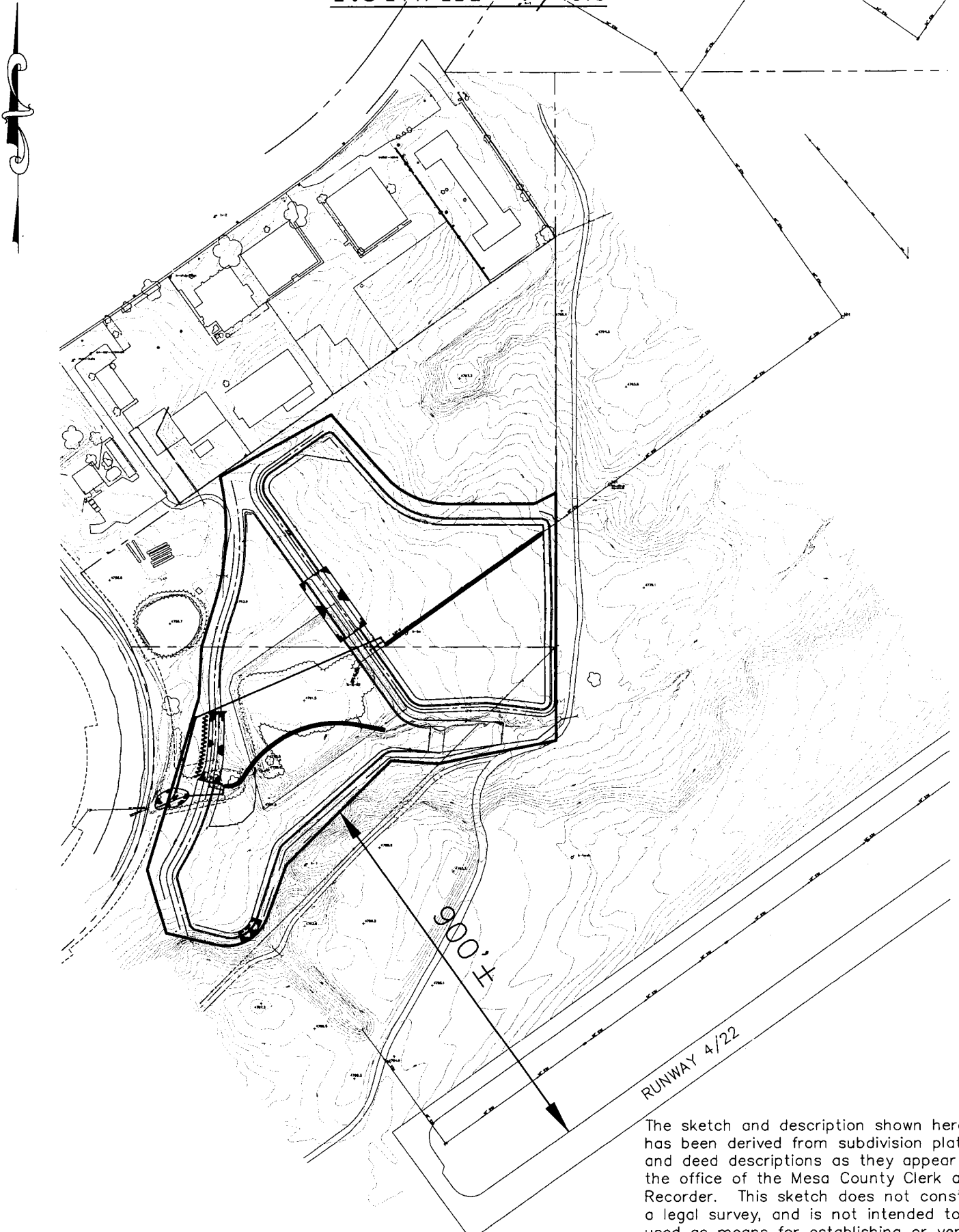
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DRAWN BY: JCS
DATE: 3-11-2004
SCALE: 1" = 200'
APPR. BY: IW
des 6-11-03.dwg

EASEMENT DESCRIPTION MAP

DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION
CITY OF GRAND JUNCTION
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EXHIBIT B4
INDEPENDENT RANCHMAN'S DETENTION BASIN
RUNWAY 4/22



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 means for establishing or verifying property boundary lines.

DRAWN BY: JCS
 DATE: 3-11-2004
 SCALE: 1" = 300'
 APPR. BY: JW
 des 6-11-03.dwg

RIGHT-OF-WAY DESCRIPTION MAP

DEPARTMENT OF PUBLIC WORKS
 ENGINEERING DIVISION
 CITY OF GRAND JUNCTION

EXHIBIT C
OPERATIONS AND MAINTENANCE MANUAL

**City of Grand Junction
Operation and Maintenance Manual for
Leach Creek and Independent Ranchman's Ditch Detention Basins
At Walker Field Airport**

OPERATION AND MAINTENANCE. The City of Grand Junction (City) will operate and maintain the Facilities in accordance with this Operations and Maintenance Manual.

FACILITIES. The Facilities in this manual are defined as two stormwater detention facilities with a total capacity of 84.1 acre-feet located on Walker Field Airport Authority (WFAA) property, as shown on Exhibits B1 and B2 to the Easement Deed and Agreement.

AGREEMENT. The City will operate and maintain the Facilities associated with the Detention Basins in accordance with this manual and the Easement Deed and Agreement between the City of Grand Junction and the Walker Field Airport Authority.

a) **Security and Safety.** The City recognizes that security for the Airport is important as well as overall knowledge of operations within or near the Airport. Except in an emergency, the City shall notify WFAA by telephone, email or mail at least one day prior to visiting the sites and at least three days prior to any minor maintenance activities and twenty-one (21) days prior to any major earth moving activities. WFAA shall have the right to impose any other safety or security measures it deems appropriate.

b) **Silt and Sediment.** The City shall not permit silt/sediment to accumulate such that it impairs the operational capability or integrity of the Facilities. The City shall generally maintain the Facilities so that the soil is not regularly wet, thereby creating habitat for birds or other animals.

c) **Outlets.** The City shall inspect the outlet works including all trash racks, inlets, manholes, valves, valve operation systems, gates, spillways and pipes to ensure that all of the above are in good working order. All valves and gates shall be tested to ensure that they are functioning properly.

d) **Trash and Debris.** All trash and debris that has accumulated in the basins, on the trash racks, spillways, and at any other location within the detention basins shall be collected and hauled to the County landfill.

e) **Vegetation.** The City shall cut and otherwise take all necessary action to inhibit the growth of vegetation in and near the Facilities. The City shall use best management practices to inhibit vegetation that may grow and/or accumulate as a food supply for birds or other animals.

f) **Wildlife.** The FAA may, in its sole discretion, determine that the Facilities have become a Wildlife Attractant. In the event of such determination, WFAA or the FAA shall provide the City written notice of such determination. Upon receiving such notice, the City and WFAA shall work cooperatively to evaluate available options and technologies and cooperatively develop and implement a Wildlife Hazard Management Plan which is in compliance with the FAA's standards and requirements (including timing of required mitigation) at the sole expense of the City. The cost of mitigation shall be borne by the City in accordance with this Easement Deed and Agreement and shall be in compliance with all FAA rules, regulations and directives, including any written communications received by the WFAA or the City regarding the Facilities.

g) Frequency of Maintenance Activities.

i) **Bi-annual Inspections.** The City and WFAA shall meet at least bi-annually during the term of this Agreement to conduct inspections of the Facilities. Such inspections shall be conducted at times which are mutually convenient for both parties. The purposes of the bi-annual inspections are to: (1) determine whether the Facilities are functional and operational; (2) assess the condition of the Facilities to ensure the City has complied with its duties and obligations under the terms of this Easement Deed and Agreement; and, (3) to develop a documented plan and scope of any work the City may be required to perform to comply with the City's duties and obligations under the Easement Deed and Agreement and/or this Manual.

ii) **Inspections after Rain Events.** After each rain that exceeds a 5-year event interval measured by the City at the outlet of each basin, the City shall inspect the Facilities to evaluate silt/sediment/debris buildup within five (5) working days of the event and ensure that the basins detain and drain water as designed. The City will install monitoring devices, such as staging rods, to measure the depth, volume, and frequency of each rain event. The inspection will also evaluate all inlets, pipes, valves, and other appurtenances.

h) **Requested Maintenance.** WFAA may request in writing at any time that the City perform scheduled or unscheduled maintenance to the Facilities. Any problem identified in WFAA's request will be corrected within five (5) working days unless an extended schedule is mutually agreed to.

i) **Hazardous Materials, Spill Prevention and Cleanup.** WFAA shall be solely responsible for the management, cleanup and remediation of any spills, releases or contamination of the Facilities that result from or as a direct or proximate cause of any of WFAA's operations. The City shall be solely responsible for the management, cleanup and remediation of any spills, releases or contamination of the Facilities that result from or as a direct or proximate cause of any of the City's operations.

j) **Governmental Immunity.** Notwithstanding any other provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver of any provision of the Colorado Governmental Immunity Act 24-10-101, *et. seq.*, C.R.S., as now or hereafter amended. The parties hereto understand and agree that liability for claims for injuries to persons or property and other injuries which lie in tort or could lie in tort that arise out of the negligence of the City, WFAA, and/or their respective officers, agents and employees may be controlled and limited by the provisions of 24-10-101, *et. seq.*, C.R.S., as now or hereafter amended.

k) **Maintenance Report.** Within 5 working days of the conclusion of the inspections and maintenance work, the City shall provide a written report to the WFAA documenting the conditions that were observed, a summary of all maintenance and repair activities performed, and observations regarding the presence or absence of any wildlife or wildlife activity.

ATTACHMENT 1

DEFINITIONS

In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings unless the context or use indicates another or different meaning or intent and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Airport" shall mean the Walker Field Airport and all areas under the jurisdiction of the Grantor.

"AOA" shall mean Aircraft Operations Area.

"Arbiter" shall have the meaning set forth in Section 17 hereof.

"Arbiter Cure Period" shall have the meaning set forth in Section 17 hereof.

"Breach Notice" shall have the meaning set forth in Section 17 hereof.

"FAA" shall mean the Federal Aviation Administration.

"Facility" or **"Facilities"** shall have the meaning set forth in Section 14 hereof.

"Final Termination Date" shall have the meaning set forth in Section 17 hereof.

"Grantee" shall mean the City of Grand Junction, Colorado.

"Grantor" shall mean the Walker Field, Colorado, Public Airport Authority, a political subdivision of the State of Colorado.

"Independent Ranchman's Detention Basin" shall have the meaning set forth in Exhibit B2 attached hereto.

"Leach Creek Detention Basin" shall have the meaning set forth in Exhibit B1 attached hereto.

"Performance Bond" shall have the meaning set forth in Section 18 hereof.

"Standard Cure Period" shall have the meaning set forth in Section 17 hereof.

"Termination Date" shall have the meaning set forth in Section 17 hereof.

"Termination Notice" shall have the meaning set forth in Section 17 hereof.

"Wildlife Attractant" shall have the meaning set forth in Section 16 hereof.