

RESOLUTION NO. 45-93

AUTHORIZING OUTDOOR BUDDIES, INC. TO
CONDUCT ITS DISABLED HUNTING PROGRAM ON CITY PROPERTY

WHEREAS, the City of Grand Junction is the owner of a certain tract of land in the County of Mesa, State of Colorado, commonly known as the "Anderson Ranch"; and

WHEREAS, Outdoor Buddies, Inc., a Colorado non-profit corporation, conducts a program of providing hunting experiences to physically disabled individuals through its Disabled Hunters Program and wishes to use the Anderson Ranch Property for the hunting of deer and elk during the 1993 big game hunting season as defined by the Colorado Division of Wildlife; and

WHEREAS, The City Council has determined that such action will serve the dual purpose of managing the population of deer and elk on the Property and of providing physically disabled individuals in the community with the experience of hunting.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

That the City Manager, on behalf of the City and as the act of the City, is hereby authorized and directed to execute the attached Permit granting Outdoor Buddies, Inc., a non-exclusive right to use the Anderson Ranch Property for its Disabled Hunting Program during the 1993 big game hunting season as defined by the Colorado Division of Wildlife.

PASSED and ADOPTED this 7th day of July, 1993.

/s/ Reford C. Theobald
President of the Council

Attest:

Stephanie Nye
City Clerk

PERMIT

THIS PERMIT is issued this ____ day of July, 1993, by the City of Grand Junction, a Colorado home rule municipality, hereinafter referred to as "the City", to Outdoor Buddies, Inc., a Colorado non-profit corporation, hereinafter referred to as "the Permittee", subject to and limited by the provisions hereinafter set forth.

RECITALS:

A. The City is the owner of that certain real property situated in the County of Mesa, State of Colorado, as shown on Exhibit A which is attached hereto and incorporated herein by reference, commonly known as the Anderson Ranch and hereinafter referred to as "the Property".

B. The Permittee represents that it is a charitable organization that conducts a program of providing hunting experiences to physically disabled individuals ("Disabled Hunting Program") and wishes to use the Property for its Disabled Hunting Program for the hunting of deer and elk during the 1993 big game hunting season as defined by the Colorado Division of Wildlife ("CDOW").

C. The City is willing to issue this Permit, subject to the following terms and conditions:

1. The City hereby grants to the Permittee a non-exclusive privilege to use and occupy the Property for its Disabled Hunting Program during the 1993 big game hunting season, as defined by the CDOW.

2. The Permittee is not required to pay a fee for the privilege herein granted.

3. This Permit shall be limited to and for the sole purpose of allowing physically disabled hunters in the Disabled Hunters Program to enter upon the Property accompanied by able-bodied non-hunting companions, for the purpose of hunting big game during the 1993 big game hunting season. Each such hunter shall possess a physically disabled hunter permit issued by the CDOW.

4. The Permittee agrees to:

a. Use reasonable care in the use of the Property and to keep the Property free from all litter, debris, and human waste, and to not allow any such human waste to remain upon the surface of the ground or to enter into any water course or water way, including, but not limited to, streams, creeks, ponds, springs, ditches and reservoirs.

b. Upon the expiration of this permit, surrender and deliver the Property to the City in as good a condition as when the Permittee entered the Property, or better.

c. Prior to its use of or presence on the Property, the Permittee shall deliver to the City a waiver, hold harmless and indemnity agreement prepared by the City and executed by each such hunter which provides that each hunter agrees to waive and forego any claim, cause of action or demand the Permittee may have against the City, its officers, employees and agents, for injury to or destruction of any property of the Permittee or any third party which may be lost, injured, damaged, destroyed or devalued as a result of the act, or failure to act, of the Permittee or any third party; and to indemnify the City, its officers, employees and agents, and to hold the City, its officers, employees and agents, harmless from any and all claims, damages, actions, personal injury (including death), costs and expenses of every kind in any manner arising out of or resulting from the Permittee's or such hunter's use of or presence on the Property.

d. Not use nor allow the use of the Property for any purpose which is prohibited by the laws of the United States of America, the State of Colorado, the County of Mesa or any other governmental agency having control, jurisdiction or authority over the Property and the Permittee's use thereof. The Permittee agrees to comply with all police, fire and sanitary regulations imposed by the City and any governmental agency either now in force or hereinafter enacted, and to not use the Property for any improper or questionable purposes whatsoever.

e. At the Permittee's expense and during the term of this Permit, purchase and maintain in effect suitable Comprehensive General Liability Insurance which will protect the Permittee, the City and the City's officers, employees and agents from liability in the event of loss of life, personal injury, or property damage suffered by any person or persons on, about or using the Property. Such insurance shall not be cancelable without thirty (30) days prior written notice to the Risk Manager of the City and shall be written for at least a minimum of \$500,000.00, combined single limit. The certificate of insurance shall be deposited with the Risk Manager of the City prior to the Permittee's use of or presence upon the Property and shall designate the City of Grand Junction, its officers, employees and agents as additional insureds.

f. Coordinate its activities with the CDOW to ensure that the harvest of animals will not exceed the harvest objectives of the CDOW. The Permittee shall follow the recommendations of the CDOW.

g. Not allow or permit open campfires upon the Property. Camping is allowed.

h. Within ten (10) days following the end of each season, provide the City with an accurate accounting of the amount and types of animals harvested during each season.

5. The Permittee agrees that it has inspected the Property and its boundaries and represents that the Property is safe and acceptable in its present condition for the use(s) contemplated; The City makes no warranties, representations or promises that the Property is sufficient or safe for the purposes of the Permittee. The Permittee agrees that its use of the Property shall be at the Permittee's and the Permittee's hunters own risk.

6. The Permittee acknowledges and understands that the rights of possession of the Property, including the ranching and grazing rights on the Property, are leased to a third party ("the Ranch Lessee"). With respect to the Ranch Lessee, the Permittee agrees as follows:

a. The Ranch Lessee shall have the right to continue to have full access and use and occupancy of the Property except as may be reasonably required to allow the Disabled Hunting Program to operate. The Permittee shall coordinate its activities with the Ranch Lessee so that the Permittee's use will not unreasonably effect the Ranch Lessee's rights.

b. The Permittee shall pay for all costs for damages or harm to livestock which are caused by or result from the acts of the Permittee or participants in the Permittee's Disabled Hunting Program. At Permittee's election, Permittee may repair or replace any such damage or harm, subject to the inspection/consent of the City that any such repair or replacement is sufficient to make the City, or other injured party or property, whole.

c. Gates which are closed at the time of the Permittee's arrival shall be closed by the Permittee immediately after passing through said closed gates. Gates which are found to be open at the time of arrival by the Permittee may remain open unless the Permittee is directed to do otherwise by the Ranch Lessee.

d. Prior to the beginning of the 1993 big game hunting season, the Permittee will meet with the Ranch Lessee and coordinate its activities with the ranching and grazing operation. Items to be agreed upon between said parties shall include, but not be limited to, the supervision of hunters, control of gates, location of livestock, and ingress and egress to and from the Property. Said agreement shall be evidenced by the Ranch Lessee's consent as herein provided.

7. The Permittee shall cause all of its participants in the Disabled Hunting Program to at all times conduct themselves in a proper and responsible manner.

8. The Permittee's occupancy and use of the Property under this Permit is not exclusive. Without liability or cause having been stated, the City shall have the right to occupy and use the Property for any purpose and to permit others to occupy and use the Property for any purpose.

9. This permit shall be effective October 1, 1993 and shall expire, unless earlier terminated as provided below, on January 31, 1994.

10. In the event the Permittee, or hunter or other person on or using the Property pursuant to this Permit, violates any term or provision of this Permit or any rules or regulation of the CDOW, the City may revoke this Permit forthwith without liability whatsoever to the Permittee or any hunter or other person, even if such revocation causes the Permittee financial harm and/or non-economic harm.

11. Any attempt by the Permittee to assign, transfer or convey any of its interests in this Permit shall work as an immediate revocation or voiding of this Permit without further action by the City.

12. This Permit is not intended to form, nor shall it constitute or form a partnership or joint venture between the City and the Permittee. The City shall not be or become responsible for the success or failure, profit or loss of profits, loss of opportunities, or any debts contracted by the Permittee, but rather, the Permittee shall save, indemnify and hold the City, its officers, employees and agents, harmless against all liability and loss, and against all claims or actions based upon or arising from any claim, lien, damage or injury (including death), to persons or property caused by the Permittee or the Permittee's hunters or sustained in connection with the Permittee's performance under this Agreement, the violation of any statute, ordinance, code or regulation, and the defense of any such claims or actions, including any and all attorney's fees and litigation costs. The Permittee shall save and indemnify the City, its officers, employees and agents, and hold the City, its officers, employees and agents harmless from the payment of all federal, state and local taxes or contributions imposed or required, including, but not limited to, unemployment insurance, social security and income taxes, and any and all taxes, fees, excises with respect to employees or other persons engaged in the performance of this Agreement.

13. In the event the City uses its City Attorney, or engages an attorney to enforce the City's rights hereunder, the Permittee agrees to pay for the value or costs of such attorneys, plus all costs, including the costs of any experts. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Colorado. Venue shall be in Mesa County, Colorado.

14. Except as otherwise provided herein, any notice or other communication given by either party hereto to the other relating to this Agreement shall be either hand delivered or sent by registered or certified mail, return receipt requested, addressed to such other party at its respective address set forth below; and such notice or other communication shall be deemed given when so hand-delivered or three (3) business days after so mailed:

If to the City:

Property Agent
City of Grand Junction
250 North 5th Street
Grand Junction, CO 81501

If to the Permittee:

Mr. Sid Sellers, President
Outdoor Buddies, Inc.
P.O. Box 37283
Denver, CO 80237

With a copy to:

City Attorney
City of Grand Junction
250 North 5th Street
Grand Junction, CO 81501

To Permittee's Local Representative:

15. The Colorado Division of Wildlife has established provisions for special hunting seasons for big game animals causing damage to crops and/or other property improvements and appurtenances ("Game Damage Hunt"). In the event the Colorado Division of Wildlife establishes a Game Damage Hunt on the Property and/or on the City property commonly known as "the Lower Somerville Ranch" as shown on Exhibit B which is attached hereto and incorporated herein by reference, the City presently intends to give to the Permittee first preference to Game Damage Hunt permits for certified physically disabled hunters. In the event Game Damage Hunt permits are available after allowing access to all certified physically disabled hunters, the City shall have the right to issue the remaining Game Damage Hunt permits to non-disabled hunters of its choice. If, however, the amount of certified physically disabled hunters exceeds the amount of Game Damage Hunt permits, those certified disabled hunters to be chosen shall be determined by the Permittee.

16. The provisions of this Permit shall not inure to the benefit of the successors and assigns of the parties hereto.

The Permittee, by its acceptance of this Permit, agrees to the preceding terms, promises and liabilities.

For the City of Grand Junction,
Colorado

Attest:

/s/ Mark K. Achen 9-17-93
City Manager Date

/s/ Stephanie Nye 9-17-93
City Clerk Date

Outdoor Buddies, Inc.,
a Colorado non-profit corporation

Attest:

/s/ Sidney H Selhem 9-17-93
Date

Date

Consent of Ranch Lessee:

/s/ Clifford V. Davis 9-17-93
Clifford V. Davis Date

/s/ Judy L. Davis 9-17-93
Judy L. Davis Date