

RESOLUTION NO. 112-94

CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT TO
KOCH MATERIALS COMPANY, INC.

WHEREAS, Koch Materials Company, Inc., a Delaware corporation, represents that it is the owner of the real property described as Lot 1 of D&RGW Railroad Subdivision Filing One located in the Northwest Quarter of the Northwest Quarter (NW¹/₄ NW¹/₄) of Section 23, Township 1 South, Range 1 West of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, as recorded in Plat Book 13 at Page 383 in the office of the Mesa County Clerk and Recorder, also known as 202 4th Avenue in the City of Grand Junction, and has petitioned the City Council of the City of Grand Junction for a Revocable Permit to allow the installation of landscape improvements in the following described public right-of-way for C-3/4 Road:

Commencing at the Southeast Corner of Lot 1 of D&RGW Railroad Subdivision Filing One; thence S 89°47'26" W along the South line of said Lot 1 a distance of 26.43 feet to the intersection of the South line of said Lot 1 with the Westerly right-of-way of an existing railroad spur, said point being the True Point of Beginning; thence along a line which is common with the South boundary of said Lot 1 and the North right-of-way for C-3/4 Road a distance of 816.69 feet to the Southwest Corner of said Lot 1; thence S 00°12'34" E a distance of 4.0 feet; thence N 89°47'26" E a distance of 819.55 feet to a point on the Westerly right-of-way of said existing railroad spur; thence N 35°45'29" W along said railroad spur right-of-way a distance of 4.92 feet to the True Point of Beginning; and

WHEREAS, the City Council has determined that such action would not at this time be detrimental to the inhabitants of the City of Grand Junction.

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 grant the attached Revocable Permit to the above named Petitioner for the purposes aforescribed and within the public right-of-way aforescribed, subject to each and every term and condition contained in the attached Revocable Permit.

PASSED and ADOPTED this 7th day of December, 1994.

Attest:

/s/ Stephanie Nye
City Clerk

/s/ Reford C. Theobald
President of the Council Pro Tem

REVOCABLE PERMIT

WHEREAS, Koch Materials Company, Inc., a Delaware corporation, represents that it is the owner of the real property described as Lot 1 of D&RGW Railroad Subdivision Filing One located in the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 23, Township 1 South, Range 1 West of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, as recorded in Plat Book 13 at Page 383 in the office of the Mesa County Clerk and Recorder, also known as 202 4th Avenue in the City of Grand Junction, and has petitioned the City Council of the City of Grand Junction for a Revocable Permit to allow the installation of landscape improvements in the following described public right-of-way for C-3/4 Road:

Commencing at the Southeast Corner of Lot 1 of D&RGW Railroad Subdivision Filing One; thence S 89°47'26" W along the South line of said Lot 1 a distance of 26.43 feet to the intersection of the South line of said Lot 1 with the Westerly right-of-way of an existing railroad spur, said point being the True Point of Beginning; thence along a line which is common with the South boundary of said Lot 1 and the North right-of-way for C-3/4 Road a distance of 816.69 feet to the Southwest Corner of said Lot 1; thence S 00°12'34" E a distance of 4.0 feet; thence N 89°47'26" E a distance of 819.55 feet to a point on the Westerly right-of-way of said existing railroad spur; thence N 35°45'29" W along said railroad spur right-of-way a distance of 4.92 feet to the True Point of Beginning; and

WHEREAS, the City Council of the City of Grand Junction has determined that such action would not at this time be detrimental to the inhabitants of the City of Grand Junction.

NOW, THEREFORE, IN ACCORDANCE WITH THE ACTION OF THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

There is hereby granted to Koch Materials Company, Inc., a Delaware corporation, a Revocable Permit for the purposes aforescribed and within the public right-of-way aforescribed; provided, however, that the issuance of this Revocable Permit shall be conditioned upon the following terms and conditions:

1. The City, on behalf of itself and all other public utilities, hereby reserves and retains a perpetual right to utilize the aforescribed public right-of-way for the installation, operation, maintenance and repair of existing and future street improvements and utilities, including the right of ingress and egress for workers and equipment on, along, over, under, through and across said rights-of-way. The City further reserves and retains the right to revoke this Permit at any time and for any reason.

2. The Petitioner, for itself and for its successors and assigns, agrees that it will not hold, nor attempt to hold, the City of Grand Junction, its officers, employees and agents or any other public utility liable for damages caused to the improvements situated within said right-of-way, or any other property of the Petitioner or any other party, as a result of the Petitioner's occupancy and use of said right-of-way or the installation, operation, maintenance and repair of street improvements and utilities by the City of Grand Junction or any other public utility.

3. This Revocable Permit shall be issued only upon the concurrent execution by the Petitioner of an agreement that the Petitioner will save and hold the City of Grand Junction, its officers, employees and agents harmless from, and indemnify the City, its officers, employees and agents, any claim or cause of action however stated arising out of the encroachment and use granted, and that upon revocation of this Permit by the City the Petitioner will, within thirty (30) days of notice of revocation, peaceably surrender said right-of-way and, at its own expense, remove any encroachment so as to make the right-of-way available for use by the City of Grand Junction or any other public utility.

4. The Petitioner, for itself and for its successors and assigns, agrees that it shall be solely responsible for maintaining and repairing the condition of said right-of-way and all improvements installed by the Petitioner.

5. This Revocable Permit, the foregoing Resolution and the following Agreement shall be recorded by the Petitioner in the office of the Mesa County Clerk and Recorder.

Dated this 7th day of December, 1994.

Attest:

City Clerk

City Manager

Acceptance:

Koch Materials Company, Inc.,
a Delaware Corporation

Attest:

H. Allan Caldwell, Secretary

J.F. Runner, President

AGREEMENT

Koch Materials Company, Inc., a Delaware corporation, for itself and for its successors and assigns, does hereby agree to: Abide by each and every term and condition contained in the foregoing Revocable Permit; Indemnify the City of Grand Junction, its officers, employees and agents and hold the City of Grand Junction, its officers, employees and agents harmless from all claims and causes of action as recited in said Permit; Within thirty (30) days of revocation of said Permit, peaceably surrender said public right-of-way to the City and, at its own expense, remove any encroachment so as to make the right-of-way available for use by the City of Grand Junction or any other public utility.

Dated this _____ day of _____, 1994.

Attest:

Koch Materials Company, Inc.,
a Delaware corporation

H. Allan Caldwell, Secretary

J.F. Runner, President

STATE OF _____)
)ss.
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this _____ day of _____, 1994, by J.F. Runner as President and H. Allan Caldwell as Secretary of Koch Materials Company, Inc., a Delaware Corporation.

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

Notary Public