

RESOLUTION NO. 15-94

AMENDING THE CONVEYANCE OF A  
NON-EXCLUSIVE ROAD EASEMENT ACROSS CITY PROPERTY  
TO THE UNITED STATES OF AMERICA

WHEREAS, on November 18, 1992, the City Council of the City of Grand Junction passed and adopted Resolution 77-92 authorizing the conveyance of a Non-Exclusive Road Easement to the United States of America, said easement having been recorded in the office of the Mesa County Clerk and Recorder in Book 1943 at Page 946, across a certain parcel of land known as the "Somerville Ranch"; and

WHEREAS, the United States of America desires to relinquish and otherwise vacate a portion of the previously conveyed road easement and further desires an additional conveyance for a new road alignment that would replace that portion being vacated; and

WHEREAS, the City Council has determined that such action would not 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 is hereby authorized, on behalf of the City and as the act of the City, to execute and enter into the attached Non-Exclusive Road Easement Agreement with the United States of America allowing the vacation of a portion of the previously granted easement and further allowing the conveyance of an easement for the new road alignment that would replace that portion being vacated.

PASSED and ADOPTED this 16th day of February, 1994.

Attest:

/s/ Reford C. Theobald  
President of the Council

/s/ Stephanie Nye  
City Clerk

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**NONEXCLUSIVE ROAD EASEMENT AGREEMENT**

This Road Easement Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 1994, by and between the CITY OF GRAND JUNCTION, a Colorado home rule municipality, hereinafter called "Grantor", and the UNITED STATES OF AMERICA, hereinafter called "Grantee."

WITNESSETH, That the Grantor, for and in consideration of action herein taken by the grantee to relinquish and otherwise vacate a portion of the easement granted by the grantor on November 24, 1992, said easement having been recorded in the Office of the Mesa County Recorder in Book 1943 at page 946 being reception #1623318. That portion of said easement herein vacated commences at engineers station 73+78.22 traversing through engineers station 100+65.29, the grantor has granted, and by these presents does hereby grant unto the Grantee, its successors and assigns (assigns limited to Federal agencies) forever, a new alignment replacing that portion being vacated, commencing at equation station 73+78.22 Back equals station 0+00.00 Ahead, nonexclusive easement to use, maintain, improve, and repair an existing road located on the following described real property situated in the County of Mesa, State of Colorado, to wit:

The replacement alignment is a parcel of land lying in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 26, and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 35 in Township 11 South, Range 97 West of the Sixth Principal Meridian, said parcel being all that portion of said property contained in a strip of land 30 (thirty) feet in width being 15 (fifteen) feet on each side of the centerline as shown on the plat attached hereto as Exhibit A and made a part hereof, containing 3.40 acres, more or less.

TO HAVE AND TO HOLD the said premises above described, with the appurtenances and privileges thereunto belonging unto the UNITED STATES OF AMERICA, and is subject to the effect of reservations and leases, if any, of oil, gas, and minerals in and under said land, and also subject to the following terms, covenants and conditions.

1. The grantee agrees that the road easement herein granted is for the use of Federal Government Agencies and their contractors, authorized by the Bureau of Land Management to occupy land administered by said Bureau, said land known as Lands End Electronic Communication Site located in and described as the NE $\frac{1}{4}$ SW $\frac{1}{4}$  Sec. 15, Township 11 South, Range 97 West of the 6th Principal Meridian. The easement is to be used for access to the site for the purpose of constructing, operating and maintaining electronic communication facilities located on said land. The easement herein granted is not intended for general public use nor for the use of private entities.
2. The hereinbefore described real property shall be used solely for the purposes herein set forth. In the event the grantee abandons use of said property, the grantee shall cease and terminate this easement and said property shall be freed from the burden of this easement. Abandonment shall be defined as a period of non-use of two years or more.
3. Grantee's vehicles shall yield the right-of-way to livestock at all times.
4. Grantee agrees that it shall have the responsibility of maintaining and repairing said road commensurate with the grantees use of said road and shall bear the costs associated thereto, and that Grantor shall have no responsibility for maintaining or repairing said road. Grantee further agrees that it will limit the width of said road to the minimum area required, and that it will take steps necessary to keep the road properly maintained while minimizing grading damage and terrain change.

5. Grantee agrees to keep all gates now or hereafter to be located upon Grantor's property closed and locked; provided, however, that Grantee shall be responsible for ensuring that Grantor has copies of keys and/or lock combinations to all locks installed by Grantee on gates located across the road, and the Grantor shall be responsible for ensuring that the Grantee has copies of keys and/or lock combinations to all locks installed by Grantor on gates located across said road.

6. Grantee agrees to construct, install, maintain and repair, at its expense, water bars, drainage ditches and culverts along said road, and Grantee covenants and agrees that such items shall be constructed and installed in such manner as to eliminate any concentration of water upon or in the immediate vicinity of said road. Grantee further agrees that it will place said items only at places which are agreeable to Grantor, and Grantee further agrees to take all steps as may be necessary to avoid erosion resulting from the placement and usage of such items.

7. The Grantee shall be liable for all damages caused by the exercise of the rights herein granted to the extent provided by the Federal Tort Claims Act, 28 U.S.C. secs. 2671-2680.

8. Grantee has inspected the road and easement area and accepts the same in its present condition.

9. Grantee agrees that its representatives, licensees, employees and agents shall be prohibited from littering and smoking upon the easement area.

10. Grantee agrees that Grantor, its officers, employees, agents and lessees shall have the joint right of access on, along, over and across said road, and Grantor may further authorize third parties to have such access, provided that such use does not interfere with the easement granted herein.

11. Grantee agrees that it will endeavor to cause all of its representatives, licensees, employees and agents to conduct themselves in a proper and businesslike manner at all times when such representatives, employees and agents are upon the road and easement area.

12. If the road is damaged due to flood or other casualty, or if the road deteriorates to the extent where it is no longer functional for the purposes of Grantee, Grantor shall have no obligation to repair the road; damages shall be at Grantee's own risk.

13. Grantor covenants and warrants that it is lawfully seized and possessed of the land aforesaid and has the full right, power and authority to execute this conveyance, and that said land is free and clear of liens, claims or encumbrances, and that it will defend the title to the easement conveyed herein and quiet enjoyment thereof against the lawful claims and demands of all persons.

14. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns; and provided further that adequate appropriations are available from year to year for expenses corollary to this agreement.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal the day and year first above written.

Attest:

The City of Grand Junction, Colorado

/s/ Stephanie Nye  
City Clerk

City Manager

STATE OF COLORADO)

) ss

COUNTY OF MESA )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 1994, by Mark K. Achen as the City Manager and by Stephanie Nye as the City Clerk of the City of Grand Junction, a Colorado home rule municipality.

My Commission expires  
Witness my hand and official seal.

Notary Public

Accepted this \_\_\_\_ day of \_\_\_\_\_, 1994, subject to the approval of title by the Department of Justice.

By:

Title

STATE OF COLORADO)

) ss

COUNTY OF MESA )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 1994, by \_\_\_\_\_, as \_\_\_\_\_ for the United States of America Department of Interior - Bureau of Land Management.

My Commission expires  
Witness my hand and official seal.

\_\_\_\_\_  
Notary Public