

## REVOCABLE PERMIT

### Recitals.

A. RFR Properties LLC, hereinafter referred to as the Petitioner, represent it is the owner of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

Lot 2 of the Replat of Independence Center Subdivision as shown on the plat of "Replat of Independence Center Subdivision" as recorded in Plat Book 14, Pages 126 and 127 of the Mesa County records, said parcel being the same as that parcel described in deed recorded in Book 3491, Pages 783 through 785, EXCEPT those parcels for right-of-way as described in deeds recorded at Book 3188, Pages 172 through 174 and Book 3188, Pages 175 through 177.

Identified by Mesa County Tax Schedule Number 2945-103-32-003

B. The Petitioner has requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioner to construct a cooler and storage addition to be in right-of-way within the following described public right-of-way:

A parcel of land situate in a cross access easement by Plat of a Replat of Independence Center Subdivision as recorded in Plat Book 14, Pages 126 and 127 of the records of Mesa County, Colorado, also located within the Right-of-way as described in Book 3188, Page 184 of said records of Mesa County, Colorado, and being more specifically described as follows:

Beginning at a point which bears N89 Degrees 46'47"E 62.54 feet from a found #5 rebar with cap property corner at the northwesterly corner of part of Lot 2, a Replat of Independence Center Subdivision, Plat Book 14, Pages 126 and 127 of the Records of Mesa county, Colorado, and considering a line between said found northwesterly corner of said parcel and a found PK nail with brass tag marked PLS 17485 at the northeasterly corner of said parcel to bear N89 Degrees 46'47" E with all other bearings contained herein relative thereto;  
thence N00 Degrees 13'13"W 7.00 feet;  
thence N89 Degrees 46'47"E 41.00 feet;  
thence S00 Degrees 13'13"E 7.00 feet;  
thence S89 Degrees 46'47"W 41.00 feet to the point of beginning contain 287 square feet, more or less, as shown on attached Exhibit "A".

C. Relying on the information supplied by the Petitioner and contained in File No. RVP-2011-1284 in the office of the City's Public Works Department, Planning Division, 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, IN ACCORDANCE WITH THE ACTION OF THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

There is hereby issued to the above-named Petitioner a Revocable Permit for the purpose aforescribed and within the limits of 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 Petitioner's use and occupancy of the public right-of-way as authorized pursuant to this Permit shall be performed with due care or any other higher standard of care as may be required to avoid creating hazardous or dangerous situations and to avoid damaging public improvements and public utilities or any other facilities presently existing or which may in the future exist in said right-of-way.
2. The City hereby reserves and retains a perpetual right to utilize all or any portion of the aforescribed public right-of-way for any purpose whatsoever. The City further reserves and retains the right to revoke this Permit at any time and for any reason.
3. The Petitioner, for itself and for its successors, assigns and for all persons claiming through the Petitioner, agrees that it shall defend all efforts and claims to hold, or attempt to hold, the City of Grand Junction, its officers, employees and agents, liable for damages caused to any property of the Petitioner or any other party, as a result of the Petitioner's occupancy, possession or use of said public right-of-way or as a result of any City activity or use thereof or as a result of the installation, operation, maintenance, repair and replacement of public improvements.
4. The Petitioner agrees that it shall at all times keep the above described public right-of-way in good condition and repair.
5. This Revocable Permit shall be issued only upon the concurrent execution by the Petitioner of an agreement that the Petitioner and the Petitioner's successors and assigns shall save and hold the City of Grand Junction, its officers, employees and agents harmless from, and indemnify the City, its officers, employees and agents, with respect to any claim or cause of action however stated arising out of, or in any way related to, the encroachment or use permitted, and that upon revocation of this Permit by the City the Petitioner shall, at the sole cost and expense of the Petitioner, within thirty (30) days of notice of revocation (which may occur by mailing a first class letter to the last known address), peaceably surrender said public right-of-way and, at its own expense, remove any encroachment so as to make the aforescribed public right-of-way available for use by the City or the general public. The provisions concerning holding harmless and indemnity shall survive the expiration, revocation, termination or other ending of this Permit.

7. This Revocable Permit, the foregoing Resolution and the following Agreement shall be recorded by the Petitioner, at the Petitioner's expense, in the office of the Mesa County Clerk and Recorder.

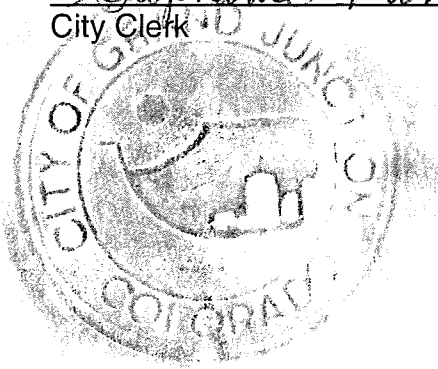
Dated this 6<sup>th</sup> day of January, 2012.

The City of Grand Junction,  
a Colorado home rule municipality

Attest:

Stephanie Yain  
City Clerk

[Signature]  
Acting City Manager

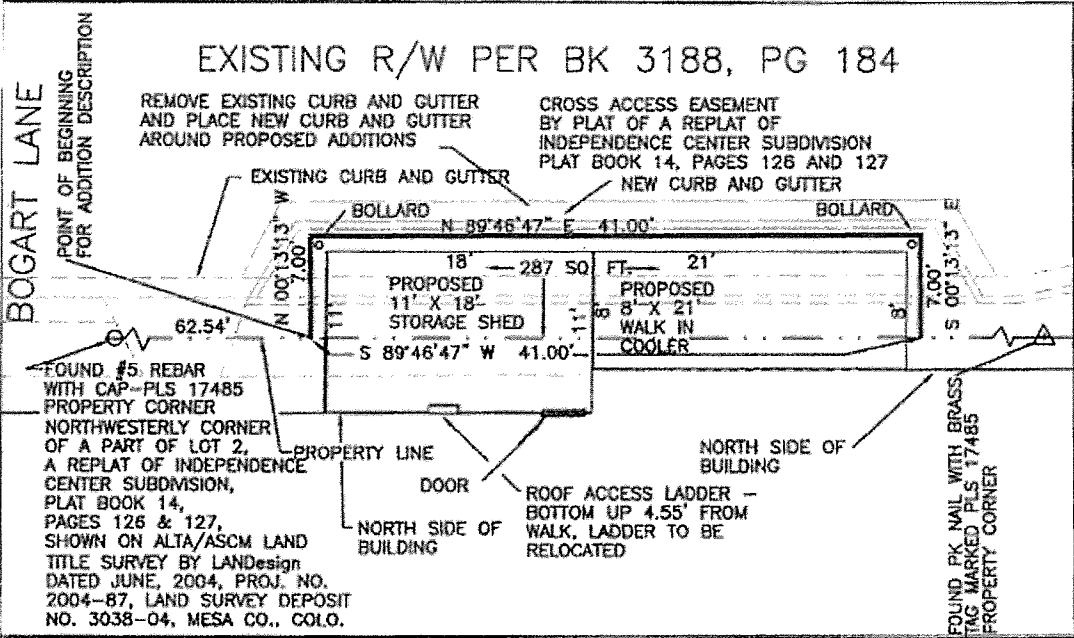


Acceptance by the Petitioner:

Arthur B. Pittini, Managing Member  
RFR Properties, LLC

EXHIBIT "A"

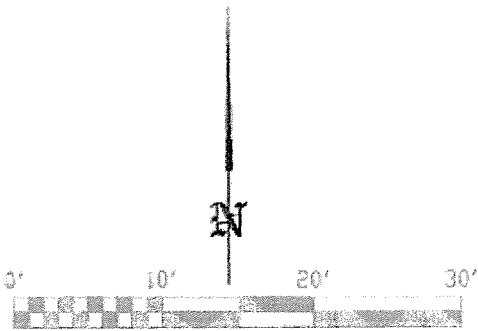
EXISTING R/W PER BK 3188, PG 184



SURVEYOR'S CERTIFICATE

I, Wayne H. Lizer, a registered Professional Land Surveyor in the State of Colorado, hereby certify that this map was prepared from field notes provided to me by Polar's Surveying, of which work was done under my direct supervision, and by field checking by myself, and that this map is true and correct to the best of my knowledge and belief.

*Wayne H. Lizer*  
 Wayne H. Lizer  
 Colorado P.E., P.L.S. #14113



SHEET 3 OF 3

MAP FOR DESCRIPTION FOR AN ADDITION TO THE GOLDEN CORRAL RESTAURANT FOR HILGENFELD CONSTRUCTION 1100 INDEPENDENT AVENUE GRAND JUNCTION, COLORADO

W.H. LIZER AND ASSOCIATES  
 ENGINEERING CONSULTING AND LAND SURVEYING  
 576 25 ROAD-UNIT 8  
 GRAND JUNCTION, COLORADO  
 11/08/11, 2011 PROJECT NO. 114340-7  
 PHONE (970) 241-1129

**AGREEMENT**

RFR Properties LLC, for itself and for its successors and assigns, does hereby agree to:

(a) Abide by each and every term and condition contained in the foregoing Revocable Permit;

(b) Indemnify and hold harmless the City of Grand Junction, its officers, employees and agents with respect to all claims and causes of action, as provided for in the approving Resolution and Revocable Permit;

(c) Within thirty (30) days of revocation of said Permit by the City Council, peaceably surrender said public right-of-way to the City of Grand Junction;

(d) At the sole cost and expense of the Petitioner, remove any encroachment so as to make said public right-of-way fully available for use by the City of Grand Junction or the general public.

Dated this 6th day of January, 2012.

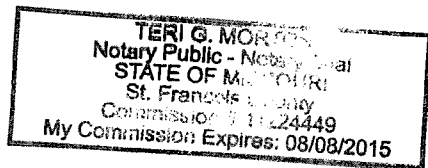
RFR Properties LLC

By: Arthur H. Robbins  
Arthur H. Robbins, Managing Member

State of Colorado )  
                                  )ss.  
County of Mesa     )

The foregoing Agreement was acknowledged before me this 6th day of January, 2012, by Arthur H. Robbins, Managing Member of RFR Properties LLC.

My Commission expires: 8/8/15  
Witness my hand and official seal.



Louis G. Morton  
Notary Public