

GRAND JUNCTION, COLORADO MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL

February 6, 1991

The City Council of the City of Grand Junction, Colorado, convened in regular session the 6th day of February, 1991, at 7:30 p.m. in the City/County Auditorium at City Hall. Those present were John Bennett, R.T. Mantlo, Paul Nelson, Earl Payne, Reford Theobald, Conner Shepherd, and President of the Council William McCurry. Also present were City Manager Mark Achen, Assistant City Attorney John Shaver, and City Clerk Neva Lockhart.

Council President McCurry called the meeting to order and Councilman John Bennett let in the Pledge of Allegiance.

INVOCATION - Rev. Sandra K. DiLujio, Unity Center of Light

CONSIDERATION OF MINUTES

The Minutes of the January 16, 1991, City Council meeting were corrected to reflect the following: under CONSIDERATION OF BIDS - AWARD OF CONTRACTS, Custodial Service Contract for Municipal Buildings - D&R Cleaning should read \$36,000 Annually and Dinosaur Janitorial should read \$17,250 Annually.

Upon motion by Councilman Mantlo, seconded by Councilman Nelson and carried, the minutes of the January 16, 1991, City Council meeting were approved as corrected.

PROCLAMATION DECLARING FEBRUARY 10 THROUGH FEBRUARY 16, 1991, AS "SALUTE TO HOSPITALIZED VETERANS WEEK" IN THE CITY OF GRAND JUNCTION

PROCLAMATION DECLARING MARCH 3 THROUGH MARCH 8, 1991, AS "NATIONAL VETERANS SPORTS CLINIC WEEK" IN THE CITY OF GRAND JUNCTION

PRESENTATION OF APPRECIATION PLAQUES TO THE MEMBERS OF THE SITE SELECTION COMMITTEE FOR THE RELOCATION OF FIRE STATION #2

Appreciation Plaques were presented to the following members of the Site Selection Committee for the Relocation of Fire Station #2:

Gerry Leyden  
Kenny C. Wild  
Pauline L. Brown  
John Miller  
Nate Geiseman  
Pat Keck  
Anita Fenn  
Harlan Adams  
Sandi Richardson

REQUEST BY MOTORCYCLE TRAIL RIDING ASSOCIATION FOR CITY'S PARTICIPATION IN AN OFF-HIGHWAY VEHICLE RECREATION AREA NORTH OF GRAND JUNCTION BY PROVIDING GRAVEL FOR THE FIRST PHASE PARKING LOT - EXPENDITURE OF \$5414 AUTHORIZED BY THE CITY FOR PARKING/STAGING AREA GRAVEL

Mr. John C. Martin, Chairman of the Motorcycle Trail Riding Association, and Mr. John Singlaub of the Bureau of Land Management, requested the City's participation in an off-highway vehicle recreation area north of Grand Junction by providing gravel for the first phase staging area and parking lot. The area was described by Mr. Singlaub as public land north of the Airport and north of the Interstate that is designated open to unlimited off-highway vehicle use. It received that designation in 1987. The BLM has put together a package for improvements to the area to encourage and provide facilities for off-highway vehicle use. The primary access as described in the State brochure is off I-70 onto the Horizon Drive exit, H Road and then 27 1/4 Road to a staging area where they propose to put in parking area, bumper logs, outhouse, ramps, and other amenities. Mr. Singlaub stated that the County has already agreed to gravel out to that point with a contract to be let in March. Mr. Singlaub and Mr. Martin spoke to the County Commissioners today and asked if the County would help by grading the staging area and the parking area. Mr. Martin stated that the response was real positive. The County gave him an application to be filed by tomorrow some of the County's Lottery funds. As Mr. Singlaub pointed out, they need the gravel so the County can grade it into the staging area and the parking lot. Mr. Singlaub stated that the Bureau of Land Management has agreed to maintain the parking lot.

Upon motion by Councilman Theobold, seconded by Councilman Nelson and carried, funding to gravel the staging area and first phase parking lot by the City in the amount of \$5414 was approved.

#### CONSIDERATION OF BIDS - AWARD OF CONTRACTS

Tiara Rado Clubhouse Construction, Ed Chamberlin, Project Architect - Francis Constructors, \$696,990 plus Alternate #1, \$7,180

Councilman Payne requested that the Tiara Rado Clubhouse Construction be removed from the Consent Agenda for full discussion, stating that he is not in favor of the restaurant portion of the clubhouse.

Upon motion by Councilman Mantlo, seconded by Councilman Shepherd and carried with Councilman PAYNE voting NO, the Contract for Tiara Rado Clubhouse Construction was awarded to Francis Constructors in the amount of \$696,990 plus Alternate #1 in the amount of \$7,180, and the City Manager was authorized to sign said Contract.

Traffic Paint for Streets (3250 Gallons) - Colorado Paint, Denver,

\$22,787

Upon motion by Councilman Payne, seconded by Councilman Mantlo and carried, the bids for Traffic Paint for Streets (3250 gallons) were accepted, and the contract was awarded to Colorado Paint of Denver in the amount of \$22,787, and the City Manager was authorized to sign said Contract.

HEARING - PROPOSED ORDINANCE - I.D. ST-90 ALLEY IMPROVEMENT DISTRICT ASSESSMENTS

A hearing was held after proper notice on the I.D. ST-90 Alley Improvement District Assessments for alley 4th to 5th Streets, Ouray to Chipeta Avenues; alley 6th to 7th Streets, Grand to Ouray Avenues; and the "T" alley 7th to 8th Streets, Hill to Teller Avenues.

Councilman Nelson abstained from discussion and voting on this item.

City Property Agent, Tim Woodmansee, reviewed the assessments. He stated that letters have been received from the following property owners:

Nancy Seamon - Assessment \$840  
Joseph H. & Willa M. Dryden - Assessment \$750  
Michael Blackburn, President, Callahan-Edfast Mortuary Parcel No. 2945-141-14-015 - Assessment \$5962.50  
David Joe Hasty - Assessment \$812.40  
Nathan and Mary Liff - Assessment \$750

The following entitled proposed ordinance was presented and read: AN ORDINANCE APPROVING THE ASSESSABLE COST OF THE IMPROVEMENTS MADE IN AND FOR ALLEY IMPROVEMENT DISTRICT NO. ST-90, IN THE CITY OF GRAND JUNCTION, COLORADO, PURSUANT TO ORDINANCE NO. 178, ADOPTED AND APPROVED THE 11TH DAY OF JUNE, 1910, AS AMENDED; APPROVING THE APPORTIONMENT OF SAID COST TO EACH LOT OR TRACT OF LAND OR OTHER REAL ESTATE IN SAID DISTRICT; ASSESSING THE SHARE OF SAID COST AGAINST EACH LOT OR TRACT OF LAND OR OTHER REAL ESTATE IN SAID DISTRICT; APPROVING THE APPORTIONMENT OF SAID COST AND PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENT.

Upon motion by Councilman Bennett, seconded by Councilman Shepherd and carried with Councilman NELSON ABSTAINING, the proposed ordinance was passed for publication reflecting the amended assessment costs above.

PROPOSED ORDINANCE - AMENDING CHAPTER 19, SECTION 29, GRAND JUNCTION CODE OF ORDINANCES, PROHIBITING THE DRINKING OF ALCOHOLIC BEVERAGES IN CERTAIN PLACES AND CONCERNING THE LEGAL AGE TO CONSUME BEER

The following entitled proposed ordinance was presented and read:

AN ORDINANCE CONCERNING THE LEGAL AGE TO CONSUME BEER. Upon motion by Councilman Nelson, seconded by Councilman Mantlo and carried, the proposed ordinance was passed for publication.

PROPOSED ORDINANCE - REPEALING AND REENACTING CHAPTER 14, ARTICLE I, GARBAGE, TRASH AND WEEDS

The following entitled proposed ordinance was presented and read: REPEAL AND REENACTMENT OF CITY OF GRAND JUNCTION TRASH ORDINANCE. Upon motion by Councilman Mantlo, seconded by Councilman Theobold and carried, the proposed ordinance was passed for publication.

PROPOSED ORDINANCE - ESTABLISHING A PROGRAM TO IDENTIFY AREAS OF THE CITY THAT HAVE DEFICIENT FIRE PROTECTION AND MEANS AND METHODS TO UPGRADE EXISTING FIRE FIGHTING CAPABILITIES

The following entitled proposed ordinance was presented and read: ESTABLISHING A PROGRAM TO IDENTIFY AREAS OF THE CITY THAT HAVE DEFICIENT FIRE PROTECTION AND MEANS AND METHODS TO UPGRADE EXISTING FIRE FIGHTING CAPABILITIES. Upon motion by Councilman Shepherd, seconded by Councilman Nelson and carried, the proposed ordinance was passed for publication.

PROPOSED ORDINANCE - REZONE HORIZON PARK SUBDIVISION FROM PLANNED RESIDENTIAL (PR-8) AND PLANNED BUSINESS (PB) TO RESIDENTIAL SINGLE-FAMILY (RSF-6) AND HIGHWAY ORIENTED (H.0.) ZONES

The following entitled proposed ordinance was presented and read: CHANGING THE ZONING ON CERTAIN LANDS WITHIN THE CITY LOCATED ON 12TH STREET (27 ROAD) BETWEEN G ROAD AND HORIZON DRIVE, KNOWN AS HORIZON PARK SUBDIVISION.

Upon motion by Councilman Theobold, seconded by Councilman Nelson and carried, the proposed ordinance was passed for publication, with the choice under Paragraph 6 of sub-paragraph (b).

The President declared a five-minute recess. Upon reconvening, all members of Council were present.

ORDINANCES ON FINAL PASSAGE - PROOFS OF PUBLICATION

Proofs of Publication on the following Ordinances proposed for final passage have been received and filed. Copies of the Ordinances proposed for final passage were submitted to the City Council prior to the meeting.

ORDINANCE NO. 2502 - RIGHT-OF-WAY VACATION OF PORTION OF WEST PIAZZA PLACE IN CROWN HEIGHTS SUBDIVISION

Upon motion by Councilman Nelson, seconded by Councilman Theobold and carried, the following entitled proposed ordinance was called up for final passage and read by title only: VACATING WEST PIAZZA PLACE.

There were no comments. Upon motion by Councilman Nelson, seconded by Councilman Mantlo and carried by roll call vote, the Ordinance was passed and adopted, numbered 2502, and ordered published.

ORDINANCE NO. 2503 - AUTHORIZING THE ISSUANCE OF THE CITY OF GRAND JUNCTION, COLORADO, SALES AND USE TAX IMPROVEMENT REVENUE BONDS, SERIES 1991, IN THE TOTAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000 FOR THE PURPOSE OF FINANCING CERTAIN CAPITAL IMPROVEMENTS, PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE PAYMENT OF THE REVENUES OF THE SALES AND USE TAX IMPOSED BY THE CITY; AND PROVIDING OTHER COVENANTS AND DETAILS IN CONNECTION THEREWITH

Upon motion by Councilman Nelson, seconded by Councilman Theobold and carried, the following entitled proposed ordinance was called up for final passage and read by title only: AUTHORIZING THE ISSUANCE OF THE CITY OF GRAND JUNCTION, COLORADO, SALES AND USE TAX IMPROVEMENT REVENUE BONDS, SERIES 1991, IN THE TOTAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000 FOR THE PURPOSE OF FINANCING CERTAIN CAPITAL IMPROVEMENTS, PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE PAYMENT OF THE REVENUES OF HE SALES AND USE TAX IMPOSED BY THE CITY; AND PROVIDING OTHER COVENANTS AND DETAILS IN CONNECTION THEREWITH.

Comments were made by City Finance Director Ron Lappi and various City Council members. There were no other comments. Upon motion by Councilman Payne, seconded by Councilman Mantlo and carried by roll call vote with Councilman BENNETT voting NO, the Ordinance was passed and adopted as amended, numbered 2503, and ordered published.

RESOLUTION NO. 4-91 AUTHORIZING THE LEASE OF THE CLICK PROPERTY IN THE KANNAH CREEK AREA TO CLIFF AND JUDY DAVIS AND CONSENTING TO THE SUBLEASE OF THE RESIDENCE OF THE CLICK PROPERTY IN THE KANNAH CREEK AREA TO WILLIAM AND BARBARA BROWN

The following Resolution was presented and read: (See next page.)

Upon motion by Councilman Theobold, seconded by Councilman Payne and carried by roll call vote, the Resolution was passed and adopted as read.

Upon motion by Councilman Theobold, seconded by Councilman Payne and carried, the sublease of the residence on the Click Property in the Kannah Creek area to William and Barbara Brown was approved.

FUOCO MOTOR COMPANY REQUESTS FOR FEE WAIVERS AND WATERLINE CONTRIBUTIONS

City Manager Mark Achen reviewed the request by Fuoco Motor Company for fee waivers and waterline contributions. Bennett Boecheinstein, Community Development Director, further explained the request. Mr. James Fuoco was present and requested City participation with the 500 foot loop waterline on his development

on First Street.

There was a lengthy discussion. Upon motion by Councilman Theobald, seconded by Councilman Nelson and carried, the City will pay for 500 feet of the loop that will be made off the eight-inch line; that the City will own and maintain the line if it is built and engineered to City standards; that the developer will pay for the inspection of the installation and for the tap fee; and the City will bear the responsibility of getting the agreement to make the right of connection at the other end of the loop with Westphal; and if indeed the City does own and maintain that line, that it get a dedicated easement across the property.

Upon motion by Councilman Theobald, seconded by Councilman Nelson and carried, the motion was amended to show that instead of paying for the 500 feet of the loop that the City participate with a flat fee of \$15,000.

The question being upon the adoption of the motion with the amendment, the motion carried.

#### CONTINUATION OF PAY AND BENEFITS FOR GULF WAR PARTICIPANTS

City Manager Achen explained that the City currently has a military leave policy that is consistent with Federal Law. It is intended, primarily to deal with employees involved in reserve or National Guard activities on a normal routine peace time basis. It is proposed that the City that provide an employee who is called to participate in the Persian Gulf War be assured of his salary for a six-month period, rather than the current policy which is fifteen days. The City would compensate the difference between his military pay and his normal City pay to assure that he is earning as much as his City pay for up to six months. Mr. Achen stated that the employee's City position would be left open for the six month period also.

Councilman Bennett was concerned that an employee not lose his hospitalization and medical benefits during this period.

#### VISITORS & CONVENTION BUREAU CONTRACT

Upon motion by Councilman Mantlo, seconded by Councilman Nelson and carried, execution of the renewal Contract for the Visitors and Convention Bureau was approved, and the City Manager was authorized to sign said Contract.

#### VALLEY FEDERAL BUILDING

Assistant City Attorney John Shaver stated that a letter has been sent to RTC regarding the purchase of the Valley Federal Building. The letter states that as a result of the structural and environmental audit performed on the building, the City is withdrawing its offer to purchase said property, requesting a refund of its earnest money. Consistent with the prior City

Council action in December, this letter will trigger RTC's response in terms of either a cost reduction or re-negotiation period, or simply refunding of the deposit.

DRESS CODE FOR GOLF COURSES

Councilman Shepherd noted that he would like to review the City's dress code for Lincoln Park Golf Course and Tiara Rado Golf Course.

ADJOURNMENT

The President adjourned the meeting.

Neva B. Lockhart

Neva B. Lockhart, CMC  
City Clerk

RESOLUTION NO. 4-91

AUTHORIZING A FIVE YEAR LEASE OF THE CITY PROPERTY KNOWN AS THE "CLICK PROPERTY" TO CLIFFORD V. DAVIS AND JUDY L. DAVIS

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

That the City Manager be authorized, on behalf of the City and as the act of the City, to execute the attached Lease Agreement with Clifford V. Davis and Judy L. Davis for the lease of the City property known as the "Click Property" for a period of five years, commencing on March 1, 1991 and terminating on the last day of February, 1996 and for a total rental fee of \$12,424.20, subject to the several terms and conditions of the attached Lease Agreement.

PASSED and ADOPTED this 6th day of February, 1991.

William E. McCurry

President of City Council

Attest:

Neva B. Lockhart, CMC

City Clerk

LEASE AGREEMENT

THIS LEASE AGREEMENT is entered into as of the 1st day of March, 1991 between the City of Grand Junction, a municipal corporation, hereinafter referred to as "City", and Clifford V. Davis and Judy L. Davis, hereinafter referred to as "Lessees", whose address for

the purpose of this Lease is 8700 Reeder Mesa Road, Whitewater, Colorado 81527.

A. City is the owner of the real property described in the attached Exhibit A, which is incorporated herein by reference and hereinafter referred to as the "Property".

B. Lessees desire to lease the Property under the terms and conditions of this Lease Agreement.

NOW, THEREFORE, in consideration of the terms, covenants and conditions herein to be kept by the parties hereto, the City leases to Lessees the Property and the improvements situated thereon.

1. The term of this Lease shall be for five years, commencing on the 1st day of March, 1991, and terminating on the last day of February, 1996.

For the purposes of this Lease, a "lease year" shall mean the period commencing on March 1 of each year during the term of this Lease and terminating on the last day of February of the succeeding year.

2. Lessees agree to pay City, as rental for the Property, improvements and appurtenances, the sum of \$12,424.20, payable in five equal annual installments of \$2,484.84, the first of which is due and payable on or before March 1, 1991. Subsequent installments shall be due and payable on or before March 1 of each lease year. In the event rental payments are not received on or before the 10th day of March of each lease year, Lessees agree to pay a late charge of \$50.00 for each and every day following the specified due date, which shall be added to the amount of rent due. This Lease, at the option of the City, shall automatically terminate, and the City may immediately retake possession of the Property, if rental payments are not received on or before March 31 of each lease year.

3. (a) Lessees agree to timely pay any and all real estate taxes and improvement assessments which may be levied against the Property, and any taxes or assessments levied against the crops, livestock and other personal property of Lessees or any other leasehold interest acquired by Lessees under this Lease. Lessees further agree to pay any and all utilities charges and other expenses incurred in connection with Lessee's use and operation of the Property, including, but not limited to, all charges for natural gas, electricity, telephone and other utilities used on or in connection with the Property. Lessees shall pay any such charges on or before the date the same become due. (b) If Lessees fail to timely pay any and all amounts required pursuant to this Lease, the City may pay such amounts and, in such event, the amount(s) paid by the City, plus interest thereon at the rate of 15% per annum, shall be added to the amount(s) of the rent due and payable by Lessees.



4. The City specifically retains and reserves from this Lease any and all water and water rights owned by the City, including, but not limited to, any water rights which may have been previously used on or in connection with the Property, for whatever purpose. Subject to the provisions of this Section 4, and Sections 5 and 8, Lessees may have the right to use water as the City shall make available to Lessees for use on the Property as follows:

4.1 Lessees shall have the right to use up to 1.37 cubic feet per second ("c.f.s.") of Stream Priority No. 2 water, to be appropriated through the Juniata Ditch, for no fees in addition to the basic rental for the Property; Provided, however, that the City shall have the right at any time to take possession and control of said water and water right for any purpose including, but not limited to, sale, exchange or conversion to municipal use.

4.2 (a) In addition to water identified in paragraph 4.1, each lease year the City may, in its sole discretion, on or before the first day of May of each year, make additional water available for rent to Lessees by notification to Lessees in writing of the amount of irrigation water (expressed in terms of c.f.s. or acre feet) which may be available to Lessees to utilize on the Property during that lease year. (b) Within fifteen (15) days of written notification by the City, Lessees shall inform the City of the amount of water Lessees request to use for that year. The City shall determine, in its sole discretion, the water fee Lessee shall pay for this water, which amount shall be no less than \$2.00 per acre foot and no more than \$5.00 per acre foot. Lessees shall not be entitled to any water which is not paid for in full within the aforementioned fifteen (15) day period, and Lessees shall not be entitled to a refund for water paid for by them which they have not diverted or utilized.

4.3 All water to be made available to Lessees shall be released to Lessees upon three (3) days notice, but no more than twice a month, provided the capacity to release such amount can be provided through the outlet of the appropriate City reservoir. The City shall release the water to Lessees and measure that water at the reservoir outlet, and it shall be the responsibility of Lessees to divert and transport such water from its point of release to its point of use.

4.4 Lessees shall exercise proper diligence to ensure that the amount water so made available is utilized to its full extent on and solely for the benefit of the Property and Lessee's operations thereon. Lessees shall utilize all water released to Lessees for the first and all subsequent lease years on the Property only and shall do so in a prudent and careful manner in order to obtain the most efficient use of the water for irrigation of the Property and as stock water for livestock kept and maintained on the Property. Lessees shall comply with all rules, regulations and valid administrative orders applicable to the water provided under this Lease.

4.5 By utilizing the water released to them by the City, Lessees agree to waive and forego any claim, cause of action or demand Lessees may have against the City, its officers, employees and agents for injury to, or destruction of, any property, real and personal, including any livestock of Lessees or any third person that may be lost, injured, destroyed or devalued as a result of the act, or failure to act, of Lessees or any third person; and to indemnify the City, its officers, employees agents and to hold the City, its officers, employees and agents harmless from any and all claims, damages, actions, costs and expenses of every kind in any manner arising out of, or resulting from, Lessee's use or non-use of the water.

5. Lessee shall cooperate with and assist the City in developing and implementing long range programs to ensure that the water and water rights associated with the Property are put to beneficial use on the Property. Lessees shall, at Lessee's sole cost, provide the labor and capital necessary to improve crop production on the Property through the rehabilitation of existing fields and the cultivation of additional fields as specified in said programs.

5.1 Lessees shall furnish, at Lessee's sole expense, all labor and machinery during the term of this Lease, and shall plant, raise, cultivate, irrigate and thresh all crops grown on the demised premises at Lessee's own expense. Lessees shall be entitled to and responsible for all proceeds and debts and debt losses incurred and associated with all crops grown on the premises.

5.2 Lessees shall cultivate and irrigate the Property in a good and husbandlike manner in accordance with the best methods of cultivation and irrigation practiced in the County of Mesa, State of Colorado.

5.3 Lessees agree to cooperate and comply with all farm crop programs promulgated by the United States or the State of Colorado and approved by the City.

5.4 The type and quantity of fertilizer, herbicides and other chemicals shall be selected after the advice and consent of the City.

5.5 Lessees shall be responsible for ensuring that the water is transported through clean irrigation ditches of adequate size from the point of release tot he point of use.

5.6 Lessee's right to use the water as described above shall be subject to the express conditions of this paragraph 5.6. If the City, in its sole discretion, requires the use of some or all of the water described in this Lease, notwithstanding prior notice to the contrary, the City has the right, upon 15 days written notice to Lessees, to use, transfer and possess all of the water described in this Lease at locations and for the purposes deems necessary by City, even though such purposes and locations are

adverse to the needs and uses of Lessees.

5.7 Lessees shall be responsible for adjusting all headgates in a manner that provides for releasing to the Property the proper amount of water that is adjudicated to, or may be beneficially applied for the benefit of, the Property. Lessees shall record the dates of irrigation and the number of acres on which water is applied to adequately provide for the development of historic consumptive use records.

6. Lessees agree to:

6.1 At Lessee's sole cost and expense, install, maintain and repair all fences and gates and shall ensure that all gates and fences upon the Property are properly installed and functioning. All fences shall be "lawful fences" as defined by Colorado law.

6.2 At Lessee's sole cost and expense, maintain and keep the Property and all improvements and buildings upon the Property, including, but not limited to, fixtures, roofing, plumbing, heating and ventilation systems, wiring, glass, fences, gates, wells and well systems, pumps and pump systems, cattle guards and all other improvements on the Property, in the same or better condition as they were at the commencement of this Lease or, if improvements have been made, to the condition after improvement, all at Lessee's expense, and at the expiration of this Lease, surrender the Property and improvements thereon to City in as good a condition as when Lessees entered the Property, reasonable use and wear excepted.

6.3 Keep the Property free from all litter, dirt, debris and obstructions, and shall not commit or permit to be committed any waste on the Property or demised premises. Lessees agree that all uses shall be lawful uses only. No hazardous wastes shall be kept or discharged on the Property.

6.4 Install no structural improvements without the prior written consent of the City, which consent shall not be unreasonably withheld.

6.5 Waive and forego any claim, cause of action or demand Lessees may have against the City, its officers, agents and employees for injury to or destruction of any property of Lessees or any third person that may be lost, injured, destroyed or devalued as a result of the act, or failure to act, of Lessees or any third person; 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, costs and expenses of every kind in any manner arising out of, or resulting from Lessee's use of the Property.

6.6 At Lessee's sole expense and during the term of this Lease, purchase and maintain in effect suitable "Farmowner's Comprehensive" liability insurance which will protect the City,

its officers, employees and agents and assets of the City, 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, and a policy which insures the Property and all improvements thereon. All required policies shall have terms and amounts approved by the City's Risk Manager. Such insurance shall not be cancellable without thirty (30) days prior written notice to the City and shall be written for at least a minimum of \$500,000.00, combined single limit. The certificate of insurance must be deposited with the City and must designate the City of Grand Junction, its officers, employees and agents as additional insureds. If a policy approved by the Risk Manager is not at all times in full force and effect, this Lease shall automatically terminate.

6.7 At Lessee's sole expense and during the term of this Lease, purchase and maintain in effect suitable extended coverage insurance on all insurable improvements on the Property, to the full extent of their value, but no less than \$20,000.00. Such insurance shall not be cancellable without thirty (30) days prior written notice to the City and must designate the City of Grand Junction, its officers, employees and agents as additional insureds. The certificate of insurance must be deposited with the City and must designate the City of Grand Junction, its officers, employees and agents as additional insureds. If a policy approved by the Risk Manager is not at all times in full force and effect, this Lease shall automatically terminate.

6.8 Comply with all Workmen's Compensation laws and provide proof of Workmen's Compensation insurance to the City's Risk Manager. Said Workmen's Compensation insurance shall cover obligations imposed by applicable laws for any employee engaged in the performance of work on the Property.

6.9 Use the Property for ranching and farming operations only and conduct said operations in a proper and workmanlike manner and in a manner that will not over-graze, cause deterioration of or destruction to the Property. Use of the Property for outfitting or guide purposes by the Lessees is prohibited.

6.10 Keep the Property and the demised premises free and clear from any and all liens for labor performed and for materials furnished to the Property or demised premises.

6.11 Limit the livestock grazed on the Property to four mother cows with calves at side per acre of irrigated land and one mother cow with calf at side per three acres of non-irrigated land.

7. Lessees warrant that they have thoroughly and carefully inspected the Property and demised premises and accept the same in its present condition. Lessees agree that the condition of the Property is sufficient for the purposes of Lessees. The City makes no warranties nor promises that the Property is sufficient for the purposes of Lessees.

8. During the term of this Lease, Lessees shall have the exclusive right-of-way for ingress and egress, to and from the Property; provided, however, that the City, its officers, agents, and employees retain the right to be on the Property during emergencies and may inspect the Property at anytime. The City, at its option, shall have the right to enter the Property to construct such facilities as it deems necessary for the City to utilize the water and water rights associated with and appurtenant to the Property for municipal or other use. Following such construction the City shall have the right to use said water rights or make them available to the Lessees as the City deems appropriate.

9. The City retains and reserves for its sole use, lease, sale, or other disposition all oil, gas, coal and other minerals and mineral rights underlying or appurtenant to the Property, together with the rights of ingress and egress to and from the Property for the purpose of exploring, developing, mining, producing and removing any such minerals, oil, gas and coal.

10. Lessees shall, after the last day of the term of this Lease or any extension or upon earlier termination of this Lease, surrender to the City the Property in good order, condition and state of repair, reasonable wear and use excepted. Should Lessees fail, for whatever reason, to vacate the premises at the end or when this lease is terminated, Lessees agree to pay to the City the sum of \$50.00 per day for each and every day thereafter. The parties agree that it would be difficult to establish the actual damages to the City in such event and that said \$50.00 is an appropriate liquidated damages amount.

11. Lessees agree that all fences, gates and other improvements of a permanent nature constructed or installed on the Property during the term of this Lease, whether by City or Lessees, shall be and remain the sole property of the City upon termination or expiration of this Lease.

12. After December 1 and before January 1 of each calendar year, the terms and conditions of this Lease shall be reviewed by the Lessees and the City. Unless changed by an amendment of mutual agreement, the terms and conditions of this Lease will remain the same.

13. Except as otherwise provided for (automatic and immediate termination), if Lessees are in default in the performance of any term or condition of this Lease, the City may, at its option, terminate this Lease upon 30 days written notice. If Lessees fail within any such 30 day period to remedy any default specified in the City's notice, this Lease shall automatically terminate. If Lessees remedy such default, Lessees shall not thereafter have the right of 30 days (to remedy) with respect to the same default, but rather, the Lessee's rights shall, with respect to a subsequent similar default, terminate upon the giving of notice by the City.

Any notices sent pursuant to this agreement shall be delivered by United States certified mail, return receipt requested, and shall be considered served upon Lessees as of the date of mailing indicated on the postal receipt. All notices shall be sent to Lessees at 8700 Reeder Mesa Road, Whitewater, Colorado 81527. All notices sent to the City by Lessees shall be addressed to the City of Grand Junction, Attention Property Agent, 250 North 5th Street, Grand Junction, Colorado, 81501.

This Lease shall automatically terminate in the event Lessees: become insolvent; are subject to a bankruptcy filing whether or not voluntary or involuntary; are subject to an assignment for the benefit of creditors or if a receiver is appointed; if Lessees should become disabled or suffer death; if Lessees fail in any manner to comply with any of the terms, covenants, or conditions of this Lease to be kept and performed by Lessees; or should Lessees, by any act of negligence or carelessness, or through any act of commission or omission permit, or suffer to be permitted, damage to the Property or the demised premises in any substantial manner.

If this Lease is terminated by the City, except termination due to expiration of the lease term, Lessees shall have reasonable access to the Property for a reasonable time, not to exceed 30 days, to remove Lessee's personal property.

Upon termination of this Lease, Lessees shall remove all personal property and livestock from the property and demised premises within 30 days from the date of termination. If Lessees fail to remove Lessee's personal property and livestock within the time prescribed, the City shall not be responsible for the care and safekeeping thereof and may remove the same and store the same in a reasonable manner, the cost, expense and risk of which shall be Lessee's. Lessees hereby agree that items not timely removed may be sold by the City to cover expenses with net proceeds after expenses paid to Lessees. The City may also set off amounts owed under this Lease against proceeds of said sale.

14. Lessees shall not sublet, assign or transfer any of Lessee's interests in this Lease, or enter into any contract or agreement affecting Lessee's interest in this Lease, without obtaining prior written approval of the City.

15. If the premises are damaged due to fire or other casualty, the City shall have no obligation to repair the improvements nor to otherwise make the premises usable or occupiable; damages shall be at Lessee's risk. If the City determines not to perform repairs or to otherwise make the premises usable or occupiable, Lessees may terminate this Lease by giving Lessee's notice to the City that the lease is terminated. The City may, however, at its election, apply the proceeds of any insurance obtained by Lessees for this purpose, to repair the damaged improvements.

16. It is expressly agreed that this Lease is one of lease and not

of partnership and the City shall not be or become responsible for any debts contracted by Lessee. Lessees shall save, indemnify and hold the City, its officers, employees and agents harmless against all liability or loss, and against all claims and actions based upon or arising out of any claim, lien, damage or injury, (including death), to persons or property caused by Lessees or by conditions created thereby, or based upon any violation of any statute, ordinance, code or regulation, and the defense of any such claims or actions, including attorney's fees.

Lessees shall also pay and indemnify the City of Grand Junction, its officers, employees and agents against all liability and loss in connection with, and shall assume full responsibility for payment for all federal, state and local taxes or contributions imposed or required under unemployment insurance, social security and income tax laws, with respect to employees engaged in performance of this Lease.

17. Lessees acknowledge the rights of Ica M. Click to buried in the grave site referred to in the attached Exhibit "B". Lessees further agree that they will not allow said grave site to be or become disturbed by Lessees, their guests and invitees.

18. In the event the City uses its City Attorney or engages an attorney to enforce the City's rights hereunder, Lessees agree to pay for the value or cost of such attorney fees, plus costs, including the costs of any experts. This Lease shall be governed by, construed, and enforced in accordance with the laws of the State of Colorado. Venue shall be in Mesa County.

19. The provisions of this Lease shall not inure to the benefit of the heirs, successors and assigns of the parties hereto. The obligation of the City to proceed with the terms and conditions of this Lease is expressly subject to the Council of the City approving and ratifying this Lease within thirty (30) days of execution of this Lease by the City Manager. If such approval is not obtained within said 30 day period, then this Lease shall be of no force and effect.

IN WITNESS WHEREOF, each party to this Lease has caused it to be executed on the date indicated below

THE CITY OF GRAND JUNCTION  
a municipal corporation

\_\_\_\_\_  
City Manager Date

ATTEST:

\_\_\_\_\_  
City Clerk Date

LESSEE:

Clifford V. Davis Date

LESSEE:

Judy L. Davis Date

EXHIBIT "A"

PARCEL NO. 1

Lots 6, 9, and 15 in Section 32, Township 12 South, Range 97 West, 6th P.M., and Lot 2 of Section 5, Township 13 South, Range 97 West, 6th P.M.; except for grave sites located on Parcel No. 1, which the City shall specifically identify by survey and which constitute less than one-quarter acre of land.

PARCEL NO. 2

Beginning at a point on the West line of Tract 46, Section 32, T12S, R97W, 6th P.M., which is South 1052.40 feet from the NW corner (Cor. 2) of said Tract 46, thence along the centerline of the county road S 81 deg. 16 min. 30 sec. E 132.74 feet and S 58 deg. 09 min. 47 sec. E 22.12 feet; thence South 1454.20 feet; thence S 89 deg. 51 min. 55 sec. W 150.00 feet; thence North 1486.36 feet along said West line of Tract 46 to the point of beginning, together with all improvements and appurtenances situated thereon and used in connection therewith.

Except:

A parcel of land situated in Lots 9 and 15 Section 32 Township 12 South Range 97 West and Lot 2 Section 5 Township 13 South Range 97 West 6 P.M. described as follows:

Beginning at the Southwest corner Lot 15 Section 32 (point is also North quarter corner Section 5 Township 13 South Range 97 West and corner 6 TR 43 Township 12 South Range 97 West 6 P.M.) being South 89 deg. 45 min. 26 sec. East 66.00 feet from a 1908 witness corner brass cap in place; thence South 00 deg. 00 min. 666.00 feet along the West line of Lot 2 Section 5; thence South 89 deg. 45 min. 26 sec. East 659.26 feet; thence North 00 deg. 00 min. 866.00 feet; thence North 73 deg. 20 min. 46 sec. East 688.13 feet to the East line of Lot 15 Section 32 (line is also West line of TR46); thence North 00 deg. 00 min. 1008.25 feet along the East line of Lot 15 and Lot 9 (or the West line TR 46) to a fence line; thence South 64 deg. 51 min. West 1101.69 feet along the fence line; thence South 62 deg. 21 min. West 362.43 feet along the fence line to the



West line of Lot 15 (or the East line of TR 43); thence South 00 deg. 01 min. West 766.30 feet along the West line of Lot 15 to the point of beginning containing 38.645 acres more or less.

Also:

A parcel of land situated in Lot 15 Section 32 Township 12 South Range 97 West and Lot 2 Section 5 Township 13 South Range 97 West 6 P.M. described as follows:

Beginning at the Southeast corner of Lot 15 Section 32 (also corner 3 TR 46) a 1908 brass cap in place; thence South 00 deg. 00 min. 666.00 feet; thence North 89 deg. 45 min. 26 sec. West 659.26 feet; thence North 00 deg. 00 min. 866.00 feet; thence North 73 deg. 20 min. 46 sec. East 688.13 feet to the East line of Lot 15 Section 32; thence South 00 deg. 00 min. 400.00 feet along the East line of Lot 15 Section 32 to the point of beginning containing 14.620 acres.