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**CITY COUNCIL AGENDA  
CITY HALL AUDITORIUM, 250 NORTH 5<sup>TH</sup> STREET  
WEDNESDAY, MAY 6, 2009, 7:00 P.M.**

**Call to Order**

Pledge of Allegiance

**Proclamations/Recognitions**

Recognition of Hans Schmoldt and his crew with Anode Systems for Community Service

Recognition of Lena Elliott for receiving the 2009 Individual Citation Award

Recognition of the Grand Junction Commission on Arts and Culture for being honored with the 2009 Arts and Humanities Award

**Citizen Comments**

**\*\*\* CONSENT CALENDAR \*\*\*®**

1. **Intergovernmental Agreement Between the City of Grand Junction and the Town of Palisade for the Operation of the Outdoor Swimming Pool in Palisade** [Attach 1](#)

The Town of Palisade has submitted a request to the Parks and Recreation Department to create a partnership for the operation of the outdoor pool in Palisade. Through this intergovernmental agreement, the City of Grand Junction

\*\*\* Indicates New, Moved, or Changed Item

® Requires Roll Call Vote

**REVISED**

will operate all aquatic programs at the Palisade Pool during the upcoming summer season.

*Action: Authorize the Mayor and City Manager to sign an Intergovernmental Agreement with the Town of Palisade for the Operation of the Palisade Pool during the Upcoming Summer Season*

Staff presentation: Rob Schoeber, Parks and Recreation Director

2. **Vacation of Utility and Irrigation Easement (Country Squire II Subdivision), Located at 2074 Broadway and 2076 Ferree Drive** [File #PP-2008-054]

[Attach 2](#)

A request to vacate a Utility and Irrigation Easement for the benefit of the proposed Country Squire II Subdivision that is to be located at 2074 Broadway and 2076 Ferree Drive in the Redlands.

Resolution No. 47-09—A Resolution Vacating a Utility and Irrigation Easement (Country Squire II Subdivision), Located 2074 Broadway and 2076 Ferree Drive

*®Action: Adopt Resolution No. 47-09*

Staff presentation: Scott D. Peterson, Senior Planner

3. **Contract for the Right-of-Way Acquisition Services for I-70B, 24 Road to Rimrock Drive**

[Attach 3](#)

The Colorado Department of Transportation has requested that the City of Grand Junction contribute to the I-70B project from 24 Road to Rimrock Drive by contracting and paying for the Right-of-Way acquisition services. This project includes providing six lanes of through travel, consolidation of access points, intersection improvements, improved bicycle and pedestrian facilities and improving existing bus stops.

*Action: Authorize the City Manager to Approve the Contract with Transportation Resource Services, Inc. for the Right-of-Way Acquisition Services for I-70B in the Amount of \$369,860*

Staff presentation: Tim Moore, Public Works and Planning Director

**\*\*\* END OF CONSENT CALENDAR \*\*\***

**\*\*\* ITEMS NEEDING INDIVIDUAL CONSIDERATION \*\*\***

**\*\*\* 4. Downtown Residential Neighborhoods Land Use Applications [Attach 4](#)**

The proposed resolution would afford the City an opportunity, by declaring a temporary moratorium on the filing of development applications in the identified area, to carefully evaluate and determine as appropriate, the proper implementation of the Downtown Plan specific to the residential neighborhoods located generally north of Grand Avenue, East of 1<sup>st</sup> Street, West of 12<sup>th</sup> Street and South of North Avenue.

Resolution No. 48-09—A Resolution Directing the City Manager Concerning Land Use Applications in the Downtown Residential Neighborhoods

®Action: *Adopt Resolution No. 48-09*

Staff presentation: John Shaver, City Attorney

**5. Non-Scheduled Citizens & Visitors**

**6. Other Business**

**7. Executive Session**

DISCUSSION OF PROPERTY NEGOTIATIONS REGARDING THE PURCHASE, ACQUISITION, LEASE, TRANSFER, OR SALE OF REAL, PERSONAL, OR OTHER PROPERTY INTEREST UNDER SECTION 402(4)(a) OF THE OPEN MEETINGS LAW

**7. Adjournment**

**Attach 1**

**Intergovernmental Agreement Between the City of Grand Junction and the Town of Palisade for the Operation of the Outdoor Swimming Pool in Palisade  
CITY OF GRAND JUNCTION**

| CITY COUNCIL AGENDA               |   |          |                   |
|-----------------------------------|---|----------|-------------------|
| <b>Subject</b>                    | Intergovernmental agreement between the City of Grand Junction and the Town of Palisade for the operation of the outdoor swimming pool in Palisade. |          |                   |
| <b>File #</b>                     |   |          |                   |
| <b>Meeting Day, Date</b>          | Wednesday, May 6, 2009  |          |                   |
| <b>Placement on the Agenda</b>    | <b>Consent</b>  | <b>X</b> | <b>Individual</b> |
| <b>Date Prepared</b>              | April 27, 2009  |          |                   |
| <b>Author Name &amp; Title</b>    | Rob Schoeber, Parks and Recreation Director   |          |                   |
| <b>Presenter Name &amp; Title</b> | Rob Schoeber, Parks and Recreation Director   |          |                   |

**Summary:**

The Town of Palisade has submitted a request to the Parks and Recreation Department to create a partnership for the operation of the outdoor pool in Palisade. Through this intergovernmental agreement, the City of Grand Junction will operate all aquatic programs at the Palisade Pool during the upcoming summer season.

**Budget:**

City staff has developed a budget for the overall operation of the pool. Direct staffing costs are estimated at \$84,622, and indirect (management) costs are projected to be approximately \$7,000. The two entities have mutually agreed on a fee of \$91,500 for this service for the summer season.

**Action Requested/Recommendation:**

Authorize Mayor and City Manager to sign intergovernmental agreement with the Town of Palisade for the operation of the Palisade pool during the upcoming summer season.

**Attachments:**

1. Intergovernmental Agreement (IGA)
2. Memorandum of Understanding from Town of Palisade
3. Uniforms
4. Schedule & Budget
5. Palisade Pool Fee Schedule
6. Required Equipment and Supplies

**Background Information:**

The Grand Junction Parks & Recreation Department is very dedicated to offering quality swim programs for the community. All lifeguards and swim instructors are certified through Ellis & Associates program. If approved, the city will hire and train all staff, consistent with those currently employed by the City of Grand Junction, and provide programming and day to day operation of the pool. The Town of Palisade will purchase all necessary supplies and equipment, and also provide all maintenance to the facility. In an effort to expand cross training for all staff, lifeguards and instructors will be rotated throughout the summer at Lincoln Park, Orchard Mesa and Palisade pools. Local customers will also have the benefit of a reduced rate for season pass holders at all pools. According to the agreement, In the event the City's expenses are higher than expected, the City and Town may re-negotiate the base amount based upon actual expenses.

## INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between THE TOWN OF PALISADE, hereinafter called "Town" and THE CITY OF GRAND JUNCTION, a Colorado Home Rule City, hereinafter called "City," collectively the "Parties."

### RECITALS

The Town is the owner of real property situated at 571 West 5th Street, in Palisade, Colorado, known as Palisade Swimming Pool, hereinafter called "Pool".

The City and the Town agree that the provision of recreation programs is important to the public in general and specifically to those persons utilizing Palisade Swimming Pool.

In support of the Pool, the City and Town agree that the City will provide all lifeguards, guest service representatives, swim instructors, and pool managers at Palisade Swimming Pool.

An intergovernmental agreement for such purpose is authorized pursuant to Section 18, Article XIV of the Colorado Constitution, Section 29-1-203, C.R.S., Section 22-32-110(1)(f), C.R.S., and other applicable laws.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein and other valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

**1.** The term of this Agreement will be for six months, commencing April 14, 2009 and ending September 31, 2009, and may be extended for an additional term upon mutual agreement.

**2.** The City agrees to provide all required labor for the Pool. Labor for purposes of this Agreement is lifeguards, swim instructors, guest service representatives, and pool managers. The City will pay all wages, salaries, benefits, and workers' compensation insurance premiums for the required labor for the Pool. The Town agrees that the standard and customary City and Ellis and Associates Comprehensive Aquatic Risk Management Program shall be applied to the Pool. City staff will provide basic daily maintenance including but not limited to lawn mowing, cleaning of facility, and pool vacuuming.

**3.** As owner of the Pool, Town agrees to be responsible for maintenance of the Pool. Without limiting the generality of that responsibility, the Town shall repair and/or replace all mechanical and chemical systems. The Town will also repair and/or replace all sprinklers, fences, lights, restrooms facilities, shelters, tables, benches, sign(s), trash receptacles and any other feature, facility or installation of the Pool. The cost to maintain the Pool, including repairs, upkeep and utilities shall be the sole expense and liability of the Town. All facility compliance as it refers to Virginia Graeme

Baker Pool and Spa Safety Act (15 USC 8001) is the responsibility of the Town of Palisade.

All supplies and equipment required by the City and Ellis and Associates Comprehensive Aquatic Risk Management Program shall be purchased by the Town. A detailed list of supplies and equipment is provided in Exhibit D of the Memorandum of Understanding, which is attached hereto as Exhibit 1 and incorporated herein by reference.

4. The Town and City agree to promptly notify each other should the physical condition of the Pool not be conducive to the safe conduct of any programmed activity in the Pool and/or if maintenance practices may impact in any way, the scheduling of activities in the Pool.

5. The City will register all swim lesson and special event participants as well as manage all public swim entries. The City staff will collect the revenues generated by public swim, swim lessons, private parties, and special events but the Town will retain all revenues.

The Town agrees to give management of all concession operations, including staff and supply expenses, to the City with all revenues being retained by the City.

6. The City and Town agree that for purposes of this Agreement the City's annual expenses to cover all public swim and swim lessons are estimated to be \$91,500. This includes all direct staff costs, indirect staff costs with a Recreation Supervisor and Recreation Coordinator, hiring costs incurred by the City, Ellis and Associates audit fees, mileage, and uniform costs. The City shall bill the Town in four equal installments of \$22,875 starting in June and ending in September. Direct labor costs for all mutually agreed upon special events and private parties shall be charged to the Town above and beyond the \$91,500.

In the event the City's annual expense exceeds the annual amount for some unforeseen circumstances, the City and Town may renegotiate the base amount based on the City's actual cost.

7. The Town understands and agrees that it will not reserve, schedule or hold any activity at the Pool, for itself or for any other person or entity, without first communicating and coordinating with the City's Parks and Recreation designee. The final determination regarding the scheduling of such activities at the pool will be made jointly by the Town and the City.

8. The Town will set the fees and charges for Pool usage and programming in accordance with the prevailing Town rates in effect as of the date of this Agreement. All fees collected by the City shall be retained by the Town per the provisions of Paragraph 5 herein. Exhibit C of the attached Memorandum of Understanding provides the fee schedule for the Palisade Pool. In addition, it is agreed that the Town and City will allow season pass holders of the respective swimming pool facilities to utilize the pool facilities of the other jurisdiction upon presentation of the other's season pass for an additional \$1.00 charge.

9. The Parties understand and agree that both the City and the Town may be protected by and will rely on and do not waive or intend to waive by any provision of this Agreement the monetary insurance limitations or any other rights, immunities and

protections provided by the Colorado Governmental Immunity Act, 24-1-101 et seq., 10 C.R.S., as from time to time amended, or otherwise available.

**10.** The Town agrees to indemnify and hold harmless the City and its officers and its employees, from and against all liability, claims, demands and expenses, including court costs and attorney fees, on account of any injury, loss or damage, which arise out of or are in any manner connected with the maintenance work to be performed by the Town under this agreement, if such injury, loss or damage is caused by, or is claimed to be caused by, the act, omission or other fault of the Town or any officer or employee of the Town.

The City agrees to indemnify and hold harmless the Town and its officers and its employees, from and against all liability, claims, demands and expenses including court costs and attorney fees, on account of any injury, loss or damage, which arise out of or are in any manner connected with the programming work to be performed by the City under this agreement, if such injury, loss or damage is caused by, or is claimed to be caused by , the act, omission, or other fault of the City or any officer or employee of the City.

**11.** Any persons employed by either the City or the Town for the performance of work hereunder shall be employees of the respective party and not agents or employees of the other.

**12.** Neither party may assign or delegate this Agreement or any portion thereof without the prior written consent of the other Party.

**13.** Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either Party should fail or refuse to perform according to the terms of this Agreement; such party may be declared in default.

**14.** This Agreement may be terminated by either party for material breach, default of the Agreement by the other party not caused by any action or omission of the other party, or for no reason, by giving the other party written notice of at least thirty (30) days in advance of the termination date. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

**15.** The Parties shall reasonably comply with the applicable provisions of the American with Disabilities Act of 1990 and any and all other applicable federal, state or local laws and regulations.

**16.** This Agreement represents the entire agreement between the Parties and there are no oral or collateral agreements or understandings. Only an instrument in writing signed by the parties may amend this Agreement.

**17.** The traditional rule that ambiguities shall be construed against the drafter is waived.

**18.** Venue for any action arising out of or occurring under this Agreement shall be Palisade, Colorado. The agreement shall be controlled by, construed and interpreted in accordance with the law of Town of Palisade and State of Colorado.



**TOWN OF PALISADE, COLORADO**

**CITY OF GRAND JUNCTION, COLORADO**

\_\_\_\_\_  
Tim Sarmo                      Date  
Town Manager

\_\_\_\_\_  
Laurie M. Kadrich                      Date  
City Manager

**RATIFIED**

**TOWN OF PALISADE, COLORADO  
BOARD OF TRUSTEES**

**CITY OF GRAND JUNCTION CITY  
COUNCIL**

\_\_\_\_\_  
Town of Palisade                      Date

\_\_\_\_\_  
Gregg Palmer, Mayor                      Date

**ATTEST:**

\_\_\_\_\_  
Town of Palisade                      Date

\_\_\_\_\_  
Stephanie Tuin, City Clerk                      Date

# EXHIBIT 1

## MEMORANDUM OF UNDERSTANDING Regarding Cooperative Operation and Provision of Life Guards for the Palisade Swimming Pool 2009

DATE: April 14, 2009

WHEREAS, City of Grand Junction (City) and Town of Palisade (Town) have a history of cooperation; and,

WHEREAS, there are opportunities for cooperation in the area of recreation services to the benefit of citizens of both jurisdictions and the Grand Valley; and,

WHEREAS, both municipalities are desirous of cooperating and contracting for certain services associated with the provision of life guards and operation of the Palisade Swimming Pool;

NOW THEREFORE BE IT AGREED as follows:

The City of Grand Junction will:

- 1) Hire, employ, supervise and provide Ellis and Associates trained and certified Life Guards for the Palisade Swimming Pool for the 2009 summer swimming season.
- 2) Pay all wages, benefits, pursuant to Grand Junction personnel policies and pay all workers' compensation insurance premiums for all Life Guards utilized at the Palisade Swimming Pool.
- 3) Provide uniforms for Palisade Swimming Pool staff pursuant to Exhibit A - Uniforms attached hereto. Said uniforms shall not have City of Grand Junction logos or other identification.
- 4) Provide sufficient staffing to man the Palisade Swimming Pool seven days per week from May 24, 2009 through and including September 7, 2009, a minimum of 91 hours per week, with a minimum of one Pool Manager, one General Services Representative, and three Life Guards during operating hours pursuant to Exhibit B - Schedule and Budget attached.
- 5) Provide, provision, open, and staff a concession trailer located on site and keep and retain all revenues generated from the sale of concessions at the Palisade Pool.
- 6) Answer inquires and schedule lessons and special events utilizing employees at the Palisade Pool
- 7) Plan, staff, and manage special events and lessons at the Palisade Pool.
- 8) Collect all admission and fees for pool programs at the Palisade Swimming Pool pursuant to Exhibit C - Palisade Pool Fee Schedule.
- 9) Provide sufficient on and off-site supervision of the Palisade Swimming Pool operation and personnel by the Grand Junction Aquatics Coordinator, Recreation Supervision and other Grand Junction Recreation Office Management staff.

The Town of Palisade will:

- 1) Pay \$91,500 to the City of Grand Junction in monthly increments for direct and indirect staffing costs associated with regular pool operations.
- 2) Pay the additional costs of direct staffing associated with lessons and special events at the hourly rates specified in Exhibit B.
- 3) Equip the Palisade Pool with all supplies and equipment as specified in Exhibit D – Supplies attached hereto.
- 4) Provide space at the Palisade Pool for a concession trailer to be operated by the City of Grand Junction.
- 5) Pay all costs of pool repairs, maintenance, and utilities.

IT IS FURTHER AGREED AS FOLLOWS:

- 1) All admission, lesson, special events, or other fees associated with use of the Palisade Swimming Pool will be retained by the Town of Palisade.
- 2) All revenues from concessions will be retained by the City of Grand Junction.
- 3) Grand Junction and Palisade will honor each other's season pass with a \$1 additional charge at their respective pools as follows:
  - Patrons of the Palisade pool with a Grand Junction pool season pass will be allowed admission to the Palisade Pool for \$1.
  - Patrons of the Orchard Mesa and Lincoln Park pools with a Palisade pool season pass will be allowed admission to the Orchard Mesa and Lincoln Park pools for \$1.

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City of Grand Junction Authorized Signature

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Town of Palisade Authorized Signature

Exhibit A – Uniforms

| <u>Item</u>    | <u>Cost</u> |
|----------------|-------------|
| Men's Shorts   | \$26.50     |
| Women's Shorts | \$19.00     |
| *Women's Suits | \$30.00     |
| T-shirts       | \$7.50      |
| Whistles       | \$2.90      |
| Lanyards       | \$1.85      |
| Fanny packs    | \$6.75      |
| Hats           | \$ 12.00    |
| Visors         | \$10.00     |

Women purchase suits. Employees choose a hat or visor. Grand Junction Parks and Recreation purchases and provides all other uniforms.

Exhibit B – Schedule & Budget

**Direct Staffing Costs**

|   | <b><u>Managers</u></b> | <b><u>Guards</u></b>           | <b><u>Instructors</u></b> | <b><u>GSR</u></b> |   |
|---|------------------------|--------------------------------|---------------------------|-------------------|---|
| Monday                                  | 13.5 hours             | 1 @ 12.5 hours<br>2 @ 10 hours | 6 @ 3.25                  | 10 Hours          |   |
| Tuesday                                 | 15 hours               | 1 @ 14 hours<br>2 @ 10 Hours   | 6 @ 3.25                  | 10 Hours          |   |
| Wednesday                               | 13.5 hours             | 1 @ 12.5 hours<br>2 @ 10 hours | 6 @ 3.25                  | 10 Hours          |   |
| Thursday                                | 15 hours               | 1 @ 14 hours<br>2 @ 10 Hours   | 6 @ 3.25                  | 10 Hours          |   |
| Friday                                  | 10 Hours               | 3 @ 10 Hours                   |                           | 10 Hours          |   |
| Saturday                                | 12 Hours               | 3 @ 12 Hours                   |                           | 12 Hours          |   |
| Sunday                                  | 12 Hours               | 3 @ 12 Hours                   |                           | 12 Hours          |   |
| Hours Per Week                          | 91                     | 235                            | 78                        | 74                | 478   |
| Rate                                    | \$19.61                | \$10.59                        | \$10.59                   | \$8.83            |   |
| Cost Per Week                           | \$1,784.51             | \$2,488.65                     | \$826.02                  | \$653.42          |   |
| Summer Cost for 15.5 Weeks              | \$27,659.91            | \$38,574.08                    | \$8,260.20                | \$10,128.01       | *Instructors only work 10 weeks   |
| <b>Total Summer Staff Hours</b>         | 6980                   |                                |                           |                   |   |
| <b>Total Personnel Costs Per Week</b>   | \$5,752.60             |                                |                           |                   |   |
| <b>Total Personnel Costs For Summer</b> | \$84,622.19            |                                |                           |                   | *Does not include special events or private parties. Billed separately based on mutual agreement. |

**Indirect Staffing Costs**

|                                   |                    |                   |                             |
|-----------------------------------|--------------------|-------------------|-----------------------------|
| Registrations                     | 30 hours @ \$24.97 | \$749.10          |                             |
| Aquatics Coordinator Time         | 80 Hours @ \$33.25 | \$2,660.00        |                             |
| Recreation Supervisor Time        | 50 Hours @ \$45.36 | \$2,268.00        |                             |
| Management Staff preseason time   | *50 Hours @19.61   | \$980.50          | *LTS Prep and Facility Mngt |
| Mileage                           |                    | \$1,000.00        |                             |
| <b>Total Indirect Staff Costs</b> |                    | <u>\$7,657.60</u> |                             |

**Direct Operational  
Cost**

|                                     |              |                 |
|-------------------------------------|--------------|-----------------|
| Lifeguard Audit Fee                 | 3 X \$175.00 | \$525.00        |
| Staff Hiring costs                  | \$50.00 X 11 | <u>\$550.00</u> |
| <b>Total Direct Oper.<br/>Costs</b> |              | \$1,075.00      |

**Other Staffing Costs**

\*Ellis and Associates      \$125 per  
Training                      person

\*This cost will be incurred by the staff member

## Exhibit C – Palisade Pool Fee Schedule

### **Swimming Pool**

#### Daily pool user fees:

|                    |     |
|--------------------|-----|
| Child (0-2 years): | \$2 |
| Youth (3-17 years) | \$4 |
| Adult (17 +):      | \$5 |

#### Season passes:

|                     |       |
|---------------------|-------|
| Child, Youth, Adult | \$100 |
| Senior (55+)        | \$65  |

#### Punch card (20 visits):

|          |      |
|----------|------|
| All Ages | \$60 |
|----------|------|

#### Special events/parties:

|                    |       |
|--------------------|-------|
| Up to 50 people:   | \$175 |
| 51 to 100 people:  | \$225 |
| 101 to 125 people: | \$275 |

Exhibit D – Required Equipment and Supplies

| <b>Supply Needs</b>            | <b><u>Appr. Cost Per Item</u></b> |          | <b><u>Total</u></b> |
|--------------------------------|-----------------------------------|----------|---------------------|
| AED                            | \$                                | 2,195.00 | \$ 2,195.00         |
| AED Case                       | \$                                | 130.00   | \$ 130.00           |
| AED Rechargeable Battery       | \$                                | 265.00   | \$ 265.00           |
| AED Trainer Battery            | \$                                | 325.00   | \$ 325.00           |
| AED Pads (Adult & Pediatric)x2 | \$                                | 265.00   | \$ 265.00           |
| Scissors/Deodorant/Razors      | \$                                | 10.00    | \$ 10.00            |
| Supplemental O2                | \$                                | 220.00   | \$ 220.00           |
| Rescue Tubes                   | \$                                | 40.00    | \$ 160.00           |
| V-Vac suction                  | \$                                | 71.00    | \$ 71.00            |
| BVM (Adult/Child/Infant)x2     | \$                                | 90.00    | \$ 90.00            |
| Chamois Cloth Towel            | \$                                | 10.00    | \$ 10.00            |
| Non-rebreathers                | \$                                | 20.00    | \$ 20.00            |
| Trauma Bag                     | \$                                | 95.00    | \$ 95.00            |
| Gloves Latex                   | \$                                | 3.63     | \$ 43.56            |
| Gloves Nitride                 | \$                                | 8.87     | \$ 106.44           |
| Bandages                       | \$                                | 3.07     | \$ 6.14             |
| Band-Aids                      | \$                                | 3.02     | \$ 12.08            |
| Gauze pads                     | \$                                | 1.71     | \$ 3.42             |
| Cotton Balls                   | \$                                | 3.10     | \$ 9.30             |
| Tape                           | \$                                | 3.68     | \$ 7.36             |
| Hydrogen Peroxide              | \$                                | 0.68     | \$ 4.08             |
| CPR/AR Training Mannequins     | \$                                | 440.00   | \$ 440.00           |
| Vigilance Training Manikin     | \$                                | 154.00   | \$ 154.00           |
| Life Jackets                   | \$                                | 25.00    | \$ 25.00            |
| <b>Total Supply Costs</b>      |                                   |          | <b>\$ 4,667.38</b>  |



**Attach 2**

**Vacation of Utility and Irrigation Easement (Country Squire II Subdivision), Located at 2074 Broadway and 2076 Ferree Drive  
CITY OF GRAND JUNCTION**

| CITY COUNCIL AGENDA               |  |          |                   |
|-----------------------------------|--|----------|-------------------|
| <b>Subject</b>                    | Vacation of Utility and Irrigation Easement (Country Squire II Subdivision) – Located at 2074 Broadway and 2076 Ferree Drive |          |                   |
| <b>File #</b>                     | PP-2008-054  |          |                   |
| <b>Meeting Day, Date</b>          | Wednesday, May 6, 2009   |          |                   |
| <b>Placement on the Agenda</b>    | <b>Consent</b>   | <b>X</b> | <b>Individual</b> |
| <b>Date Prepared</b>              | April 22, 2009   |          |                   |
| <b>Author Name &amp; Title</b>    | Scott D. Peterson, Senior Planner  |          |                   |
| <b>Presenter Name &amp; Title</b> | Scott D. Peterson, Senior Planner  |          |                   |

**Summary:** A request to vacate a Utility and Irrigation Easement for the benefit of the proposed Country Squire II Subdivision that is to be located at 2074 Broadway and 2076 Ferree Drive in the Redlands.

**Budget:** N/A.

**Action Requested/Recommendation:** Adopt Resolution.

**Attachments:**

1. Site Location Map / Aerial Photo Map
2. Future Land Use Map / Existing City and County Zoning
3. Resolution

| BACKGROUND INFORMATION              |              |  |     |  |    |
|-------------------------------------|--------------|--|-----|--|----|
| <b>Location:</b>                    |              | 2074 Broadway and 2076 Ferree Drive  |     |  |    |
| <b>Applicant:</b>                   |              | The R. Kenton Page Trust, Owner<br>Vortex Engineering Inc., Representative |     |  |    |
| <b>Existing Land Use:</b>           |              | Single-family home on each property  |     |  |    |
| <b>Proposed Land Use:</b>           |              | Residential subdivision  |     |  |    |
| <b>Surrounding Land Use:</b>        | <b>North</b> | Single-family residential  |     |  |    |
|                                     | <b>South</b> | Single-family residential  |     |  |    |
|                                     | <b>East</b>  | Single-family residential  |     |  |    |
|                                     | <b>West</b>  | Single-family residential  |     |  |    |
| <b>Existing Zoning:</b>             |              | R-4, Residential – 4 du/ac   |     |  |    |
| <b>Proposed Zoning:</b>             |              | N/A  |     |  |    |
| <b>Surrounding Zoning:</b>          | <b>North</b> | RSF-4, Residential Single-Family – 4 units/acre (County)                   |     |  |    |
|                                     | <b>South</b> | RSF-2, Residential Single-Family – 2 units/acre (County)                   |     |  |    |
|                                     | <b>East</b>  | RSF-4, Residential Single-Family – 4 units/acre (County)                   |     |  |    |
|                                     | <b>West</b>  | RSF-4, Residential Single-Family – 4 units/acre (County)                   |     |  |    |
| <b>Growth Plan Designation:</b>     |              | Residential Medium Low (2 – 4 du/ac)                                       |     |  |    |
| <b>Zoning within density range?</b> |              | X  | Yes |  | No |

**Staff Analysis:**

The applicant, The R. Kenton Page Trust, wishes to vacate an existing Utility and Irrigation Easement for the benefit of the proposed residential subdivision (Country Squire II). The existing easement does not contain any utilities or irrigation facilities and was dedicated as part of the Ellie Heights Subdivision in 1958. The request to officially vacate this easement is necessary so that the development of the proposed residential subdivision is not encumbered by this easement. The easement requested to be vacated is not needed for the proposed subdivision.

The Planning Commission recommended approval of the proposed Utility and Irrigation Easement vacation at their April 14, 2009 meeting.

**Consistency with the Growth Plan:**

The two properties are currently zoned R-4, (Residential – 4 du/ac) with the Growth Plan Future Land Use Map identifying this area as Residential Medium Low (2 – 4 du/ac).

**Section 2.11 C. of the Zoning and Development Code:**

The applicant is requesting the vacation of an existing Utility and Irrigation Easement as identified on the recorded subdivision plat for Lot 19, Ellie Heights Subdivision. The vacation of the easement shall conform to the following:

- a. The Growth Plan, Grand Valley Circulation Plan, and other adopted plans and policies of the City.

Granting this request to vacate an existing Utility and Irrigation Easement does not conflict with the Growth Plan, Grand Valley Circulation Plan and other adopted plans and policies of the City of Grand Junction. The easement requested to be vacated does not contain any utilities.

- b. No parcel shall be landlocked as a result of the vacation.

No parcel will be landlocked as a result of the vacation of this Utility and Irrigation Easement.

- c. Access to any parcel shall not be restricted to the point where access is unreasonable, economically prohibitive or reduces or devalues any property affected by the proposed vacation.

Access will not be restricted.

- d. There shall be no adverse impacts on the health, safety, and/or welfare of the general community and the quality of public facilities and services provided to any parcel of land shall not be reduced (e.g. police/fire protection and utility services).

There will be no adverse impacts to the general community and the quality of public facilities and services provided will not be reduced due to the vacation request.

- e. The provision of adequate public facilities and services shall not be inhibited to any property as required in Chapter Six of the Zoning and Development Code.

The provision of adequate public facilities and services will not be inhibited to any property as required in Chapter Six of the Zoning and Development Code as there are no utilities located within the requested

easement vacation. No adverse comments were received from the utility review agencies.

- f. The proposal shall provide benefits to the City such as reduced maintenance requirements, improved traffic circulation, etc.

The proposed Utility and Irrigation Easement vacation will remove an unnecessary portion of the easement from the property. No change in benefits to the City will be noticed as a result of the proposed vacation.

#### **FINDINGS OF FACT/CONCLUSIONS:**

After reviewing the Country Squire II application, PP-2008-054 for Vacation of a Utility and Irrigation Easement, the Planning Commission makes the following findings of fact and conclusions:

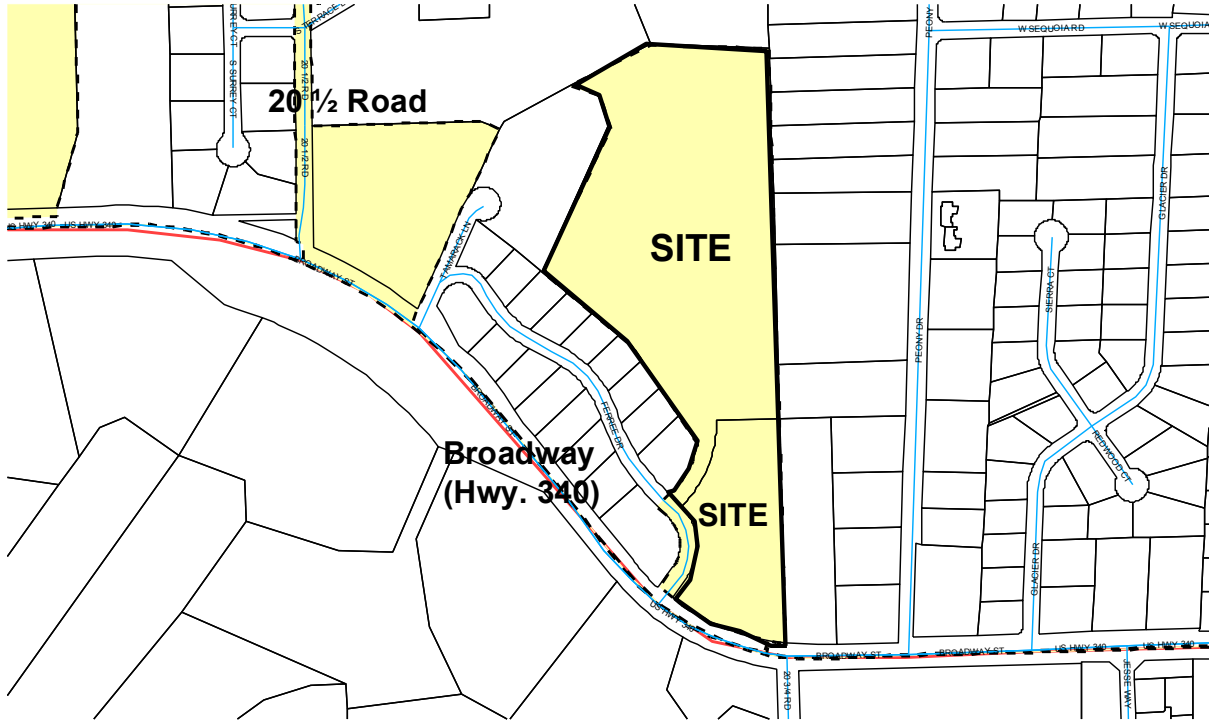
1. The proposed Utility and Irrigation Easement vacation is consistent with the goals and policies of the Growth Plan.
2. The review criteria in Section 2.11 C. of the Zoning and Development Code have all been met for the proposed easement vacation.

#### **Action Requested/Recommendation:**

The Planning Commission recommends that the City Council approved the Resolution for the vacation of a Utility and Irrigation Easement located at 2074 Broadway and 2076 Ferree Drive, finding the request consistent with the Growth Plan and Section 2.11 C. of the Zoning and Development Code.

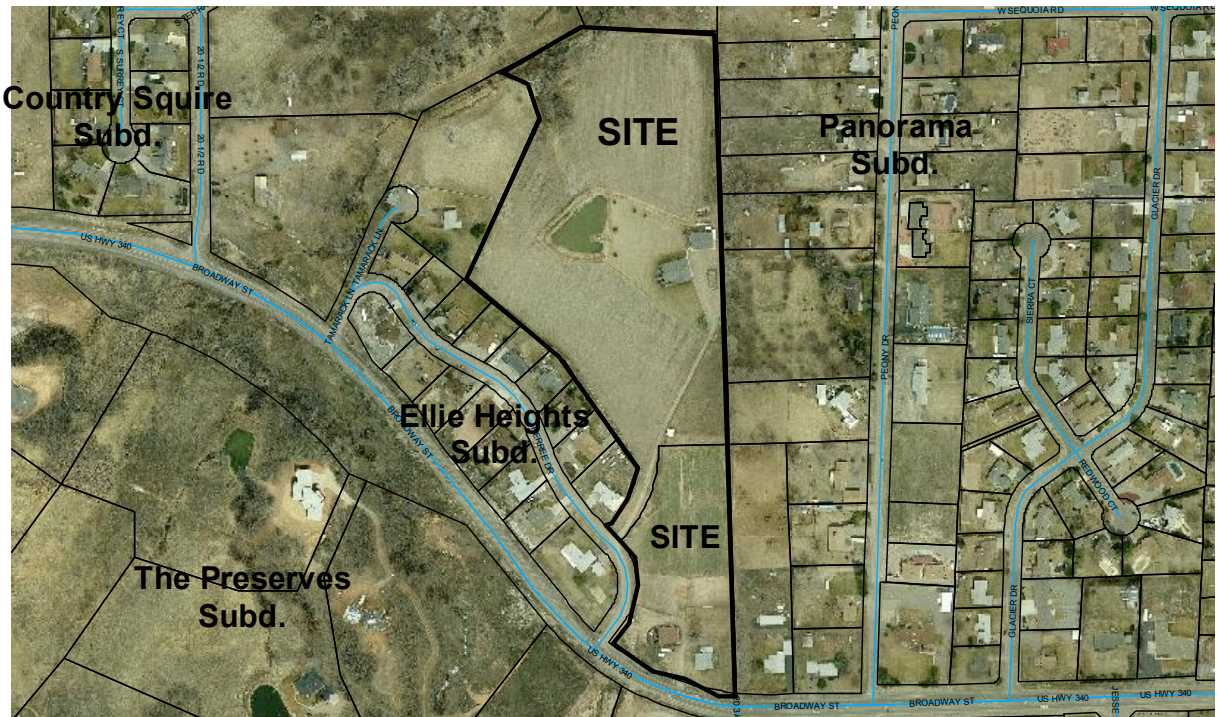
# Site Location Map

Figure 1



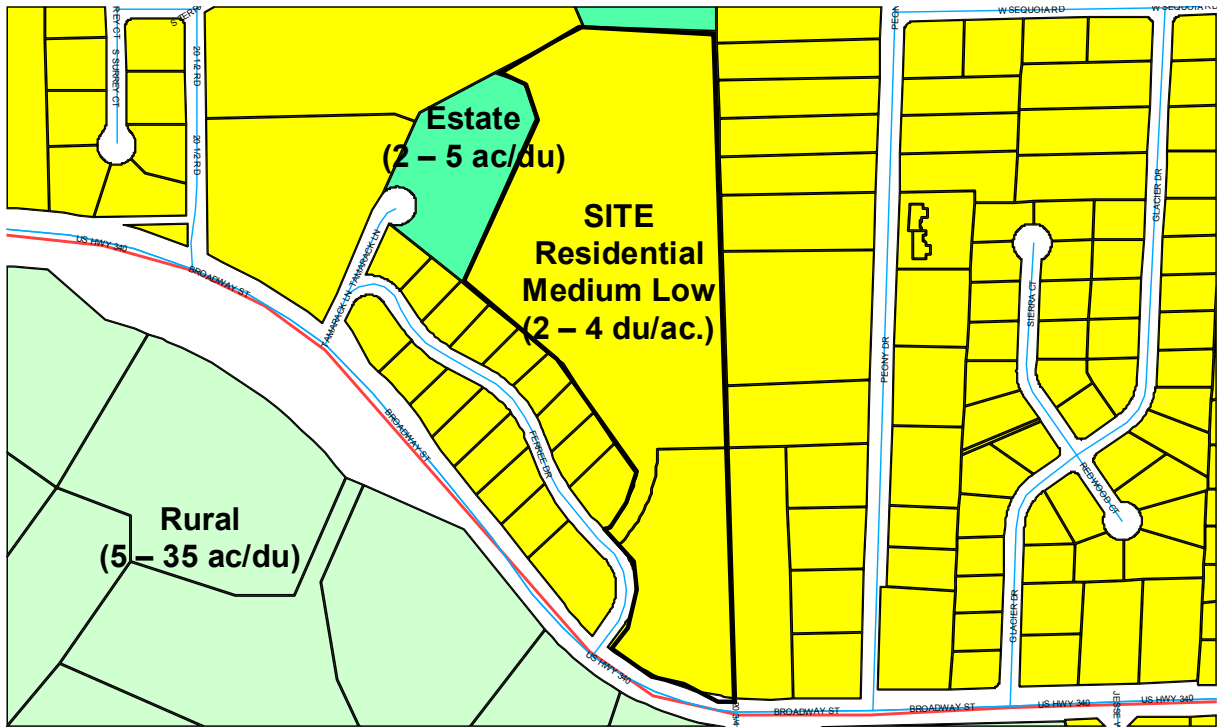
# Aerial Photo Map

Figure 2



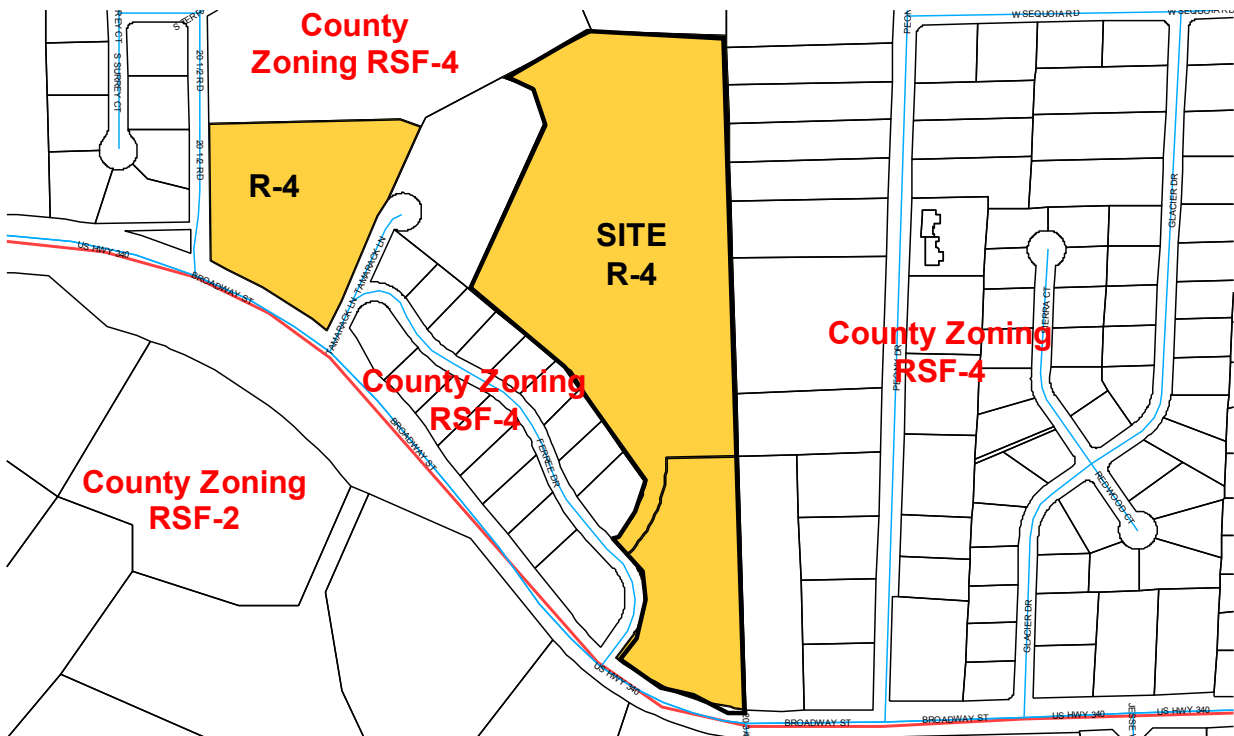
# Future Land Use Map

Figure 3



# Existing City and County Zoning

Figure 4



NOTE: Mesa County is currently in the process of updating their zoning map. Please contact Mesa County directly to determine parcels and the zoning thereof."

**CITY OF GRAND JUNCTION**

**RESOLUTION NO.**

**A RESOLUTION VACATING A UTILITY AND IRRIGATION EASEMENT**

**(COUNTRY SQUIRE II SUBDIVISION)**

**LOCATED 2074 BROADWAY AND 2076 FERREE DRIVE**

Recitals:

The applicant proposes to vacate an existing Utility and Irrigation Easement located at 2074 Broadway and 2076 Ferree Drive.

The City Council finds that the request is consistent with the Growth Plan, the Grand Valley Circulation Plan and Section 2.11 of the Zoning and Development Code.

The Planning Commission, having heard and considered the request, found the criteria of the Code to have been met, and recommends that the vacation be approved.

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

The following described Utility and Irrigation Easement is hereby vacated subject to the listed conditions:

1. Applicants shall pay all recording/documentary fees for the Vacation Resolution.

The following easement vacation is shown on "Exhibit A" as part of this vacation of description.

Beginning at the northwest corner of Lot 19, Ellie Heights as recorded in Plat Book 9 at Page 52, of the Mesa County, Colorado records;  
thence S32°06'15"E a distance of 100.37 feet to the northeast corner of said Lot 19;  
thence S47°39'18"W a distance of 145.13 feet to the southeast corner of said Lot 19;  
thence N41°58'47"W a distance of 15.00 feet along the south line of said Lot 19;  
thence N47°39'18"E a distance of 114.19 feet;  
thence N17°00'45"E a distance of 23.94 feet;  
thence N32°06'15"W a distance of 72.86 feet to the west line of said Lot 19;  
thence N48°24'56"E a distance of 10.00 feet to the point of beginning.

This description was prepared by: Michael W. Drissel PLS, 118 Ouray Ave.  
Grand Junction, CO. 81501

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

ATTEST:

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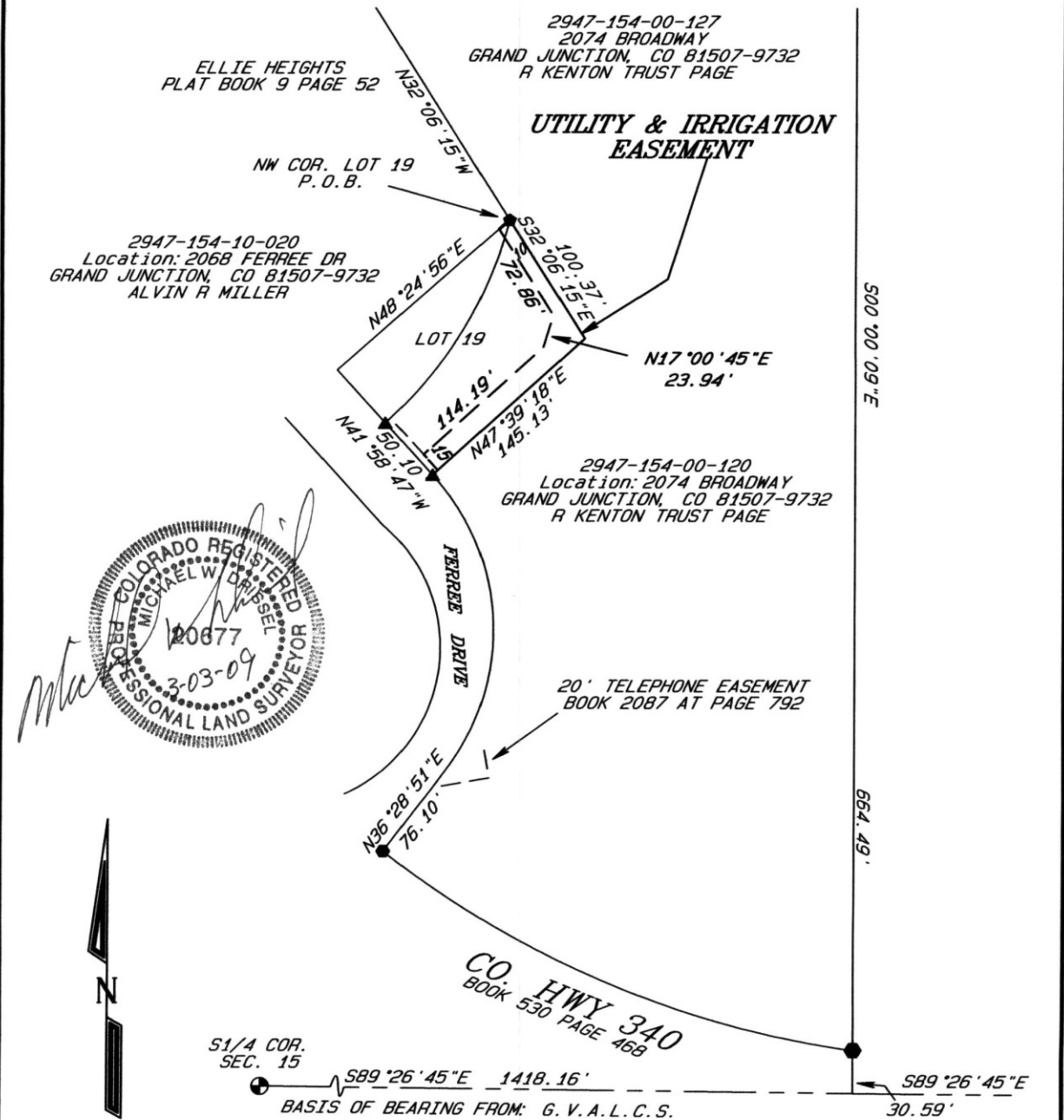
President of City Council

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City Clerk



# EXHIBIT A



D H SURVEYS, INC.  
970-245-8749  
JOB #813-07-28

**Attach 3****Contract for the Right-of-Way Acquisition Svcs. for I-70B, 24 Road to Rimrock Drive  
CITY OF GRAND JUNCTION**

| CITY COUNCIL AGENDA               |   |          |                   |
|-----------------------------------|---|----------|-------------------|
| <b>Subject</b>                    | Right-of-Way Acquisition Services for I-70B, 24 Road to Rimrock Drive |          |                   |
| <b>File #</b>                     |   |          |                   |
| <b>Meeting Day, Date</b>          | Wednesday, May 6, 2009  |          |                   |
| <b>Placement on the Agenda</b>    | <b>Consent</b>  | <b>X</b> | <b>Individual</b> |
| <b>Date Prepared</b>              | April 27, 2009  |          |                   |
| <b>Author Name &amp; Title</b>    | Jim Shanks, Deputy Public Works and Planning Director                 |          |                   |
| <b>Presenter Name &amp; Title</b> | Tim Moore, Public Works and Planning Director                         |          |                   |

**Summary:** The Colorado Department of Transportation has requested that the City of Grand Junction contribute to the I-70B project from 24 Road to Rimrock Drive by contracting and paying for the Right-of-Way acquisition services. This project includes providing six lanes of through travel, consolidation of access points, intersection improvements, improved bicycle and pedestrian facilities and improving existing bus stops.

**Budget:** This project is proposed to be funded from the following sources: \$200,000 from the 201 Capital Fund (Patterson Road Access Control Plan) and \$169,860 from the General Fund 100 Contingency Fund.

**Action Requested/Recommendation:** Authorize the City Manager to approve the contract with Transportation Resource Services, Inc. for the Right-of-way acquisition services for I-70B in the amount of \$369,860.

**Attachments:** Agreement

**Background Information:** CDOT has applied for American Recovery and Reinvestment Act (ARRA) funds for a portion of this project (\$3.8m ARRA, \$4.2 CDOT Region 3). This project is including on the "A" list of projects to be completed by the State as a part of ARRA. Under the terms of the grant, funds must be obligated within 1 year from the enactment of ARRA.

The next phase of the project is the purchase of the necessary rights-of-way and easements to accommodate the project. Due the limited CDOT funding and the time constraints that they have in procuring professional services, CDOT has requested that the City of Grand Junction partner with them by contracting for and paying for the Right-of-Way acquisition effort which will include the appraisals and the right-of-way agents. CDOT estimated this cost to be \$400,000. The City will not be reimbursed for these costs. CDOT will pay the costs to purchase the required right-of-way and easements.

CDOT estimates that the Right-of-Way plans will be completed by May, 2009 which only leaves 9 months for the appraisal and acquisition process. Under normal CDOT timing this process usually takes 12-18 months, so the timing is critical to the success of this phase of the project. If the ARRA funds are not obligated by March, 2010, CDOT risks the loss of these funds to another CDOT project in another part of the State or to another State.

All of the appraisal work and right-of-way acquisition work must be completed in accordance with all CDOT rules and regulations and must be completed by persons who are certified by CDOT to perform such work. Other than a staff person at the City of Grand Junction, there are no Western Slope appraisers or real estate consulting firms that are certified by CDOT.

The City and County have recently completed the Right-of-Way acquisition for 29 Road using Transportation Resource Services, Inc., Colorado Springs, as a sub-consultant to Jacobs Engineering. The co-owner of TRS also completed many of the complicated acquisitions and relocations on the Riverside Parkway Project. TRS has provided the City with a proposal to perform the appraisal and right-of-way acquisition work for I-70B for a total amount of \$369,860. The hourly rates are the same as the price the City and County paid for 29 Road in 2008. TRS has performed very admirably on both Riverside Parkway and 29 Road. They are approved by CDOT to conduct this work. They are also working on a similar project in Montrose.

Due to the severe time constraints placed as a grant condition, City staff recommends that the City contract with TRS Corporation to complete this work. Although the City will be contracting for the work, the consultant will be following CDOT rules, regulations and processes.



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Right of Way Acquisition, Relocation and Appraisal  
Service

**Professional Services Agreement**

4/9/2009

# PROFESSIONAL SERVICES AGREEMENT

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Transportation Resource Services, Inc. –Proposal-

Attachment

# **PROFESSIONAL SERVICES AGREEMENT**

## **SECTION 1: GENERAL CONTRACT TERMS AND CONDITIONS**

- 1.1 Contract Terms:** This Contract is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by **Transportation Resources Services, Inc.** hereinafter called "the Consultant" and **the City of Grand Junction, Colorado**, hereinafter called "the City."
- 1.2 Amendment:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in this contract. All amendments to the contract shall be made in writing by the City Purchasing Division.
- 1.3 Assignment:** The Consultant shall not sell, assign, transfer or convey this contract, in whole or in part, without the prior written approval from the City.
- 1.4 Compliance with Laws:** The Consultant's work under this contract shall comply with all Federal, State, County and local laws governing or covering this type of service
- 1.5 Conflict of Interest:** No public official or City employee shall have interest in this contract.
- 1.6 Project Manager:** The project management for the City for this contract shall be accomplished by **Jim Shanks, Deputy Public Works & Planning Director**.

The project manager, on behalf of the City, shall render decisions in a timely manner pertaining to the work proposed or performed by the Consultant. The project manager shall be responsible for approval and/or acceptance of any related performance of the Scope of Services.

- 1.7 Contract Termination:** This contract shall remain in effect until any of the following occurs:
- (1) contract expires;
  - (2) completion of services;
  - (3) acceptance of services; or
  - (4) termination for convenience by either party with a written Notice of Cancellation stating therein the reasons for such cancellation and the effective date of cancellation.
- 1.8 Definitions:**
- 1.8.1 "City" refers to the City of Grand Junction, Colorado.
- 1.8.2 "Consultant" refers to the person, partnership, firm or corporation entering into an agreement with the City of Grand Junction for the services required and the legal representatives of said party or the agent appointed to act for said party in the performance for the service(s) contracted.

**1.9 Employment Discrimination:** During the performance of services under this contract the Consultant agrees to the following conditions:

1.9.1 The Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap, or national origin except when such condition is a legitimate occupational qualification reasonably necessary for the normal operations of the Consultant. The Consultant agrees to post in conspicuous places, visible to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

1.9.2 The Consultant, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, shall state that such Consultant is an Equal Opportunity Employer.

1.9.3 Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

**1.10 Ethics:** The Consultant shall not accept or offer gifts or anything of value nor enter into any business arrangement with any employee, official, or agent of the City.

**1.11 Failure to Deliver:** In the event of failure of the Consultant to deliver services in accordance with the contract terms and conditions, the City, after due oral or written notice, may procure the services from other sources and hold the Consultant responsible for any costs resulting in additional purchase and administrative services. This remedy shall be in addition to any other remedies that the City may have.

**1.12 Failure to Enforce:** Failure by the City at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the City to enforce any provision at any time in accordance with its terms.

**1.13 Force Majeure:** The Consultant shall not be held responsible for failure to perform the duties and responsibilities imposed by the contract due to legal strikes, fires, riots, rebellions, and acts of God beyond the control of the Consultant, unless otherwise specified in the contract.

**1.14 Indemnification:** The Consultant shall defend, indemnify and save harmless the City and all its officers, employees, insurers and self-insurance pool, from and against all liability, suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the Consultant, or of any Consultant's agent, employee, subcontractor or supplier in the execution of, or performance under, this contract. The Consultant shall pay any judgment with cost which may be obtained against the City growing out of such injury or damages.

**1.15 Independent Consultant:** The Consultant shall be legally considered an independent consultant and neither the Consultant nor its employees shall, under any circumstances,

be considered servants or agents of the City. The City shall be at no time legally responsible for any negligence or other wrongdoing by the Consultant, its servants, or agents. The City shall not withhold from the contract payments to the Consultant for any federal or state unemployment taxes, federal or state income taxes, Social Security Tax or any other amounts for benefits to the Consultant. Further, the City shall not provide to the Consultant any insurance coverage or other benefits, including Workers' Compensation, normally provided by the City for its employees.

- 1.16 Ownership:** All plans, prints, designs, concepts, etc., shall become the property of the City.
- 1.17 Patents/Copyrights:** The Consultant agrees to protect the City from any claims involving infringements of patents and copyrights. In no event shall the City be liable to the Consultant for any suit arising on the grounds of patent or copyright infringement. Patent and copyright infringements shall null and void this contract.
- 1.18 Remedies:** The Consultant and the City agree that both parties have all rights, duties, and remedies available as stated in the Uniform Commercial Code.
- 1.19 Venue:** This contract shall be deemed to have been made in and shall be construed and interpreted in accordance with the laws of the City of Grand Junction, Mesa County, Colorado.

## **SECTION 2: INSURANCE REQUIREMENTS**

- 2.1 Insurance Requirements:** The Consultant agrees to procure and maintain, at its own cost, policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by the Consultant pursuant to this contract. The Consultant shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Section by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.
- 2.2 Insurance Limits:** The Consultant shall procure and maintain and, if applicable, shall cause any Subcontractor of the Consultant to procure and maintain insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to the City. All coverage shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Consultant pursuant to this Section. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Minimum coverage limits shall be as indicated below.

(a) General Liability insurance with minimum combined single limits of:

ONE MILLION DOLLARS (\$1,000,000) each occurrence and  
ONE MILLION DOLLARS (\$1,000,000) per job aggregate.

The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed



operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision.

(b) Professional Liability insurance with minimum limit of not less than:

ONE MILLION DOLLARS (\$1,000,000) each occurrence and  
ONE MILLION DOLLARS (\$1,000,000) aggregate

**2.3** The policies required by paragraphs (a), and (b) above shall be endorsed to include the City and the City's officers and employees as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the City, its officers, or its employees, or carried by or provided through any insurance pool of the City, shall be excess and not contributory insurance to that provided by the Consultant. No additional insured endorsement to any required policy shall contain any exclusion for bodily injury or property damage arising from completed operations. The Consultant shall be solely responsible for any deductible losses under any policy required above.

### **SECTION 3: SCOPE OF SERVICES, SCHEDULE, COMPENSATION**

- 3.1 General:** The general scope of services to be performed under this contract shall be the negotiation, relocation, appraisal and project management for the City of Grand Junction and Colorado Department of Transportation to implement roadway improvements on the I-70 Business Loop.
- 3.2 Scope of Services:** Proposal Attached dated April 8, 2009
- 3.3 Project Schedule:** Proposal Attached dated April 8, 2009
- 3.4 Compensation:** The Consultant shall submit invoices at the completion of various phases during the process, as identified in the attached proposal, for services authorized not to exceed \$369,860.
- 3.5 Period of Performance:** Consultant shall commence services upon written Notice to Proceed from the City, and this Agreement shall terminate on July 31, 2010 unless extended in writing by the Parties in advance of termination.

## SECTION 4: EXECUTION

**In Witness whereof**, the parties hereto have caused this Contract to be duly executed, intending to be bound thereby.

### **City of Grand Junction**

Authorized  
Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

### **Transportation Resource Services, Inc.**

Authorized  
Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

**SCOPE OF WORK**  
**EXHIBIT "A"**  
**CITY OF GRAND JUNCTION**

***CONSULTANT SCOPE OF WORK TO PROVIDE ACQUISITION AND, RELOCATION SERVICES***  
**PROJECTS NH 0701-201, NH 0701-200, NH 0701-199, NH 0701-198**  
**17299, 17300, 17301, 17302**  
**INTERSTATE 70 BUSINESS LOOP MP 2.55 to MP 3.62**

**March 26, 2009**

**Description of Project**

The project area is located along the Interstate 70 Business Loop in the City of Grand Junction, Mesa County, Colorado, from Mile Marker 2.55 to Mile Marker 3.62 (Project). The Project is part of a corridor project in which the highway is being improved to increase capacity, improve safety and mobility and provide enhancements with the installation of curbing, gutters, sidewalks and storm drainage facilities.

Right-of-Way Acquisition and Relocation Services are required for the Project. The parcels to be acquired in conjunction with the Project consist of one (1) total acquisition involving a business relocation, approximately twenty-five (25) fee partial acquisitions, approximately thirteen (13) permanent easements and approximately thirty (30) temporary construction easements. The foregoing parcels are to be acquired from approximately forty-three (43) separate properties under approximately twenty-nine (29) separate ownerships. The quantity, nature and extent of the parcels to be acquired are subject to change. In addition to the total business relocation, relocation services related to personal property moves are anticipated to be required for thirteen (13) partial acquisitions.

Although this is a Colorado Department of Transportation (CDOT) project, the City of Grand Junction (City) is engaging Right-of-Way and Relocation consultants to perform all right-of-way acquisition and relocation services. The consultants shall provide these services under the direct supervision of CDOT.

**A. ACQUISITION SERVICES.** All right of way acquisition services shall be performed by individuals who have been qualified by CDOT to perform right of way acquisition services. All right of way acquisition services shall be administered in conformance with applicable Federal and State laws, including, but not limited to, the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, and Chapter 8 of the CDOT Right of Way Manual. All right of way acquisition services shall follow all internal policies and procedures of CDOT and shall be coordinated with and subject to approval by CDOT Region ROW staff. Right of Way acquisition services shall include but may not be limited to:

## **1. Initial Owner Contacts/Property Owner Appraisals/Value Findings.**

As soon as practicable after receiving notice to proceed from the CDOT Region Project Manager, the Consultant shall initiate contact with all persons having an interest of record (Owner) in any parcel to be acquired. The Consultant may initiate contact either in person, by telephone, by certified mail, return receipt requested, or by express mail. In conjunction with the initial contact the Consultant shall deliver to the owner, either personally by hand or by certified mail, return receipt requested, a Notice of Intent to Acquire (Notice) in compliance with CRS 38-1-121. The Notice shall contain a description of the real property interests to be acquired. The Notice shall be accompanied by a copy of the appropriate right of way plan sheet identifying the location of the real property interests to be acquired and a CDOT brochure explaining the Department's acquisition program. If the property to be acquired has an estimated value of \$5,000 or more, the Notice shall advise the Owner that CDOT shall pay the reasonable costs of an appraisal pursuant to subsection (2) of CRS 38-1-121. The Notice delivered under this circumstance shall be accompanied by, in addition to the items listed above, a complete copy of CRS 38-1-121 and a copy of CDOT's Minimum Appraisal Requirements for Property Owner Appraisal Reports. Further, the Notice delivered under this circumstance shall advise the owner that two (2) copies of the owner's appraisal must be received by the Department within 90 days of the date of the Notice to qualify for payment by CDOT.

As soon as practicable upon receipt from each owner, the Consultant shall deliver two (2) copies of each owner appraisal, together with invoices associated therewith, to the CDOT Region Project Manager. The CDOT Region Project Manager will deliver the owner appraisals to the CDOT Appraisal Review Section. The Region Project Manager will also arrange for payment of the owner appraisals upon CDOT's review and acceptance of the owner's appraisal.

The Consultant shall, when directed by the CDOT Region Project Manager, prepare value findings (also known as waiver valuations) for parcels to be acquired that have an estimated value less than \$25,000. The value findings shall be prepared in accordance with Chapter 4 of the CDOT Right of Way Manual.

If at anytime the Consultant observes any activities on the owner's property not previously observed that might indicate the presence of hazardous materials or toxic substances, the Consultant shall immediately notify the CDOT Region Project Manager.

**The Consultant shall not commence negotiations with any owner until CDOT has established its estimate of fair market value.**

## **2. Negotiations.**

The Consultant shall assign the parcels to be acquired to a Real Estate Specialist upon receipt of CDOT's reviewed and approved fair market value determination. The Consultant's Real Estate Specialist shall, prior to contacting the owner to make the offer, thoroughly review and become familiar with all project related information furnished by CDOT including, but not limited to, right of way plans, legal descriptions, project design plans, title commitments, appraisal reports

and all available CDOT acquisition and relocation forms and brochures. If the owner claims to be represented by another party, including an attorney, the Consultant's Real Estate Specialist shall obtain from the owner a letter of representation prior to making the offer to the owner's representative.

The fair market value determination established by the valuation process (appraisal or value finding) as approved by CDOT shall serve as the basis for the written offer of just compensation to the property owner. The Consultant's Real Estate Specialist shall deliver an Offer to Acquire, also known as a Notice of Interest, to the owner or the owner's representative either personally by hand or by certified mail, return receipt requested or by express mail. The written offer shall include the following documents:

1. The offer letter;
2. A Summary Statement;
3. Memorandum of Agreement;
4. A ROW Plan Sheet showing the effect of the taking;
5. A brochure which explains CDOT's acquisition program;
6. A Federal Form W-9;
7. A Demographic Information Form; and
8. Self addressed, postage prepaid return envelopes.

The foregoing documents must provide sufficient information so the owner can make a reasonable judgment concerning the amount of the offer. The following is the minimum information that shall be included in said documents:

1. The amount established as just compensation, including a written explanation of the basis for the offer and, if applicable, the amount of damages and/or benefits to the remainder. The compensation offered for the real property to be acquired and for damages to the remaining real property shall be separately stated.
2. A description and location identification of the real property and the interest in the real property being acquired. The description shall include both legal descriptions and an identification which is understandable to the owner.
3. Identification of buildings, structures, and other improvements (including removable buildings, equipment and trade fixtures) considered to be part of the real property to be acquired. Where appropriate, the statement shall identify any separately held ownership interest in the property, e.g. a tenant-owned improvement, and indicate that such interest is not covered by the offer.

The Consultant's Real Estate Specialist shall review the foregoing documents with the owner and shall fully explain to the owner CDOT's acquisition processes and the scope of the Project as it pertains to the owner's property.

If the owner provides information that may dictate a need for a revision to the offer, or if any

items appear to be missing from the appraisal or right of way plans, the Consultant's Real Estate Specialist shall notify CDOT's Region Project Manager.

Upon the owner's acceptance of the offer, the Consultant's Real Estate Specialist shall prepare and submit to the owner for signature a settlement package consisting of a Memorandum of Agreement, Federal Form W-9 and, for properties encumbered Deed(s) of Trust, an Owner Authorization Letter, the Real Estate Specialist's Negotiation Log and all other appurtenant documents. After execution the foregoing documents, together with a completed "County Tax Proration Request" (CDOT form No. 793) and/or tax certificate, if required, shall be submitted to the CDOT Region Project Manager for review and approval by CDOT.

If during the negotiation process the owner provides a counteroffer, the Consultant's Real Estate Specialist will forward the counteroffer, along with an analysis and recommendation, to the CDOT Region Project Manager.

If an initial offer to the property owner is not successful, the Consultant's Real Estate Specialist shall, at the direction of the CDOT Region Project Manager, deliver a final written offer to the property owner. The final written offer shall be delivered either by hand, by certified mail, return receipt requested, or by express mail.

### **3. Title Insurance and Closings.**

Upon approval of the settlement package, CDOT will forward a cash warrant, the appropriate conveyance instrument(s) and any other closing documents to the Consultant's Real Estate Specialist, who shall coordinate the closing with the assigned title company and secure a signed "Escrow Instruction and Receipt of Warrant" document. All liens shall be released/satisfied and recorded prior to the disbursement of the warrant, unless otherwise directed the CDOT Region Project Manager.

CDOT shall, in its sole discretion, determine when the Consultant shall utilize the services of a title company for title insurance and closing purposes. When CDOT determines that a Title Company shall be used, the Consultant's Real Estate Specialist shall facilitate and coordinate these services under the direction of the Region Project Manager. The Department will also determine which closing services will be performed by the Consultant. In instances where the settlement is over \$5,000, the Consultant shall not close and shall not disburse funds directly to the owner.

The services to be provided by the Consultant may include:

- a) updating title commitments to the time of closing and securing a title policy on all fee taking parcels, which include copies of all supporting documents referenced therein;
- b) coordinating and reviewing all closing documents for quality assurance purposes; and

- c) attending closings with the assigned title company and ensuring that all documents are executed properly, all liens are satisfied/released, all taxes and assessments are paid prior to the disbursement of the warrant, and all appropriate documents are promptly recorded after closing and returned to the CDOT Region Project Manager after recordation.

Written closing instructions provided by the title company and all necessary closing documents will be reviewed and coordinated with the Consultant on closings. Once in final form they shall be provided to CDOT for final approval prior to disbursement of funds.

In cases when CDOT determines that settlements are within applicable guidelines which permit the Consultant's Real Estate Specialist to perform closings without the services of a title company, the Consultant's Real Estate Specialist shall update existing Memoranda of Ownership or title commitments, perform the closings and provide copies of recorded documents as requested by CDOT. The Consultant's Real Estate Specialist shall calculate final settlement amounts, prepare closing statements and perform other closing functions as requested. Services may include, but are not limited to, collecting pro-rated taxes and assessments, ensuring all documents are executed properly and all liens are released/satisfied prior to disbursement of the warrant, and ensuring that the appropriate documents are recorded promptly after closing and returned to the CDOT Region Project Manager. All closings documents are to be reviewed by the CDOT Region Project Manager prior to disbursement of funds, unless it is determined otherwise by the CDOT Region Project Manager.

#### **4. Condemnation.**

If the owner refuses to accept the final offer, a condemnation package (including the Real Estate Specialist's log, updated title information and other related negotiation information) will be prepared and submitted to the CDOT Region Project Manager, in accordance with the schedule provided by the CDOT Region Project Manager.

If required, an Agreement for Possession and Use (CDOT Form No. 228) may be obtained from the owner prior to filing a request for condemnation. The use of this form and process must be discussed and evaluated on a parcel by parcel basis, and must have approval from the CDOT Region Project Manager.

Throughout the condemnation process, Consultant personnel will be available to assist in any aspect of the condemnation proceeding, including the review of the negotiations through litigation in accordance with the terms of Consultant's contract and RFP.

**B. RELOCATION SERVICES.** All relocation services shall be performed by individuals who have been qualified by CDOT to perform relocation functions. All relocation services shall be administered in conformance with applicable Federal and State laws, including, but not limited to, the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, and Chapter 5 of the CDOT Right of Way Manual. All relocation services shall follow all internal policies and procedures of CDOT and shall be coordinated with and subject to approval by

CDOT Region ROW staff.

The CDOT Region Project Manager will complete and submit to the Consultant an Acquisition Stage Relocation Study. The study will include copies of CDOT form 558 and form 557 and related documents. The Consultant's Real Estate Specialist shall provide the remaining relocation services including but not limited to:

- Explaining in general terms, eligibility requirements to each potential displacee. In addition, each potential displacee will be provided with a copy of CDOT's Relocation Brochure.
- Advising each potential displacee of the location of the Project Office (if required or known at the time) and the phone number of the Consultant's Real Estate Specialist who will be assisting them in the relocation process.
- If requested the Consultant's Real Estate Specialist shall perform extensive research and analysis for unique relocation problems encountered along with such ways to mitigate hardships and to complete the Project in an orderly and humane manner. This will require the direction from CDOT's Region personnel.

#### **Eligibility and Computation of Entitlements.**

The Consultant's Real Estate Specialist shall obtain bids in accordance with procedures set forth in CDOT Right of Way Manual, Chapter 5. The inventory, determinations, claims and supporting documents shall be prepared by the Consultant's Real Estate Specialist and submitted to the CDOT Region Project Manager for review and approval in accordance with CDOT's procedures. Upon approval by CDOT the Consultant's Real Estate Specialist shall obtain claim form signatures and return the forms for warrant request.

#### **Advisory Assistance and Notices.**

Each person or business in occupancy of the property to be acquired, at the time of the initial written offer (initiation of negotiations), shall be provided with an explanation of relocation entitlements to which they may be entitled, advisory services to be provided and a notice that the occupant will not be required to vacate for a minimum of ninety (90) days. Additionally they will be provided the CDOT Relocation Brochure.

The Consultant's Real Estate Specialist shall fully explain the specific benefits the displacee is entitled to receive and the process which must be followed in order to receive the maximum entitlements. The Consultant's Real Estate Specialist shall caution the displacee not to move prior to their eligibly and entitlement letter and in accordance with applicable procedures.

The Consultant's Real Estate Specialist shall prepare and provide the 90 day and 30 day vacancy notice to the landowner/tenant in accordance with CDOT procedures.



## **Application for Relocation Benefits.**

Once the determination has been performed, the Consultant's Real Estate Specialist shall assist the displacee in obtaining all documentation necessary in order to receive their entitlements.

In relocating personal property, the agreed amount for the move or a contract move (whichever method was chosen) will be paid upon verification that all of the personal property has been moved from the acquired site.

During the course of providing relocation assistance, the Consultant's Real Estate Specialist shall maintain a detailed typed report of all contacts made and services provided to the displacee. To the greatest extent possible, the Consultant shall utilize the same Real Estate Specialist to negotiate and provide relocation advisory assistance and relocation payment claims.

## **QUALITY ASSURANCE AND RECORDS MANAGEMENT.**

The Consultant shall submit two (2) complete files for each parcel, one original and one duplicate, to the CDOT Region Project Manager. The files shall include any and all documents affecting the parcel including, but not limited to appraisals, value findings/fair market value determinations, negotiation records/logs with the Real Estate Specialist's certification, letters, memos, memoranda of ownership, title commitments/title policies, closing instructions and statements, recorded deeds, releases/satisfactions, and any other documents.

A quality assurance review will be performed by the Consultant on all parcel files to determine that all documentation is proper and to demonstrate compliance with CDOT requirements.

CDOT will provide a special reporting form of projected target and status of parcels to the Consultant's Real Estate Specialist. It shall be the responsibility of the Consultant's Real Estate Specialist to keep the form updated and current on a weekly basis or as often as deemed necessary by the CDOT Region Project Manager. The report shall be completed and forwarded via e-mail to the CDOT Region Project Manager at the end of each work week or when deemed necessary by the CDOT Region Project Manager.

All files and records will be maintained in a secure location, available for inspection by representatives of CDOT or the Federal Highway Administration. If deficiencies are found or if there is a need for additional information, the Consultant's Real Estate Specialist shall provide such information promptly.

## **PROJECT MANAGEMENT.**

### **1. Oversight Activities.**

The Consultant's activities will be coordinated by a principal of the company, or its designee, who will be responsible for coordination with the CDOT Region Project Manager. When required by CDOT, the principal for Consultant shall attend project review meetings, provide

oversight of project field activities, provide status reports of activities, and schedule updates. All real estate closings shall be under the supervision of Consultant principal/broker.

## **2. Quality Assurance Program.**

The Consultant shall provide CDOT with a Quality Assurance Program Plan to perform weekly reviews of all work effort provided on a specific parcel. Such reviews shall include reviewing files, both completed and those with ongoing activities, to insure the thoroughness of all activities being provided. In addition, a monthly review of all activities will be conducted with Consultant and its staff to insure the status of all activities pending.

## **3. Coordination .**

The CDOT Region Project Manager may request that certain parcels be addressed and given priority over others, if deemed necessary.

The Consultant may be required to attend meetings at the CDOT Region 3 office in Grand Junction, or other locations as specified and requested by the CDOT Region Project Manager.

### **ADDITIONAL ACQUISITION FUNCTIONS:**

None known at this time.

### **PROJECT SCHEDULE:**

The Consultant shall initiate Project activities upon written notice to proceed by the CDOT Region Project Manager. Funds to construct the Project have been allocated by CDOT. Because the scheduled Ad date for construction is February 25, 2010, **all acquisitions must be completed on or before February 4, 2010. This scope of work is based on the Consultant obtaining possession of all required parcels on or before February 4, 2010.** The Right of way plans are approved and appraisal services have started. It is understood that the Outline Agreement (task order) is subject to the terms of the contract with \_\_\_\_\_ which expires \_\_\_\_\_, 20\_\_\_\_. **Although project hours may not require any of the positions to be full time for the entire length of the Project, the Region requires the commitment of Consultant's project personnel for the entire length of the project.**

### **CDOT REGION PROJECT MANAGER/SUPERVISOR:**

Dorlynn Erickson, CDOT Region 3 Right of Way Supervisor, will be the CDOT Region Project Manager on this project. Her contact information is: Office: (970) 683-6232; FAX: (970) 683-6249; Cell: (970) 640-7931; Email: Dorlynn.Erickson@dot.state.co.us.

The Region Project Manager will manage all project activities and be the liaison between the Consultant and CDOT Department. Upon issuance of the task order, the CDOT Region Project

Manager will schedule a meeting with Consultant.

**REGION RIGHT OF WAY MANAGER:**

Tim Woodmansee is the CDOT Region 3 Right of Way Manager. His contact information is:

Office: (970) 683-6231; FAX: (970) 683-6249; Cell: (970) 216-7205; Email:

Tim.Woodmansee@dot.state.co.us

**Attach 4  
Downtown Residential Neighborhoods Land Use Applications  
CITY OF GRAND JUNCTION**

| CITY COUNCIL AGENDA               |  |  |                              |
|-----------------------------------|--|--|------------------------------|
| <b>Subject</b>                    | Downtown Residential Neighborhoods Land Use Applications                   |  |                              |
| <b>File #</b>                     |  |  |                              |
| <b>Meeting Day, Date</b>          | Wednesday, May 6, 2009   |  |                              |
| <b>Placement on the Agenda</b>    | <b>Consent</b>   |  | <b>Individual</b>   <b>X</b> |
| <b>Date Prepared</b>              | May 5, 2009  |  |                              |
| <b>Author Name &amp; Title</b>    | Kathy Portner, Neighborhood Services Manager<br>John Shaver, City Attorney |  |                              |
| <b>Presenter Name &amp; Title</b> | John Shaver, City Attorney   |  |                              |

**Summary:**

The proposed Resolution would afford the City an opportunity, by declaring a temporary moratorium on the filing of development applications in the identified area, to carefully evaluate and determine as appropriate, the proper implementation of the Downtown Plan specific to the residential neighborhoods located generally north of Grand Avenue, East of 1<sup>st</sup> Street, West of 12<sup>th</sup> Street and South of North Avenue.

**Budget:** N.A.

**Action Requested/Recommendation:**

Consider a Resolution Directing the City Manager Concerning Land Use Applications in the Downtown Residential Neighborhoods

**Attachments:**

Resolution

**Background Information:**

The Strategic Downtown Master Plan was developed through a public process involving a steering committee of interested downtown merchants, property owners, and policy makers during 2007-2008. Recognizing that a strong downtown core supports the economic and community development of an entire region, the goal of the plan was to quantify current conditions, identify opportunities, and recommend specific actions for the decision makers of the Downtown Partnership and the City of Grand Junction.

On February 2, 2009, the Strategic Downtown Master Plan was considered by the City Council. The Council directed staff to provide more specificity as to the application and implementation of the plan elements.

One of the major goals of the plan is to stabilize and enhance the historic residential neighborhoods. Two of the proposed actions are to discourage further encroachment of non-residential uses into the established residential neighborhoods and establish design standards for the transitional areas to include larger setbacks, detached sidewalks, appropriate building heights, and pedestrian-friendly features along the street.

The staff is working with the neighborhood residents to identify strategies to implement the plan through an overlay zone. The overlay zone will also address the 7<sup>th</sup> Street historic district Planned Development zone district.

Because of the unique history of the original square mile of the City (1<sup>st</sup> Street to 12<sup>th</sup> Street, South to North Avenues) and the pressures that are being brought to bear to introduce new and different uses to that area, the City staff has recommended that the City Council temporarily suspend development applications within the residential area shown on the attached map. The area specifically includes but is not limited to the 7<sup>th</sup> Street historic district, the Washington Park and Hawthorne Park areas.

**RESOLUTION NO. \_\_\_\_-09**

**A RESOLUTION DIRECTING THE CITY MANAGER  
CONCERNING LAND USE APPLICATIONS IN THE DOWNTOWN RESIDENTIAL  
NEIGHBORHOODS**

Recitals.

- A. The purpose of this Resolution is to afford the City an opportunity, by declaring a temporary moratorium on the filing of development applications in a specified residential area, to carefully evaluate and determine as appropriate, the proper implementation of the Downtown Plan regarding the residential neighborhoods located generally north of Grand Avenue, East of 1st Street, West of 12<sup>th</sup> Street and South of North Avenue.
  
- B. A stated goal of the Downtown Plan is to evaluate what if any non-residential uses should be allowed in the downtown residential neighborhoods and/or if special protections should be developed and/or implemented to preserve and encourage residential uses or to recognize and encourage transition of exclusively residential uses to other compatible uses.
  
- C. Because of the unique history of the original square mile of the City (1<sup>st</sup> Street to 12<sup>th</sup> Street, South to North Avenues) and the pressures that are being brought to bear to introduce new and different uses to that area, the City staff has recommended that the City Council temporarily suspend development applications within the residential area shown on the attached map. The area specifically includes but is not limited to the 7<sup>th</sup> Street historic district, the Washington Park, Hawthorne Park areas and the balance of the lands shown.
  
- D. In order to properly evaluate the needs and desires of the residents as well as the need and desires of the community that does not reside in the Downtown, the City Council hereby directs the City Manager to evaluate making changes to the Zoning and Development Code pertaining to the area, including the possibility of developing corridor overlay(s) and/or other specific changes to the Zoning and Development Code concerning residential and/or non-residential land uses in the planning area.

- E. Consistent with the City's authority and obligation to promote the health, safety and general welfare of the citizens and residents of the City, the City Council does hereby direct the City Manager to not accept, process or act on any use or zone change development applications or issue any permits for uses that are either conditional or allowed by the 2006 Zoning and Development Code.
  
- F. The area to be included within the terms of this Resolution is generally shown on Exhibit A as the residential area marked in orange. Exhibit A is attached hereto and incorporated by this reference as if fully set forth.
  
- G. This Resolution is reasonable and proper because there are no applications pending at this time and a temporary moratorium will allow the opportunity for careful determination of the public and private needs.
  
- H. This Resolution shall expire, if not renewed or sooner rescinded by the City Council, on December 31, 2009.

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

The foregoing Recitals are adopted as the policy of the Council; that the City Manager shall act consistently therewith and shall report back to City Council as soon as is practicable with recommendations.

PASSED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2009.

\_\_\_\_\_  
President of the Council

Attest:

\_\_\_\_\_  
Stephanie Tuin  
City Clerk

Exhibit A

