

**GRAND JUNCTION, COLORADO
GRANT OF PUBLIC TRAIL EASEMENT AND AGREEMENT**

This Grant of Public Trail Easement and Agreement ("Easement Agreement") is made this 30th day of February, 2010 by and between **RICHARD W. FULTS**, with an address of 3065 F. Road, Grand Junction, CO 81504, ("Grantor") and the **CITY OF GRAND JUNCTION, a political subdivision of the State of Colorado**, with an address of 250 North 5th Street, Grand Junction, Colorado 81501 ("Grantee").

In exchange for and in consideration of the granting of the Plat for the Orange Grove West Subdivision, and for and in consideration of the mutual covenants and agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby grants and conveys to Grantee and its successors and/or assigns this perpetual Trail Easement. This Trail Easement is for the purpose of constructing and maintaining a recreational trail ("Trail") for the use and benefit of the general public through, over, under, and across a tract of land situated at the far north end of property described as the West 7.5 acres of the E1/2SW1/4SE4 Sec 4 1S 1E, as more fully described in that conveyance deed recorded at Reception Number 1585260 of the Mesa County Records, and with the Easement more particularly described in the attached Exhibit "A".

This Trail Easement is subject to the following terms and conditions:

1). **Trail.** The Trail Easement shall be used and maintained only as a pedestrian, nature, hiking, equestrian and bicycling trail by the general public on the terms and conditions described in this Easement Agreement. By this Grant, Grantee has the right to enter upon the Trail Easement, to survey, install, operate, maintain, repair and replace the Trail, and to remove objects interfering therewith, including the trimming of trees, bushes and removal of tamarisk and other non-native plants as may be required to permit operation of the Trail.

2). **Public Use.** This Trail Easement is granted for the use of the general public accessed only by foot, bicycle, equestrian, ski, skate or non-motorized vehicle, except for motorized wheelchairs or electric scooters. This right of public use shall not grant to the public or to the City any additional access, right of use, right-of-way or easement upon or across any of the remaining property of Grantor.

3). **Trail Accessories.** Grantee has the right to erect and maintain permanent surface improvements within the Trail Easement, together with signs, markers, fences, barricades, benches and other improvements which are accessory to the public use of the Trail. Grantee shall install signs at the West and East entrances to the Trail to encourage users to stay on the Trail to prevent trespass, disturbance and/or interference with Grantor's use of his property.

4). **Construction and Maintenance.** The Trail and areas on which the Trail Accessories are located, may be soft (porous), paved or covered with concrete. Construction and maintenance of the Trail and Trail Accessories shall be performed with due care using commonly accepted standards and techniques, taking precautions for the protection of persons and property. All

damages to the property of Grantor resulting from Grantee's failure to exercise due care, shall be paid for and repaired at the expense of Grantee. Nothing herein shall constitute a waiver of any provision of the Colorado Governmental Immunity Act relating to limits on liability by governmental entities for claims or injuries to persons or property. Notwithstanding paragraph 2, Grantee may use motorized vehicles on the Trail Easement to construct, maintain, repair, replace and administer the Trail and Trail Accessories, as well as for emergency access and patrolling the Trail.

5). **Use by Grantor.** Grantor reserves the right to use and occupy the real property burdened by this Trail Easement for any lawful purpose which is not inconsistent with and which will not interfere with the full use and quiet enjoyment of the rights herein granted. Grantor may erect fencing, birms, landscaping and other screening along the easement to protect Grantor's property from trespassers.

6). **Trail Easement Care and Maintenance.** Grantee assumes complete responsibility for and agrees to care for and maintain the Trail Easement in a clean and attractive condition and in a good and safe order and repair, at its sole cost and expense, unless the need therefore is caused by Grantor or its successors and/or assigns in interest in the ownership of the underlying real property. Grantor shall have no maintenance obligations; provided, however, Grantor may have access at any time to the Easement to provide general maintenance such as watering and mowing.

7). **Grantor Cooperation.** Grantor shall cooperate with Grantee to permit Grantee to construct, maintain, repair and replace the Trail and Trail Accessories, including allowing temporary access by Grantee to portions of Grantor's property adjacent to the Trail Easement during such activities, with advance notice to and consent by Grantor.

8). **Binding Effect.** This Trail Easement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns forever including all future record owners of the underlying real property traversed by the Trail Easement, or any part thereof.

9). **Perpetual Duration. This Trail Easement exists in perpetuity until vacated by Grantee.**

10). **Controlling Law.** This Agreement shall be construed according to the laws of the State of Colorado and venue for any dispute hereunder shall be in the District Court of the County of Mesa, Colorado.

11). **Entire Agreement.** This Public Trail Easement and Agreement constitute the entire agreement between the parties and supersedes and cancels any and all prior agreements or proposals, whether written or oral, between the parties relating to the subject matter hereof.

EXHIBIT "A"

TRAIL EASEMENT

An easement thirty (30) feet in width along the north boundary of Lot 2, Orange Grove West Subdivision, Mesa County, as filed at Reception Number 2526/68 in the offices of the Mesa County Clerk and Recorder.