

RECORDING REQUESTED BY
And When Recorded Mail to:

2255893 BK 3905 PG 472-477
05/26/2005 11:10 AM
Janice Ward CLK&REC Mesa County, CO
RecFee \$30.00 SurChg \$1.00
DocFee EXEMPT

CITY OF GRAND JUNCTION
ATTN: RIVERSIDE PARKWAY
250 N. 5th Street
Grand Junction, Colorado 81501

SPACE ABOVE FOR RECORDER'S USE ONLY

**EASEMENT DEED AND AGREEMENT
(UTILITIES)**

THIS EASEMENT DEED AND AGREEMENT ("Easement Deed") is made as of the 18th day of May, 2005, between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Grantor"), and CITY OF GRAND JUNCTION, COLORADO, a municipal corporation of the State of Colorado ("Grantee"), whose address is 250 N. 5th Street, Grand Junction, Colorado 81501.

Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, to it paid by Grantee, the receipt of which is hereby acknowledged, grants to Grantee, its successors and assigns, a NON-EXCLUSIVE EASEMENT on and under that certain real property (the "Property") in Mesa County, State of Colorado, more particularly described in **Exhibit A** attached hereto and hereby made a part hereof, to be used by Grantee for construction, maintenance, operation, repair, renewal, reconstruction and use of a storm sewer and other utility purposes only. The storm sewer and other utilities are only those utilities to be relocated from "D" Road and this easement does not include any above-ground facilities except for existing structures and markers. If Grantee desires to construct additional utilities, Grantee must first obtain the approval of Grantor.

RESERVING, however, unto Grantor, its successors and assigns, the right of Grantor, its successors and assigns, to use of the Property for any purpose not inconsistent with Grantee's use of the Property for the purposes herein defined. Before commencing construction or installation of any utilities, Grantee shall submit the plans and specifications therefor to Grantor at 1400 Douglas Street, Mail Stop 0910, Omaha, Nebraska 68179, for Grantor's review and approval, with copy of transmittal to 1400 Douglas Street, Mail Stop 1690, Omaha, Nebraska 68179. Such review by Grantor shall be completed and appropriate response made to Grantee within twenty (20) days after receipt of such plans by Grantor; and it is expressly understood that approval of such plans by Grantor shall not be unreasonably withheld.

This grant of easement is made SUBJECT to all outstanding leases, licenses and other outstanding rights, including, but not limited to, those for pipe, telephone, electric and fiber optic lines and the right of renewals and extensions of the same, and subject also to all conditions, limitations, restrictions, encumbrances, reservations or interests of any person which may affect the Property, whether recorded or unrecorded.

F58

The easement herein granted is also limited to such rights as Grantor may have in the Property and is granted without warranty, express or implied. No damages shall be recoverable from Grantor because of any dispossession of Grantee or because of failure of, or defect in, Grantor's title.

TO THE EXTENT IT MAY LAWFULLY DO SO, GRANTEE AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS GRANTOR AND ITS AFFILIATES, THEIR OFFICERS, AGENTS, EMPLOYEES, SUCCESSORS OR ASSIGNS (THE "INDEMNITEES"), AGAINST AND FROM ANY AND ALL LIABILITY (INCLUDING, WITHOUT LIMITATION, STRICT LIABILITY), DAMAGES (INCLUDING, WITHOUT LIMITATION, CONSEQUENTIAL OR PUNITIVE DAMAGES), CLAIMS, DEMANDS, ACTIONS, CAUSES OF ACTION, COSTS AND EXPENSES OF WHATSOEVER NATURE (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES), WHICH MAY RESULT FROM PERSONAL INJURY TO OR DEATH OF PERSONS WHOMSOEVER, OR DAMAGE TO OR LOSS OR DESTRUCTION OF PROPERTY WHATSOEVER, WHEN SUCH PERSONAL INJURY, DEATH, LOSS, DESTRUCTION OR DAMAGE, HOWSOEVER CAUSED, GROWS OUT OF OR ARISES FROM THE EXERCISE BY GRANTEE OF ANY OF THE EASEMENT RIGHTS HEREIN GRANTED. THE FOREGOING INDEMNITY SHALL APPLY REGARDLESS OF ANY NEGLIGENCE OF AN INDEMNITEE, EXCEPTING ONLY THE SOLE ACTIVE NEGLIGENCE OF AN INDEMNITEE. THE TERM "AFFILIATE" (OR "AFFILIATES" AS THE CASE MAY BE) AS USED HEREIN MEANS ANY CORPORATION WHICH DIRECTLY OR INDIRECTLY CONTROLS, OR IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH GRANTOR.

IN WITNESS WHEREOF, Grantor and Grantee have caused this Deed to be duly executed as of the date first herein written.

Attest:  *[Signature]*
Assistant Secretary
OF THE

(Seal)

**UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation**

By: *[Signature]*
Title: GENERAL MANAGER-REAL ESTATE

**CITY OF GRAND JUNCTION, COLORADO,
a municipal corporation of the State of Colorado**

Stephanie Linn

CITY CLERK

By: *[Signature]*

Title: *City Manager*

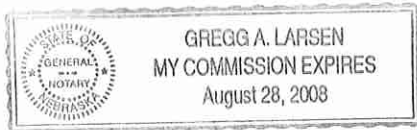
(Seal)



STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On May 18, 2005, before me, a Notary Public in and for said County and State, personally appeared Tony K. Love and M.E. Heenan who are the General Mgr - Real Estate and the Assistant Secretary, respectively, of Union Pacific Railroad Company, a Delaware corporation, and who are personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to in the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



(Seal)

Gregg A. Larsen
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

On May 17, 2005, before me, a Notary Public in and for said County and State, personally appeared Kelly Arnold (Stephanie Twin) who is the City Manager / City Clerk of the CITY OF GRAND JUNCTION, COLORADO, and who is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to in the within instrument, and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



(Seal)

Debra M. Kemp
Notary Public
My Commission Expires 3/13/09

707 17th Street, Suite 2300
Denver, Colorado 80202-3404
Phone: 303.820.5240
Fax: 303.820.2402
www.c-b.com

Carter-Burgess

August 6, 2004
Rev. September 1, 2004
Rev. January 13, 2005
070545.500.1.0100

PE-UPRR #5 Rev. 2 (PE F-58)
Property Description

A parcel of land lying in the South Half of Section 13, Township 1 South, Range 1 West of the Ute Principal Meridian, City of Grand Junction, Colorado being more particularly described as follows:

COMMENCING at the South Quarter Corner of Section said 13 (a found 3 1/2" Brass Cap, LS illegible), whence the Southeast Corner of the Southwest Quarter of the Southeast Quarter of said Section 13 (a found 2 1/2" Brass Cap, LS illegible "E1/16 S13/S24"), bears S89°59'29"E a distance of 1311.17 feet; THENCE N82°29'31"W a distance of 230.18 feet to the POINT OF BEGINNING;

THENCE N89°58'50"W along a line being 30.00 feet northerly of and parallel with the southerly line of the Southwest Quarter of said Section 13, and being non-tangent with the following described curve a distance of 79.72 feet;

THENCE along the arc of a curve to the right, having a radius of 704.00 feet, a distance of 163.64 feet, (the chord of said arc bears N.83°21'09"E. a distance of 163.27 feet);


THENCE S.89°59'19"E., tangent with the last described curve, a distance of 2707.99 feet;

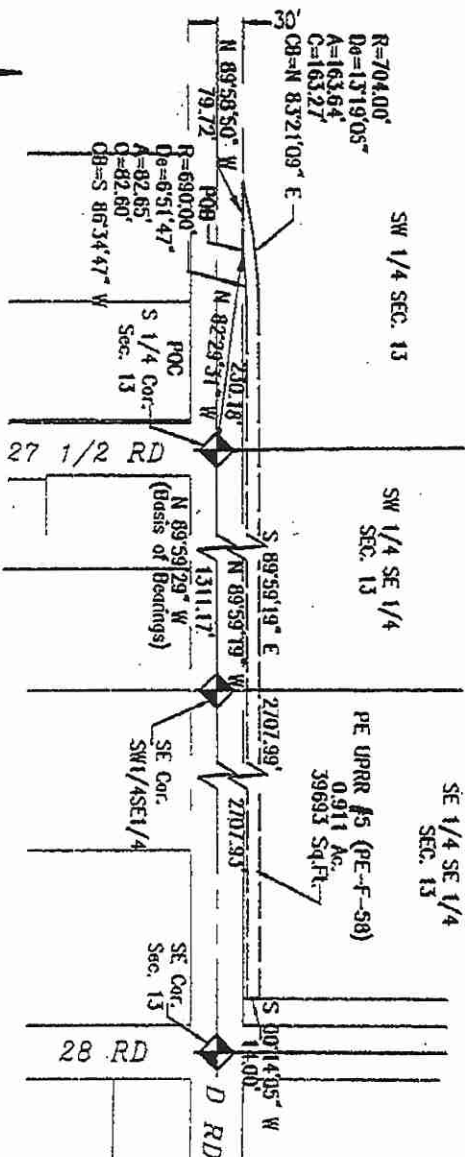
THENCE S00°14'05"W a distance of 14.00 feet;

THENCE N.89°59'19"W., a distance of 2707.93 feet tangent with the following described curve;

THENCE along the arc of a curve to the left, having a radius of 690.00 feet, a distance of 82.65 feet; (the chord of said arc bears S.86°34'47"W., a distance of 82.60 feet) to the POINT OF BEGINNING.

Containing 39,693 square feet, (0.911 Acres), more or less.

Marla M. McOmber
Prepared by:
Date: 1-13-05 24961
Marla M. McOmber Colorado PLS 24961
For and on behalf of Carter & Burgess, Inc.




CARTER & BURGESS PROJECT NO. 071514	
CLIENT PROJECT NO. -	
REVISION DESCRIPTION	Rev/Wesley Configuration / Size
DRAWN	DATE
DGW	7-30-04
SCALE	1"=500'
Carter & Burgess	
707 17th Street, Suite 2300, Denver CO 80202	
Comp. est.-des. fee (Est. est.-des.)	

THIS MATERIAL AND ANY ASSOCIATED ELECTRONIC DATA WAS PREPARED BY CARTER & BURGESS, INC. FOR THE PROJECT INDICATED. ANY REUSE OR MODIFICATION WITHOUT THE WRITTEN CONSENT OF CARTER & BURGESS SHALL BE AT THE SOLE RISK OF THE USER.

RIVERSIDE PARKWAY GRAND JUNCTION COLORADO		
EXHIBIT		
PE UPRR #5 (PE F-58)		
TITLE:		
REVISION:	DRAWING NO.	SHEET NO.
1	PE-F-58.DWG	1 OF 1

RECORDER NOTE: POOR QUALITY DOCUMENT
 PROVIDED FOR REPRODUCTION