

10 PAGE DOCUMENT

EXHIBIT "O"

EASEMENT AGREEMENT

The printed portions of this form, except bold additions, have been reviewed by the State of Colorado, Attorney General. All additions to this form must be in bold type. All deletions must be shown by strike-through.

THIS EASEMENT AGREEMENT is made and entered into this 31st day of JULY, 2006 by and between the STATE OF COLORADO, acting by and through the Department of Military and Veteran Affairs on behalf of the Colorado National Guard, whose address is 6848 South Revere Parkway, Suite 337, Centennial, Colorado 80112 (hereinafter, the "Grantor"), and The City of Grand Junction, Colorado whose address is 250 North 5th Street, Grand Junction, Colorado 81501 (hereinafter, the "Grantee").

WITNESSETH:

That, for and in consideration of ~~an annual payment of~~ _____ or a one-time payment of Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, and the keeping and the performance of the covenants and agreements hereinafter expressed, Grantor grants to Grantee a ~~exclusive~~ nonexclusive easement upon the following property (hereinafter, the "Property") located in the County of Mesa, State of Colorado, to wit:

1. An area of land to be used as a Perpetual Multi-Purpose Easement located along the southerly boundary of Grantor's Property, identified as Project Parcel No. PE F-74A, containing a total area of 10,982 square feet (0.252), more or less, as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference; and also
2. An area of land to be used as a Perpetual Drainage Easement located along the southerly boundary of Grantor's Property, identified as Project Parcel No. PE F-74B, containing a total area of 455 square feet (0.010 acres), more or less, as more particularly described in Exhibit "B" attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD, subject to the covenants and agreements hereinafter expressed, for the purpose of using the Property for constructing, operating, maintaining and replacing utility lines and all fixtures and devices, used or useful in the operation of said lines ~~{for the term beginning _____, and ending _____}~~.

GRANTOR AND GRANTEE MUTUALLY EXPRESSLY COVENANT AND AGREE:

1. If at any time during the term of this Easement Agreement Grantee does not for a period of 366 consecutive days make use of this easement for the purpose aforesaid, Grantor may in his sole discretion immediately declare such easement abandoned and shall so notify Grantee by certified mail with return receipt requested. In the event of such abandonment the consideration shall be forfeited.
2. This grant of easement is subject to any and all previously granted easements, rights-of-way, licenses and conveyances, recorded or unrecorded. It is Grantee's sole responsibility to determine the existence of any rights, uses or installations conflicting with Grantee's use of the Property hereunder. Grantee agrees to not interfere with any use in the easement area by any other party under a previous grant. Grantee understands and agrees that Grantor makes no representations concerning ownership of nor warrants title to any of the Property. To the extent that this grant of easement may encroach on lands not owned or controlled by Grantor, Grantee assumes all responsibility for any such encroachment.
3. The signatories aver that to their knowledge, no State employee has any personal or beneficial interest whatsoever in the Property.
4. If this easement is granted pursuant to §24-82-201 C.R.S., as amended, this Easement Agreement shall not be deemed valid unless and until approved by the officials and officers of the State of Colorado as required by §24-82-202 C.R.S., as amended, or such assistants as they may designate. Signature by the Grantor shall be deemed to be verification of approval of the commission or board, if any, of the institution, department or agency across the premises of which this easement is hereby granted.

5. The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto and all covenants shall apply to and run with the land unless otherwise specifically noted.
6. The signatories aver that they are familiar with CRS 18-8-301, et. seq., (Bribery and Corrupt Influences) and CRS 18-8-401, et. seq., (Abuse of Public Office), and that no violation of such provisions is present.
7. Grantor and Grantee agree that this Easement Agreement including all exhibits, supersedes any and all prior written or oral agreements, and there are no covenants or agreements between the parties except as set forth herein with respect to the use of the Property by Grantee. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever unless embodied herein in writing. No subsequent amendment hereto shall have any force or effect unless embodied in a written agreement executed and approved by the officials and officers of the State of Colorado as required by the Colorado Revised Statutes, as amended, or such assistants as they may designate.
8. Grantee shall be responsible for recording this Easement Agreement with the Clerk and Recorder's Office in the county or counties in which the Property is located. Grantee shall provide Grantor with a conformed copy of the recorded easement.
9. Any notice required or permitted by this Easement Agreement may be delivered in person or sent by registered or certified mail, return receipt requested, to the party at the address as hereinafter provided, and if sent by mail it shall be effective when posted in the U.S. Mail Depository with sufficient postage attached thereto:

Grantor:
Department of Military and Veteran Affairs
6848 Revere Parkway, Suite 337
Centennial, Colorado 80112

Grantee:
City of Grand Junction
250 North 5th Street
Grand Junction, Colorado 81501

Cc: State Buildings and Real Estate Programs
Attn: Real Estate Specialist
1313 Sherman Street, Suite 319
Denver, CO 80203

Notice of change of address shall be treated as any other notice.

10. Grantor reserves all rights to any and all metallic and non-metallic minerals, ores and metals of any kind and character, including but not limited to coal, asphaltum, oil and gas in or under said easement.
11. If any part of this Easement Agreement is found, decreed or held to be void or unenforceable, the remainder of the provisions of this Easement Agreement shall not be affected thereby and shall remain in full force and effect.
12. This Easement Agreement shall be governed by the laws of the State of Colorado.
13. ~~[use this section when grantee is an individual, corporation or partnership] Notwithstanding any other provision of this Easement Agreement to the contrary, no term or condition of this Easement Agreement shall be construed or interpreted as a waiver of any provision of the Colorado Governmental Immunity Act, §24-10-101, et seq., CRS as now or hereafter amended. The parties hereto understand and agree that liability for claims for injuries to persons or property arising out of the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of §24-10-101, et seq., CRS, as now or hereafter amended and §24-30-1501, et seq., CRS as now or hereafter amended. Any provision of this Easement Agreement, whether or not incorporated herein by reference, shall be controlled, limited and otherwise modified so as to limit any liability of the Grantor to the above cited laws.~~
14. [use this section when grantee is a city, county or political subdivision] The parties hereto understand and agree that liability for claims for injuries to persons or property arising out of the negligence of either party, its departments, institutions, agencies, enterprises, boards, officials, and employees is controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq. C.R.S. and §24-30-1501, et seq. C.R.S. Any provision of this Easement Agreement, whether or not incorporated herein by reference, shall be controlled, limited and otherwise modified so as to limit any liability of the Grantor and the Grantee to the above cited laws.

GRANTOR EXPRESSLY COVENANTS:

1. Grantee and Grantee's agents, assigns and successors shall have access at all times, subject to Grantor's security policies and procedures, to the Property for the purposes set forth herein.

GRANTEE EXPRESSLY COVENANTS:

1. Grantor shall have, during the continuance of this easement, the right to dispose of the Property and to use the Property for other purposes provided such use does not materially interfere with the easement granted herein. In the event Grantor shall, in the future, wish to grant additional easements or rights-of-way which encroach upon the easement granted herein, Grantee expressly agrees and covenants it will consent to share the Property, provided the proposed additional easements or rights-of-way do not materially interfere with the purposes for which this easement is granted.
2. In the event of termination, Grantee, at its expense, shall, upon written request by Grantor, remove all improvements constructed by Grantee from the Property within ninety (90) days of termination and restore the Property as nearly as is practicable to the condition of the land existing immediately prior to Grantee's first use. In the event that Grantee does not remove the improvements within such 90-day period, Grantor shall have the option to either 1) remove the improvements and restore the Property to its prior condition and bill the Grantee for the cost of removal and restoration, or 2) consider such improvements shall be considered abandoned and the improvements shall become the property of Grantor. Except as otherwise provided herein, termination of this Easement Agreement shall be by operation of law. If this Easement Agreement is so terminated, consideration paid shall be forfeited.
3. Grantee may not use this grant of easement for any purpose other than that which is specifically described herein. If the Property is used by Grantee for any purpose other than stated herein, the easement is automatically terminated, and all of the right, title and interest of Grantee (and Grantee's successors or assigns) in and to the Property become null and void, and the Property shall absolutely revert to and revest in Grantor as fully and completely as if this instrument had not been executed, without the necessity for suit or re-entry and Grantee shall remove improvements as provided above. No act or omission on the part of any beneficiary of this paragraph shall be a waiver of the operation or enforcement of the paragraph.
4. Grantee agrees to comply with all rules, regulations and policies authoritatively promulgated pertaining to the use of the Property.
5. Grantee agrees to indemnify, defend and hold harmless the Grantor against all liability, loss and expense and against all claims and actions based upon or arising out of injury or death to persons or damage to property, caused by any acts or omissions of Grantee, its successors, assigns, agents or contractors or arising out of Grantee's use of the Property. In the event that Grantee contracts for any work to be performed on the Property, Grantee shall require its contractors and subcontractors to indemnify, defend and hold harmless Grantor, its employees and agents from any and all claims, damages and liabilities whatsoever for injury or death to persons or damage to property arising from the contractors' and/or subcontractors' actions or inactions. All contractors and subcontractors shall be required to abide by and follow the provisions of this easement.
6. Grantee agrees that all excavations or other temporary removal of soil as required for Grantee's use of the Property for the purposes set forth herein shall be properly replaced, and Grantee shall seed, restore and revegetate the surface to substantially its condition existing prior to the disturbance as reasonably possible. Grantee shall be responsible at all times for the immediate repair or replacement of, or reimbursement for any damage to the Property due to Grantee's use of the Property for the purposes set forth herein. Routes of ingress and egress for construction or for maintenance are to be limited to the minimum necessary locations, and all work areas created must be obliterated, protected against erosion, and restored to the former condition of the land, as nearly as possible by Grantee. Grantor shall determine, in its sole discretion, whether Grantee's restoration complies with this paragraph. In the event Grantee fails to perform the restorative or revegetative work required by this paragraph to the sole satisfaction of Grantor, and after thirty (30) days prior written notice specifying with particularity the failure and indicating the remedial steps needed to cure same, Grantor shall be allowed to perform said work, and Grantee shall pay within thirty (30) days all direct and indirect costs incurred by Grantor for restorative or revegetative work including, but not limited to, regrading, filling, revegetation, erosion control, and replacing of soil.
7. The easement granted herein is subject to the condition that the Grantee shall properly obtain and maintain all necessary permits or approvals required by Federal, State and local laws, regulations and ordinances. Grantee shall comply with all applicable laws and ordinances (and all rules, regulations and requirements of any governmental

authority promulgated thereunder) controlling environmental standards and conditions of Grantee's use of the Property. If any such law, ordinance, rule, regulation or requirement is violated as a result of Grantee's use of the Property and/or its operations on the Property, Grantee shall protect, defend, indemnify and hold harmless Grantor from and against any penalties, fines, costs and expenses including legal fees and court costs incurred by Grantor.

8. Grantee shall provide Grantor with as-built drawings showing the location of any improvements constructed on the Property (including location and depth of any improvements located underground) within thirty (30) days after completion of construction of such improvements.

ADDITIONAL PROVISIONS:

None

IN WITNESS WHEREOF, the parties hereto have caused this Easement Agreement to be executed the day and year first above written.

GRANTOR:
STATE OF COLORADO
Bill Owens, Governor
Acting by and through the
Department of Military and Veteran Affairs

By: Mason C. [Signature]
Executive Director

GRANTEE:
CITY OF GRAND JUNCTION
By: David A. [Signature]
Title: City Manager

(If Corporation)
Attest (Seal)
By: Quanita Peterson
Deputy Secretary City Clerk

APPROVED:

STATE OF COLORADO
Department Of Personnel & Administration
State Buildings & Real Estate Programs

By: Charles M. [Signature]
For the Executive Director



APPROVED:

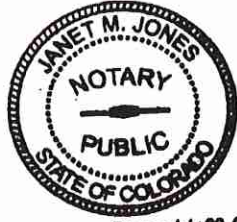
STATE OF COLORADO
John W. Suthers, Attorney General

By: Linda [Signature]

STATE OF COLORADO)
COUNTY OF ARAPAHOE) ss.

The foregoing instrument was acknowledged before me this 28th day of July, 2006 by MASSON C. WHITNEY on behalf of the State of Colorado, Grantor. Witness my hand and official seal.

My commission expires 7/29/2008



My Commission Expires July 29, 2008

Janet M. Jones
Notary Public

STATE OF COLORADO)
COUNTY OF Mesa) ss.

The foregoing instrument was acknowledged before me this 31st day of July, 2006, by David A. Varley behalf of the Grantee. Witness my hand and official seal.

My commission expires 10-10-2009

Juanita Peterson
Notary Public



Carter Burgess

November 23, 2005
071514.402.1.0025
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EXHIBIT "A"

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

PROPERTY DESCRIPTION

Parcel No. PE F-74A

A parcel of land being a portion of a tract of land described in Book 4012 at Page 677 recorded in the Mesa County Clerk and Recorder's Office on October 11, 2005 lying in the Southwest Quarter of Section 18, Township 1 South, Range 1 East of the Ute Principal Meridian, Mesa County, being more particularly described as follows:

COMMENCING at the South Quarter Corner of said Section 18 (a 2 1/2" MCSM brass cap #990) whence the Southwest Corner of said Section 18 (a found 1" pipe in monument box) bears N89°39'18"W a distance of 2654.48 feet;
THENCE N53°51'55"W a distance of 59.91 feet to the easterly line of said tract of land described in Book 4012 at Page 677, being the POINT OF BEGINNING;

THENCE N89°39'20"W a distance of 118.16 feet;
THENCE N78°20'45"W a distance of 40.79 feet;
THENCE N89°39'20"W a distance of 27.38 feet;
THENCE N70°21'56"W a distance of 31.78 feet;
THENCE N89°39'20"W a distance of 63.23 feet;
THENCE S71°00'13"W a distance of 31.70 feet;
THENCE N89°39'20"W a distance of 471.37 feet;
THENCE N00°03'46"E along the westerly line of said tract of land described in Book 4012 at Page 677 a distance of 14.00 feet;
THENCE S89°39'20"E a distance of 469.05 feet;
THENCE N71°00'13"E a distance of 31.70 feet;
THENCE S89°39'20"E a distance of 68.00 feet;
THENCE S70°21'56"E a distance of 31.78 feet;
THENCE S89°39'20"E a distance of 26.39 feet;
THENCE S78°20'45"E a distance of 40.79 feet;
THENCE S89°39'20"E a distance of 116.70 feet;
THENCE S00°03'46"W along the easterly line of said tract of land described in Book 4012 at Page 677 a distance of 14.00 feet to the POINT OF BEGINNING.

Containing 10,982 square feet, (0.252 Acres), more or less for a Multipurpose Easement to the City of Grand Junction for the use of City approved utilities as perpetual easements for the installation, operation, maintenance and repair of utilities and appurtenances including, but not limited to, electric lines, cable TV lines, natural gas pipelines, sanitary sewer lines, storm sewers, water lines, telephone lines, and also for the installation and maintenance of traffic control facilities, street lighting, landscaping, trees, grade structures, irrigation, road construction and maintenance.

Carter=Burgess

707 17th Street, Suite 2300
Denver, Colorado 80202-3404
Phone: 303.820.5240
Fax: 303.820.2402
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November 23, 2005
071514.402.1.0025
Parcel No. PE F-74A
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Basis of Bearing: N89°58'01"E between Mesa County Local Coordinate System points
Southwest Corner of Section 15 (2-1/2"Alumn.Cap in Monument Box Stamped: AES T1S
R1W S16/S15/S21/S22 2002 PLS 24320) and the Southeast Corner of Section 15, (2-
1/2"Brass Cap Stamped: COUNTY SURVEY MARKER 828-1 15/14/22/23), both in
Township 1 South, Range 1 West Ute P.M.

Prepared by:

Date: 11/29/05

Marla Mellor Meagher, PLS 24961
For and on behalf of Carter & Burgess, Inc.



Carter=Burgess

November 23, 2005
071514.402.1.0025

EXHIBIT "B"

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

PROPERTY DESCRIPTION

Parcel No. PE F-74B

A parcel of land being a portion of a tract of land described in Book 4012 at Page 677 recorded in the Mesa County Clerk and Recorder's Office on October 11, 2005 lying in the Southwest Quarter of Section 18, Township 1 South, Range 1 East of the Ute Principal Meridian, Mesa County, being more particularly described as follows:

COMMENCING at the South Quarter Corner of said Section 18 (a 2 1/2" MCSM brass cap #990) whence the Southwest Corner of said Section 18 (a found 1" pipe in monument box) bears N89°39'18"W a distance of 2654.48 feet;
THENCE N76°51'30"W a distance of 304.90 feet to the POINT OF BEGINNING;

THENCE N89°39'20"W a distance of 20.00 feet;
THENCE N00°20'40"E a distance of 22.74 feet;
THENCE S89°39'20"E a distance of 20.00 feet;
THENCE S00°20'40"W a distance of 22.74 feet to the POINT OF BEGINNING.

Containing 455 square feet, (0.010 Acres), more or less to the City of Grand Junction as a perpetual easement for the installation, operation, maintenance, repair and replacement of storm drainage facilities and appurtenances related thereto.

Basis of Bearing: N89°58'01"E between Mesa County Local Coordinate System points Southwest Corner of Section 15 (2-1/2" Alumn. Cap in Monument Box Stamped: AES T1S R1W S16/S15/S21/S22 2002 PLS 24320) and the Southeast Corner of Section 15, (2-1/2" Brass Cap Stamped: COUNTY SURVEY MARKER 828-1 15/14/22/23), both in Township 1 South, Range 1 West Ute P.M.

Prepared by:
Date: 11/29/05
Marla Mellor McO
For and on behalf of

