

ACCESS AGREEMENT

THIS ACCESS AGREEMENT ("Agreement") dated as of July 2, 2018, is made and entered into by and between the City of Grand Junction ("Owner") and Apex Companies, LLC ("Apex") (collectively, the "Parties").

WITNESSETH

WHEREAS, Owner is the current owner of the property located at 555 Ute Avenue in Grand Junction, Colorado (the "Property"); and

WHEREAS, there presently exists a certain environmental condition on and in the vicinity of the Property, namely detectable concentrations of petroleum hydrocarbons in groundwater; and

WHEREAS, Apex has requested Owner's permission for access to the Property for the purposes hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual promises of the Parties and other consideration set forth herein, and other good and valuable consideration, the Parties agree as follows:

1. Owner hereby grants to Apex a non-exclusive license for ingress and egress to, from, over and across the Property for the following purposes:
 - a. Apex shall continue to collect groundwater samples on a periodic (e.g., quarterly) basis from existing groundwater monitoring wells as directed by the Colorado Department of Labor and Employment's Oil and Public Safety Division (OPS) for as long as OPS requires. Sample and test results shall be provided to Owner upon request.
 - b. Apex intends to implement and/or coordinate a Corrective Action at the Property, as approved by the OPS. The Corrective Action will likely include the installation of replacement monitoring wells and equipment on the Property, as approved by the Owner.
 - c. The plans and dates for groundwater sampling, well installation and other related activities shall be coordinated with Suzette Freidenberger of GJPD (970-549-5112) with reasonable advance notice.
 - d. Apex will use reasonable efforts to minimize the impact of its activities to the Property and will restore any damage to landscaping or driveways caused by the activities. Prior to initiating any land disturbance activities, Apex will contact the Colorado 811 (Call-before-you-dig) system to identify and mark any public utilities on the Property. The Colorado 811 system locates underground public utilities in public spaces and on easements. Because the replacement monitoring wells are located on private property, the Colorado 811 system may not locate all the underground utilities. Therefore, Apex will contract with a private utility locator to identify and further locate utilities, water lines and drainage pipes on private property not identified by Colorado 811. Apex requests that any information pertaining to utilities on the Property be made available for its review in order to identify known underground features.
 - e. Apex shall indemnify, defend and hold Owner harmless from and against any claims, liabilities, expenses (including, without limitation, reasonable attorney's fees) and damages for injury to persons or damage to property resulting from any negligent act or omission by Apex, its agents, employees and/or contractors in connection with maintaining and testing of the groundwater monitoring wells and vaults on or around the Property.

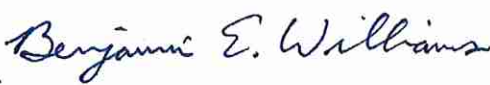
2. The duties and obligations of Apex as set forth herein shall run with the Property during the term of this Agreement and be assignable by Owner to any subsequent owner of the Property until the area-wide remediation is completed as indicated by issuance of a Closure/No Further Action letter from the OPS.
3. When groundwater monitoring and/or sampling is no longer required, Apex, with OPS approval, shall at its expense, abandon the groundwater monitoring wells and remove flush-mount well covers, and restore the Property to substantially its condition prior to installation of same.
4. During the conduct of well installation, large equipment and the need for material staging areas will likely result in an inconvenience to the current business at the property. Following the drilling and installation work, and during routine groundwater monitoring events, there will likely be no significant impedance to access or use of the Property.
5. This Agreement shall remain in effect until OPS has determined that no further action is required for Event 10811, and as long as Apex remains contracted by CDLE-OPS to conduct the activities described above. The duties and obligations of Apex as set forth herein shall automatically terminate if Apex is no longer contracted by CDLE-OPS to conduct the activities described above.
6. Apex will obtain a City of Grand Junction work in the right of way permit prior to replacing monitoring wells.

Witness our hands and signatures as of the date first above appearing.

City of Grand Junction

Apex Companies, LLC

By: 
Mr. Greg Caton
City Manager

By: 
Mr. Benjamin E. Williams
Senior Environmental Scientist