

RESOLUTION 2016-41

A RESOLUTION TO APPROVE A DEED OF EASEMENT AGREEMENT BETWEEN THE CITY OF FRUITA AND OLDCASTLE SW GROUP, INC. FOR A PERMANENT TRAIL EASEMENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE DEED OF EASEMENT

WHEREAS, the City of Fruita has identified the construction of the Kokpelli Section Colorado Riverfront Trail project from the Little Salt Wash Trail to Loma as a high priority; and

WHEREAS, the Kokopelli Section Colorado Riverfront Trail project will be an amenity to the community that will provide alternative transportation options as well as provide recreational benefits to the community; and

WHEREAS, the City of Fruita has expended considerable resources toward the planning, design, and permitting processes necessary for the trail construction; and

WHEREAS, Oldcastle SW Group, Inc. owns the property at 1501 Highway 6 & 50, known as Lot C-1 of Tract C Subdivision; and

WHEREAS, a Deed of Easement for the acquisition of a permanent trail easement, along with the conditions set forth within the Deed of Easement, necessary to construct the proposed Kokpelli Section Colorado Riverfront Trail have been negotiated with Oldcastle SW Group, Inc. as fair and reasonable terms for a permanent easement.

NOW, THEREFORE BE IT RESOLVED, that the City of Fruita hereby approves the Deed of Easement from Oldcastle SW Group, Inc. acquiring a permanent easement for the Kokopelli Section of the Colorado Riverfront Trail and authorizing the City Manager to execute the Deed of Easement.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FRUITA,
COLORADO THIS 6TH DAY OF DECEMBER, 2016.**

CITY OF FRUITA

Lori Buck, Mayor

ATTEST:

Margaret Sell, City Clerk

DEED OF EASEMENT

THIS DEED is made and entered into this _____ day of _____, 2016 by and between OLDCASTLE SW GROUP, INC., a Colorado Corporation, whose address is 2273 River Road, Grand Junction, Colorado 81505 ("Grantor"), and the CITY OF FRUITA, Colorado, a municipal corporation, whose address is 325 E. Aspen Ave., Fruita, Colorado 81521 ("Grantee").

Grantor, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid by Grantee, the receipt of which is hereby acknowledged, by these presents does hereby grant, sell, and convey to Grantee, its heirs and assigns, for the purposes herein stated, the following described easement situation in the County of Mesa, State of Colorado, to wit:

A. Permanent Public Trail Easement. A perpetual, non-exclusive easement on, under, over, through and across the real property described in Exhibit "A" and Exhibit "B", attached hereto and incorporated herein by this reference, owned by the Grantor, for the purpose of constructing, operating, maintaining, repairing, installing, replacing, enlarging, and improving, a trail system by the Grantee for the use by the general public for pedestrian and bicycle travel only.

The Grantee shall maintain Grantee's appurtenances and other facilities within the above described permanent easement in good condition and repair. Grantee shall indemnify and hold harmless Grantor, its heirs, successors and assigns, from and against all liability, claims and demands, including reasonable attorney's fees and costs, of every kind and nature, whether foreseen or unforeseen, for injury, loss or damages, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss, environmental hazard, damage or negligence which arise out of or are in any manner connected with the Grantee's construction, installation, repair, and maintenance of improvements within the easements hereby conveyed and Grantee's use and operation of such easements. Grantee further agrees to aid and defend the Grantor, its heirs, successors and assigns, at Grantee's expense, in the event the Grantor is named as a defendant in any legal action concerning the construction, installation, repair and maintenance of improvements within such easements or the use and operation of such easements by Grantee. Grantor and Grantee acknowledge that the Grantee is relying upon, and as to third parties, does not waive or intend to waive by any provisions of this Deed the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Sections 24-10-101, *et seq.*, C.R.S., as from time to time amended, or otherwise available to the Grantee, its officers or employees.

Within the permanent easement described in Exhibit "A" and Exhibit "B" the Grantee may remove any and all trees, bushes, vegetation or any other natural obstruction which, in the reasonable opinion of the Grantee, may be a hazard to or impair construction or operation of the public trail, appurtenances, access and equipment used by the Grantee in connection with the easement. The Grantee shall cooperate with the Grantor in attempting to minimize the removal of natural vegetation to the extent practicable and consistent with the alignment and nature of the public trail.

All trees, grasses, brush, foliage and other vegetation cut away or removed by the Grantee during construction of the public trail shall be replanted or replaced by the Grantee unless replacement of the foliage or trees would be impracticable because of the grade or surface of the disturbed area, or unless replacement of the foliage or trees would be a hazard to or materially interfere with the operation of the facilities of Grantee, in which case other appropriate methods (such as planting grasses) may be used to stabilize such areas. All ground surfaces cut or disturbed in connection with the public trail construction or maintenance shall be graded and restored by appropriate methods including revegetation, to the extent reasonably practicable.

The Grantor hereby reserves the right to grant additional non-exclusive easements or licenses with respect to the permanent easement herein conveyed for other purposes, provided that no such other easement or license shall be granted which would interfere with the reasonable use or operation by Grantee of its public trail and related appurtenances and facilities or the reasonable exercise of Grantee's rights hereunder, unless Grantee's consent shall be first obtained. Provided Grantor does not interfere with Grantee's activities in the construction, operation, maintenance, repair, replacement or improvement of Grantee's public trail, appurtenances and facilities, Grantor may use in common with the Grantee the permanent easement.

Grantee shall additionally perform the following actions:

1. Grantee agrees to pay the cost and erect approximately 4,000 linear feet of 6 foot high privacy fence on Grantor's property immediately outside the northerly and easterly boundary of herein described easement, or as determined by Grantor. The fence shall be constructed as a 6-foot PrivacyLink® Chain Link Fence with Forest Green Prewoven Slats, 3 1/2" x 5" mesh, bonded 9 gauge vinyl coated wire in Forest Green. Fence shall be erected during construction of the project and prior to the opening of the trail for public use. Grantor, following written request from Grantee, agrees to allow Grantee, its contractors, agents and assigns temporary access at reasonable times on Grantor's property to erect said fence. Upon completion, Grantee will assume all maintenance, care and responsibility of said fence. It is

understood that no warranties of any kind, other than that provided by the fence manufacturer and/or installer shall be granted.

2. The consideration set forth herein is in full settlement of all and any damages, including any damages to the remainder, occurring to Grantor or his property as a result of Grantee's erection of the privacy fence described herein (the "Project"). Grantee shall indemnify, defend and hold harmless Grantor from and against any and all claims arising out of the construction, maintenance and/or use of the Project on the Property, except to the extent such claims are caused by Grantor's negligence.
3. Title Insurance, if required, shall be secured by and at the expense of Grantee.
4. The City of Fruita shall take responsibility for the reclamation of the areas (i) along the west edge of the southern pond and (ii) along the water's edge along the easement area.

TO HAVE AND TO HOLD the easement above described unto Grantee, its successors and assigns, for the purpose herein above provided and that Grantor, for its successors and assigns, does covenant, warrant and agree to and with Grantee and its successors and assigns that at the time of the enrolling and delivery of this Deed, it is well seized of the permanent easement in fee simple and has good right, full power and authority to grant and convey the easements herein granted in the manner and in the form as aforesaid, and that the permanent easement is free and clear of all former and other grants, bargains, sales, liens, taxes, assessments, and encumbrances of whatever kind or nature except for reservations and exceptions contained in the United States Patent to the subject property and those covenants, restrictions, reservations, easements and rights-of-way of record, if any, and general taxes for the year 2016, and that Grantor, for its successors and assigns, does covenant and agree to and with Grantee, and its successors and assigns, that it warrants quiet enjoyment of said easement, subject to the matters referenced in this paragraph.

IN WITNESS WHEREOF, Grantee has executed the Deed the day and year first above written.

GRANTOR:

Oldcastle SW Group, Inc., a Colorado Corporation

Peter J. Siegmund
by Peter J. Siegmund, Assistant Secretary

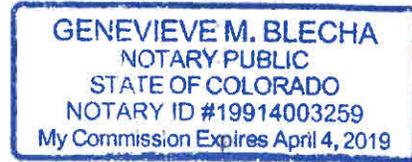
STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me on November 15, 2016,
by

Peter J. Siegmund, Grantor.

WITNESS MY HAND AND OFFICIAL SEAL

My commission expires: April 4, 2019



Genevieve M. Blecha
Notary Public

ACCEPTED BY GRANTEE:

CITY OF FRUITA, COLORADO, a municipal corporation

By: _____
(Michael Bennett, City Manager)

ATTEST: _____
Margaret Sell, City Clerk

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me on _____, 2016,
by

_____, Grantor.

WITNESS MY HAND AND OFFICIAL SEAL

My commission expires: _____

Notary Public

EXHIBIT "A"

PUBLIC TRAIL EASEMENT DESCRIPTION

A tract of land for a public trail easement in, over, across, and through that portion of Lot C-1 in Tract C Subdivision in the W 1/2 of Section 12, Township 1 North, Range 3 West of the Ute Meridian, Mesa County, Colorado, More particularly described as follows:

Beginning at an alloy cap (PLS 18469) for the S1/16 Corner on the west line of said Section 12 whence an iron pipe for the W1/4 Corner of said Section 12 bears N00°07'00"W a distance of 1332.18 feet; thence along the perimeter of an existing Trail Easement recorded at Book 5047, Page 472 (Reception # 2543427) the following four (4) courses and distances:

- 1) N00°07'00"W for a distance of 25.10 feet;
- 2) S45°08'33"E for a distance of 93.37 feet;
- 3) S00°02'37"W for a distance of 270.73 feet;
- 4) S19°23'02"W for a distance of 120.71 feet to the Point of Beginning; thence continuing along the perimeter of an existing Public Trail Easement recorded at Book 5047, Page 472 (Reception # 2543427) the following twelve (12) courses and distances:

- 1) S00°07'00"E for a distance of 278.45 feet;
- 2) S41°58'51"E for a distance of 114.30 feet;
- 3) S32°19'59"E for a distance of 272.11 feet;
- 4) S81°55'20"E for a distance of 37.14 feet;
- 5) S11°19'50"W for a distance of 81.91 feet;
- 6) S23°45'34"E for a distance of 103.34 feet;
- 7) S18°52'20"W for a distance of 56.22 feet;
- 8) S45°01'06"E for a distance of 74.79 feet;
- 9) S15°26'01"E for a distance of 185.71 feet;
- 10) S26°42'12"E for a distance of 167.43 feet;
- 11) S16°19'08"E for a distance of 86.76 feet;
- 12) S79°11'10"E, parallel with the northerly right of way line of Interstate Highway 70, for a distance of 2199.52 feet to the east line of said Lot C-1; thence the following thirteen (13) courses and distances:

- 1) N00°04'04"W along the east line of said Lot C-1 for a distance of 40.73 feet;
- 2) N79°11'10"W for a distance of 233.72 feet;
- 3) S89°59'38"W for a distance of 159.81 feet;
- 4) N79°11'10"W for a distance of 1663.13 feet;
- 5) N57°43'58"W for a distance of 135.64 feet;
- 6) N26°42'12"W for a distance of 209.70 feet;
- 7) N15°26'01"W for a distance of 215.67 feet;
- 8) N50°21'00"E for a distance of 85.94 feet;

- 9) N26°54'32"W for a distance of 239.82 feet;
- 10) N48°08'16"W for a distance of 102.88 feet;
- 11) N37°31'38"W for a distance of 328.77 feet;
- 12) N00°07'00"W for a distance of 241.76 feet;
- 13) S89°53'00"W for a distance of 20.00 feet to the Point of Beginning;

Containing approximately 2.22 acres

EXHIBIT B

W 1/4 CORNER OF SECTION 12,
T1N R3W, UTE MERIDIAN

NO° 07' 00"W 1332.18'

NO° 07' 00"W 25.10'

POB OF EXST. EASEMENT
S 1/16 CORNER ON WEST LINE
OF SECTION 12
PLS 18469 ALLOY CAP

BOUNDARY OF PEDESTRIAN EASEMENT
RECORDED AT BOOK 5047 PAGE 472
AND WEST LINE OF LOT C-1, TRACT C SUB.

POB OF NEW EASEMENT
DESCRIBED HEREIN

SO° 07' 00"E 278.45'

SOO° 07' 00"W
1307.08'

S45° 08' 33"E 93.37'

SO° 02' 37"W 270.73'

S19° 23' 02"W 120.71'

S89° 53' 00"W 20.00'

NO° 07' 00"W 241.76'

PARCEL #2693-123-04-001
1501 HWY. 6 & 50
OLDCASTLE SW GROUP INC.

N37° 31' 38"W 328.77'

S41° 58' 51"E 114.30'

N48° 08' 16"W 102.88'

S32° 19' 59"E 272.11'

S81° 55' 20"E 37.14'

N26° 54' 32"W 239.82'

S11° 19' 50"W 81.91'

S23° 45' 34"E 103.34'

S18° 52' 20"W 56.22'

S45° 01' 06"E 74.79'

N50° 21' 00"E 85.94'

S15° 26' 01"E 185.71'

N15° 26' 01"W 215.67'

S26° 42' 12"E 167.43'

N26° 42' 12"W 209.70'

S16° 19' 08"E 86.76'

N57° 43' 58"W 135.64'

I-70

MATCHLINE

EASEMENT AREA & PERIMETER
AREA: 96587.68 SF (2.22± AC)
PERIMETER: 7335.24'

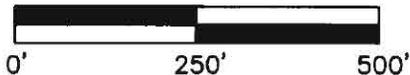


EXHIBIT B

MATCHLINE

I-70

25.0'

NEW PEDESTRIAN EASEMENT BOUNDARY

10.0'

S79° 11' 10"E 2199.52'

EASEMENT AREA & PERIMETER
AREA: 96587.68 SF (2.22± AC)
PERIMETER: 7335.24'

N79° 11' 10"W 1663.13'

BOUNDARY OF PEDESTRIAN EASEMENT
RECORDED AT BOOK 5047 PAGE 472
& SOUTH LINE OF LOT C-1, TRACT C SUB./
NORTH LINE OF I-70 R.O.W.

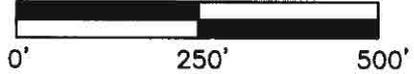
PARCEL #2693-123-04-001
1501 HWY. 6 & 50
OLDCASTLE SW GROUP INC.

S89° 59' 38"W 159.81'

N79° 11' 10"W 233.72'



N0° 04' 04"W 40.73'



EAST LINE OF LOT C-1,
TRACT C SUB.

9 PAGE DOCUMENT

MCA 2010-069
MESA COUNTY, COLORADO

**CONTRACT FOR NEGOTIATED SALE AND PURCHASE
OF A TRAIL EASEMENT**

THIS CONTRACT is made and entered into this 30th day of July, 2010 by and between the COUNTY OF MESA, STATE OF COLORADO, a Political Subdivision of the State of Colorado, hereinafter referred to as "Mesa," and : OLDCASTLE SW GROUP, INC. hereinafter referred to as "Owner."

WITNESSETH

WHEREAS, Mesa is currently acquiring Easements necessary for the construction of a project known generally as the Riverfront Trail Project in Mesa County, Colorado (the "Project"); and

WHEREAS, Owner presently owns and has title to certain property, all or a portion of which is required desired by Mesa for the construction of the Project; and

WHEREAS, both parties desire the required property or property interest be acquired by Mesa through negotiation; and

WHEREAS, the amount of money and/or other considerations set forth herein have been mutually established as just compensation;

**NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND PROMISES
HEREINAFTER SET FORTH, THE PARTIES AGREE AS FOLLOWS:**

1. At closing, Owner shall convey to Mesa a Public Trail Easement, for the interest in the real property described on Exhibit "A" attached hereto and by this reference incorporated herein (the "Property") and enter into a mutually agreeable Public Trail Easement and Agreement to be drafted by Mesa and tendered to the Owner for execution—which execution shall occur at or before the Closing.
2. Mesa shall pay Owner in full satisfaction of and in full consideration of this Contract the total sum of \$ Donation.
3. Mesa shall additionally perform the following actions: *PPS*
4. Mesa agrees to pay the cost and erect approximately ~~1000~~ ⁵⁴⁰⁰⁰ linear feet of 6 foot high privacy fence on Owner's property immediately outside the northerly and easterly boundary of herein described easement, or as determined by Owner. The fence shall be constructed as a 6' PrivacyLink® Chain Link Fence with Forest Green Prewoven Slats, 3 ½" x 5" mesh, bonded 9 gauge vinyl coated wire in Forest Green. Fence shall be erected during construction of the project and prior to the opening of the trail for public use. Owner, following written request from Mesa, agrees to allow Mesa its contractors, agents and assigns temporary access at reasonable times on Owner's property to erect said fence. Upon completion Owner will assume all maintenance, care and responsibility of said fence. It is understood that no warranties of any kind, other than that provided by the fence manufacturer and/or installer shall be granted.

5. The consideration set forth herein is in full settlement of all and any damages, including any damages to the remainder, occurring to Owner or his property as a result of Mesa's erection of the privacy fence described herein. Mesa shall indemnify, defend and hold harmless Owner from and against any and all claims arising out of the construction, maintenance and/or use of the Project on the Property, except to the extent such claims are caused by Owner's negligence. Owner shall discharge the same from the proceeds of this Contract or otherwise, and shall secure other outstanding interests.

6. Title insurance, if required, shall be secured by and at the expense of Mesa.

7. Closing and delivery of easement documents shall occur no later than 5:00 p.m. on July 30, 2010 or at a mutually agreeable date, which may be otherwise agreed upon in writing by the Parties. The place of Closing shall be designated by Mesa.

8. This Contract requires specific performance by Owner, and Mesa may enforce specific performance of this Contract in the event Owner fails or refuses to perform.

9. Time is of the essence in the performance of this Contract.

10. This Contract, together with the grant and conveyance documents and covenants referenced in §1-3, constitute the entire agreement between the parties and supersedes and cancels any and all prior Contracts, agreements or proposals, whether written or oral, between the parties relating to the subject matter hereof.

11. This Contract 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.

12. This Contract shall be binding upon Mesa, its successors and assigns, when same shall have been formally approved by the Mesa County Board of Commissioners and executed by the Board's Chair.

13. Upon formal approval by the Mesa County Board of Commissioners and execution of the Board's Chair, the Board shall have the right to occupy and utilize the Property. Owner makes no warranties or representations of any kind as to the Property, including without habitat fitness, and Mesa accepts the Property "AS IS" and "with all faults."

WHEREFORE, the parties have executed this Contract as of the date and year first above written.

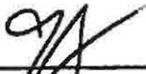
Oldcastle SW Group, Inc.,

By:


Peter J. Scigmund, Vice President,
Oldcastle SW Group, Inc., a Colorado
Corporation

Owner's Address: 2273 River Road, Grand Junction, CO 81505

ACCEPTANCE:



Craig J. Metz, Chairman
Board of Mesa County Commissioners
08-23-2010

Janice Rich, County Clerk
Mesa County, Colorado

MCA 2010-070

MESA COUNTY, COLORADO
GRANT OF PUBLIC TRAIL EASEMENT AND AGREEMENT

075
This Grant of Public Trail Easement and Agreement ("Trail Easement") is made this ~~30th~~ day of ~~February~~ *2010*, 2010 by and between Oldcastle SW Group, Inc., a Colorado Corporation whose legal address is 2273 River Road, Grand Junction, CO 81505 (Grantor herein) and the COUNTY OF MESA, a political subdivision of the State of Colorado whose legal address is PO Box 20,000, Grand Junction, Colorado 81502 (Grantee herein).

In exchange for and in consideration of \$ - donation - 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 (the "Trail") for the use and benefit of the general public through, over, under, and across a tract of land situated in the W1/2 of Section 12, T1N, R3W, U.M., being part of the land described in Book 4598 at Page 964 in the office of the County Clerk and Recorder of Mesa County, Colorado and is more particularly described on Exhibit "A" and depicted on Exhibit "B", both attached hereto and incorporated herein.

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

- 1). **Trail.** The Trail property may be used and maintained as a nature, hiking, equestrian and bicycling trail by the general public on the terms and conditions described in this Trail Easement. Grantee has the right to enter upon said premises, to survey, install, operate, maintain, repair and replace said Trail, and to remove objects interfering therewith, including the trimming of trees and bushes as may be required to permit the operation of the Trail.
- 2). **Public Use.** This Trail Easement is granted for the exclusive use of the general public accessed only by foot, bicycle, equestrian, ski, skate or non-motorized vehicle, except for motorized wheelchairs. This allowance of the public use thereof shall not grant to the public an additional right, right-of-way or easement. The Trail will not be available for public use until planning for and construction of the trail and accessories is completed to the satisfaction of Grantee.
- 3). **Trail Accessories.** Grantee has the right to erect and maintain permanent surface improvements within the Trail, together with signs, markers, fences, barricades, benches and other improvements which are accessory to the public use of the Trail.
- 4). **Construction and Maintenance.** The Trail and areas on which the Trail Accessories are located, may be soft (porous), paved or covered with concrete. Grantee agrees the work and act of constructing and maintaining said Trail shall be performed with due care using commonly accepted standards and techniques, taking precautions for the protection of persons and property. All damages to persons or property resulting from Grantee's failure to exercise due care, shall be paid for and repaired at the expense of Grantee. Mesa shall indemnify, defend and hold harmless Owner from and against any and all claims arising out of the construction, maintenance and/or use of the Project on the Property, except to the extent such claims are caused by Owner's

negligence. Notwithstanding §2, Grantee may use motorized vehicles on the Trail easement area to construct, maintain, repair, replace and administer the Trail and accessories, as well as for emergency access and patrolling the Trail. Grantee shall be permitted to cut trees to control insects and disease, to control invasive non-native species and to prevent personal injury and property damage and for the construction and use of the Trail.

5). Use. Grantor reserves the right to use and occupy the real property burdened by this 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, provided however, that Grantor hereby agrees that the easement area shall not be burdened or overburdened by the installation, construction or placement of any structure or any other item or fixture which may be detrimental to said Trail. Excepted from this is the Grantor's right to construct and maintain access across this easement at locations reasonable for its purpose and as necessary to access the Grantor's adjoining property. Grantor will notify Mesa County in writing thirty (30) days prior to beginning construction.

6). Relocation of Easement. In the event of movement of the Colorado River which prevents use of any portion of the Trail, the parties agree adjusting the boundary of this Trail Easement to be above the high-water line of the Colorado River in any such affected portion of the Trail. In such event, the Grantee will survey and describe such relocation at its expense. The parties agree to conduct negotiations regarding the relocation of the trail by necessity. If such agreement is reached, the parties will record an amendment to the Trail Easement describing and depicting the new boundaries at Grantee's expense. The physical relocation of any portion of the Trail and its accessories will be at the expense of Grantee.

7). Trail Easement Care and Maintenance. Upon completion of construction of the Trail, Grantee shall assume complete responsibility for and agrees to care for and maintain the Trail 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. Mesa shall indemnify, defend and hold harmless Owner from and against any and all claims arising out of the construction, maintenance and/or use of the Project on the Property, except to the extent such claims are caused by Owner's negligence.

8). Grantor Cooperation. Grantor shall cooperate with Grantee to permit Grantee to construct, maintain, repair and replace the Trail and accessories, including allowing temporary access by Grantee following written request and approval by Grantor, to portions of Grantor's property adjacent to the Trail during such activities.

9). 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.

10). Perpetual Duration. This Trail Easement shall be a servitude running with the land in perpetuity unless terminated by the mutual agreement of the parties.

11). Controlling Law. This Public Trail Easement 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.

12). 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.

GRANTOR:



Oldcastle SW Group, Inc., a Colorado Corporation,
by Peter J. Seigmund, Vice President

State of Colorado)
)ss.
County of Mesa)

The foregoing instrument was acknowledged before me this 30 day of July, 2010, by Oldcastle SW Group, Inc., a Colorado Corporation, by Peter J. Seigmund, Vice President as Grantor.

Witness my hand and official seal

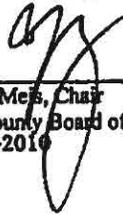


My Commission Expires


Notary Public

April 4, 2011

GRANTEE:



Craig J. Meis, Chair
Mesa County Board of Commissioners, Grantor.
08-23-2010




Janice Rich, County Clerk,
Mesa County, Colorado

EXHIBIT "A"

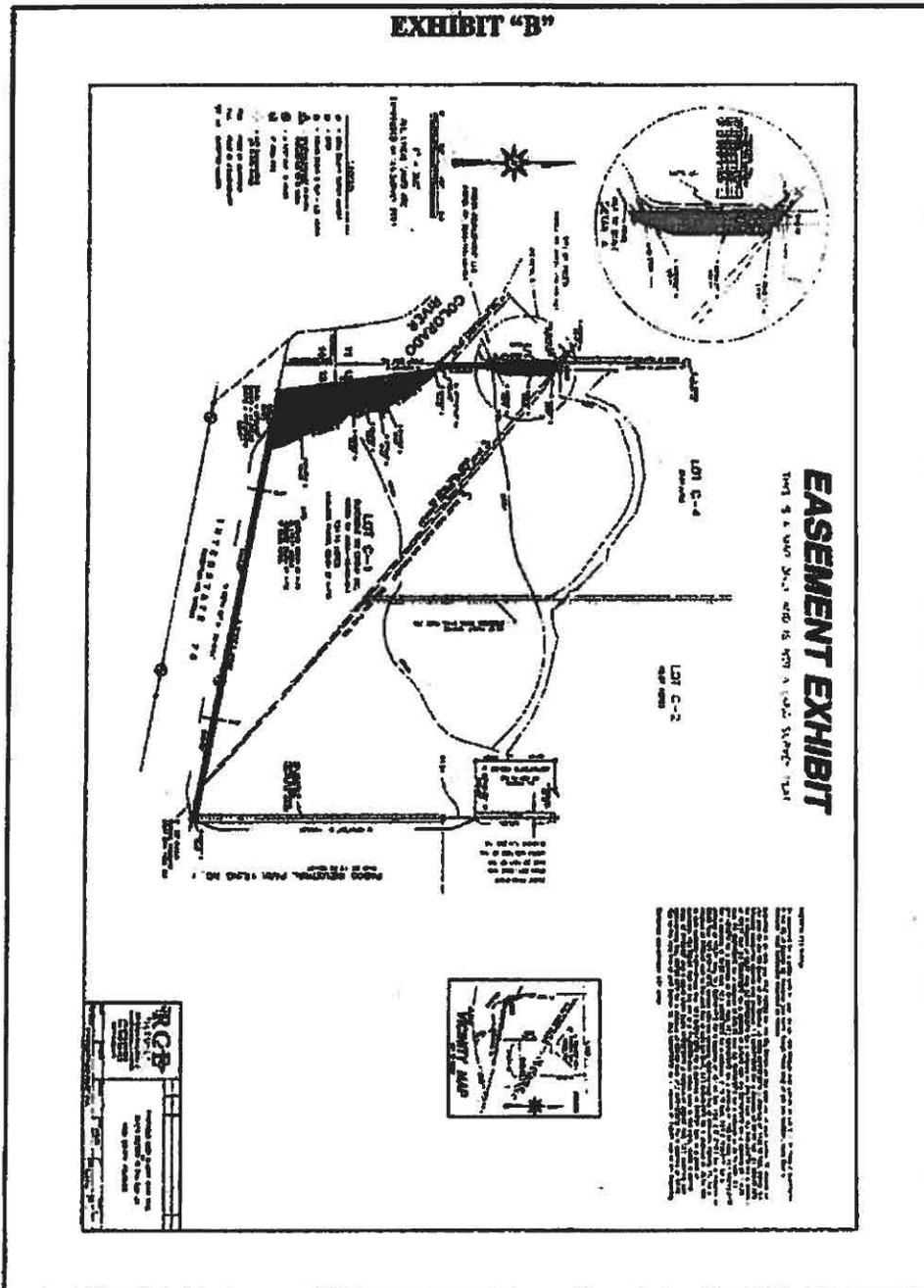
A parcel of land for a public trail easement in, over, across, and through that portion of Lot C-1 in Tract C Subdivision in the W 1/2 of Section 12, Township One North, Range Three West of the Ute Meridian, Mesa County, Colorado, more particularly described as follows:

Beginning at an alloy cap (PLS 18469) for the S1/16 Corner on the west line of said Section 12 whence an iron pipe for the W1/4 Corner of said Section 12 bears N00°07'00"W a distance of 1332.18 feet; thence the following twenty-two courses and distances:

- 1.) N00°07'00"W for a distance of 25.10 feet;
- 2.) S45°08'33"E for a distance of 93.37 feet;
- 3.) S00°02'37"W for a distance of 270.73 feet;
- 4.) S19°23'02"W for a distance of 120.71 feet;
- 5.) S00°07'00"E for a distance of 278.45 feet;
- 6.) S41°58'51"E for a distance of 114.30 feet;
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- 9.) S11°19'50"W for a distance of 81.91 feet;
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- 15.) S16°19'08"E for a distance of 86.76 feet;
- 16.) S79°11'10"E, parallel with the northerly right-of-way line of Interstate Highway 70, for a distance of 2199.52 feet to the east line of said Lot C-1;
- 17.) S00°04'04"E for a distance of 25.46 feet to said northerly right-of-way line; 18.) N79°11'10"W for a distance of 2316.91 feet to a point of curvature;
- 19.) 225.01 feet on the arc of a 11,359.20-foot radius curve to the right, having a central angle of 01°08'06" and a chord which bears N78°37'07"W a distance of 225.01 feet;
- 20.) departing said right-of-way line, N07°29'46"W for a distance of 937.68 feet; 21.) N47°12'04"W for a distance of 47.49 feet to the west line of said Section 12; 22.) N00°07'00"W for a distance of 713.82 feet to the beginning.

Containing approximately 6.61 acres

This description was prepared by Richard Mason for Rolland Consulting Engineers, LLC, 405 Ridges Blvd., Grand Junction, CO.



RECORDER NOTE: POOR QUALITY DOCUMENT
PROVIDED FOR REPRODUCTION

**MESA COUNTY, COLORADO
REAL PROPERTY DONATION**

Property owners whose real property is needed for a transportation or public improvement project, may donate all or any part of the property to the County of Mesa, a political subdivision of the State of Colorado (herein after "Mesa County") and may donate (waive receipt of) all or any portion of just compensation due the owner for the property required for the project.

Where the property owner wishes to use the donation for a tax deduction, the owner should seek advice from the Internal Revenue Service or a tax expert regarding the current rules for valuation. It is the property owner's responsibility to ascertain the fair market value of the property for tax purposes. Mesa County will pay the reasonable cost of an appraisal for tax purposes because the value of the acquisition is estimated by Mesa County to be \$10,000 or more and the appraisal is prepared by an independent appraiser.

If the property is contaminated, the costs to clean up such contamination will not exceed the value of the property.

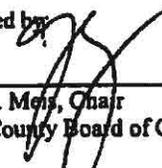
Donation of the property is made voluntarily and with full knowledge of the right to receive just compensation. See the attached "Exhibit A" which is incorporated herein.

The undersigned hereby releases Mesa County from obtaining an appraisal of the acquired property, waives the right to receive an appraisal other than an appraisal for tax purposes as described above, and waives the right to receive just compensation for the property. The undersigned hereby agrees to execute the necessary conveyance instruments to transfer said property free and clear of all liens and encumbrances.

Owner:

 Date: 7-30-10
Oldcastle SW Group, Inc., a Colorado Corporation,
by Peter J. Siegmund, Vice President

Accepted by:

 Date: 08-23-2010
Craig J. Meis, Chair
Mesa County Board of Commissioners

Attest:


Janice Rich, County Clerk
Mesa County, Colorado

