

RESOLUTION NO. 42-22

**A RESOLUTION AUTHORIZING AN EASEMENT ON OF CITY OWNED
PROPERTY TO CYNTHIA A. COOP, STEPHEN E. COOP AND GRAND VALLEY
RURAL POWER LINES**

Recitals:

The City of Grand Junction is the owner of the following described real property ("Property") in the City of Grand Junction, County of Mesa, Sate of Colorado, to wit:

All of Lots 3 & 4 lying South and East of Kannah Creek Road in Section 35 Township 12 South Range 98 West of the 6th PM, E $\frac{1}{2}$ and SW $\frac{1}{4}$ and NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36 Township 12 South Range 98 West, and Reservoir Tracts 38 & 40 & 42, and that part of Tract 41 lying North and West of County Road in Sections 29, 30, 31, and 32 Township 12 South Range 97 West, except the South 25 Rods of the West 12.8 Rods and except beginning at the Southwest corner of Section 36 Township 12 South Range 98 West thence East 660 feet thence North 2310 feet thence West 660 feet South to the point of beginning, and except lease agreements SD Section 36 Tract 41 and except Road right of-way conveyed to Mesa County by instrument recorded at Book 1090 Page 744 and Book 2278 Page 361/362 Mesa County Records, Mesa County, Colorado,

The City has negotiated an agreement with Cynthia A. and Stephen E. Coop for a utility easement on and across the Property for the purpose of providing water and electricity to the Coop property.

The City Council having been advised in the premises deems it appropriate that the City grant the easement for those purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

The City Manager is hereby authorized and directed to sign the attached Utility Easement Agreement granting an easement for the purposes established and provided in the Easement Agreement.

PASSED and ADOPTED this 18th day of May 2022.



Anna M. Stout
President of the Council

Attest:



Laura Bauer
Interim City Clerk



UTILITY EASEMENT AGREEMENT

THIS UTILITY EASEMENT AGREEMENT ("Agreement"), made effective as of the date of mutual execution by the Parties, ("**Effective Date**"), is entered into by and between the City of Grand Junction, a Colorado home rule municipal corporation, ("**Grantor**") and Cynthia A. Coop and Stephen E. Coop ("**Coop**") and Grand Valley Rural Power Lines, Inc. ("**GVP**") (Coop and GVP are collectively referred to as "**Grantees**"). Grantor and Grantees are sometimes individually referred to as a "**Party**" and sometimes collectively as the "**Parties.**"

RECITALS

A. Grantor is the current fee simple owner of certain property located within the unincorporated portion of Mesa County, Colorado, more particularly described as follows:

All of Lots 3 & 4 lying South and East of Kannah Creek Road in Section 35 Township 12 South Range 98 West of the 6th PM, E½ and SW¼ and NW¼NW¼ of Section 36 Township 12 South Range 98 West, and Reservoir Tracts 38 & 40 & 42, and that part of Tract 41 lying North and West of County Road in Sections 29, 30, 31, and 32 Township 12 South Range 97 West, except the South 25 Rods of the West 12.8 Rods and except beginning at the Southwest corner of Section 36 Township 12 South Range 98 West thence East 660 feet thence North 2310 feet thence West 660 feet South to the point of beginning, and except lease agreements SD Section 36 Tract 41 and except Road right-of-way conveyed to Mesa County by instrument recorded at Book 1090 Page 744 and Book 2278 Page 361/362 Mesa County Records

County of Mesa, State of Colorado

("Grantor Property").

B. Grantees are the fee simple owners of certain property located within the unincorporated portion Mesa County, Colorado, as evidenced by that certain Warranty Deed recorded under Reception No. 2884504 in the Mesa County Records, being more particularly described as follows:

BEGINNING AT THE SE CORNER SECTION 31, TOWNSHIP 12 SOUTH, RANGE 97 WEST, OF THE 6TH PRINCIPAL MERIDIAN (A 2.5" IRON PIPE WITH A 2.5" ALUM. CAP) AND CONSIDERING THE SOUTH LINE OF TRACT 41, SECTION 31, T12S, R97W, 6TH P.M. TO BEAR S89°12'30"W AND ALL BEARINGS CONTAINED HEREIN TO BE RELATIVE THERETO; THENCE S89°12'30"W 150.00 FEET ALONG THE SOUTH LINE OF TRACT 41, SECTION 31, T12S, R97W, 6TH P.M. TO THE SE CORNER OF GOVERNMENT LOT 20, SEC. 31, T12S, R97W, 6TH P.M.; THENCE S89°12'30"W 2244.58 FEET ALONG THE SOUTH LINE OF TRACT 41 TO CORNER 3 OF TRACT 41, SEC. 31, T12S, R97W, 6TH P.M.; THENCE N00°25'41"E 405.28 FEET ALONG LINE 3-2 OF TRACT 41 TO THE

INTERSECTION WITH THE SOUTHERLY RIGHT- OF-WAY LINE FOR PURDY MESA ROAD;
THENCE N56°12'27"E 869.39 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY FOR PURDY MESA ROAD;
THENCE LEAVING THE SOUTHERLY RIGHT-OF-WAY FOR PURDY MESA ROAD N89°50'30"E 1663.90 FEET TO THE INTERSECTION WITH THE EAST LINE OF GOVERNMENT LOT 20, SEC. 31, T12S, R97W, 6TH P.M.;
THENCE S00° 19'38"E 860.34 FEET ALONG THE EAST LINE OF SEC. 31, T12S, R97W, 6TH P.M. TO THE POINT OF BEGINNING,

COUNTY OF MESA, STATE OF COLORADO.

also known by street and number 4901 Purdy Mesa Road, Whitewater, Colorado 81527 and by Mesa County Assessor Parcel Number 2973-314-00-054,

(“**Grantee Property**”).

C. Grantor Property and Grantee Property are adjacent to one another, separated by Purdy Mesa Road.

D. Coop is developing the Grantee Property for residential and ranch/agricultural use and such development will require extension of utilities to the Grantee Property including facilities for water, electricity, and telecommunications services.

E. GVP will be installing electric utility facilities to extend its facilities to serve the Grantee Property and potentially other properties in the area.

F. Grantees seek and Grantor is willing to grant and convey to Grantees a certain easement over a certain portion of the Grantor Property for the purpose of installation, use, repair, replacement, upgrade, and maintenance of utility facilities including without limitation underground water lines, underground or overhead electric lines, communication lines, and related facilities to serve the Grantee Property in perpetuity.

GRANT OF EASEMENT AND AGREEMENT

NOW THEREFORE, for and in consideration of \$756.86 and of the mutual covenants contained herein and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged and accepted, the Parties agree as follows:

1. Grantor hereby grants and conveys to Coop a perpetual, non-exclusive, easement appurtenant upon, along, over, under, within, and across that portion of Grantor Property described in the attached **Exhibit A** and depicted in the attached **Exhibit B** (the “**Utility Easement Area**”) for the purpose of installation, construction, use, maintenance, repair, upgrading, and replacement of utilities including, without limitation, underground water lines, underground and/or overhead electric, communication, and other utility lines and related

facilities such as, but without limitation, pedestals, poles, wires, conduit, pipes, utility boxes, meters, and related improvements (“**Utility Easement**”). This Utility Easement and the benefits, rights, burdens and obligations shall run with the Grantee Property and the Grantor Property and shall benefit the Grantee Property and burden the Grantor Property in perpetuity and shall be binding upon and shall inure to the benefit of the heirs, designees, successors and assigns of the Parties.

2. Grantor hereby grants and conveys to GVP a perpetual, non-exclusive easement in gross for the purpose of installation, construction, use, maintenance, repair, upgrading, and replacement of electric utility facilities including, without limitation, pedestals, poles, wires, conduit, utility boxes, meters, and related improvements to provide utility services to customers of GVP and for related purposes.

3. Grantor shall be entitled to full access and use over, under, in, along, across, and upon the Utility Easement Area so long as such access and use does not unreasonably interfere with the rights provided to Grantees under this Agreement.

4. The Utility Easement and easement rights conveyed hereby shall include the right of reasonable access to the Grantor Property for the excavation, clearing, grading, installation, construction (including trenching, boring, piping, erecting of poles and electric lines), and the use, maintenance, repair, upgrading, and replacement of the utilities and related facilities and equipment as may be required from time to time, and the right to enable reasonable vehicular and pedestrian access and the use of equipment as necessary for the foregoing.

5. The water lines shall generally be installed underground and the electric and telecommunications lines may be underground or overhead and may include reasonably sized above ground pedestals and similar facilities that may be required for the use and operation of the Utilities.

6. The Utility Easement is granted for the purposes specified herein and Grantee shall have no right to use the Utility Easement or the Utility Easement Area for any other or additional purpose.

7. Grantees shall be responsible for the proper installation and construction of Utilities within the Utility Easement Area. Grantees will undertake the work in accordance with the respective infrastructure plans approved by the respective Utility Providers and Grantees shall be responsible for all costs associated with Grantees’ undertaking of the authorized uses of the Utility Easement. Grantees shall carry out all activities related to the authorized uses in a good, workmanlike and professional manner, in accordance with applicable law and utilizing appropriate safety measures and devices, and in a manner that reasonably causes the least amount of disturbance to the Grantor Property. Disturbance to the Grantor Property by Grantees in executing its work in the Utility Easement Areas shall be reasonably restored to substantially its prior condition. The foregoing notwithstanding, nothing herein is intended to, nor shall it, obligate the Grantees to install any or all of the Utilities, the election to proceed with the installation of some or all of the Utilities shall be at the sole discretion of Grantees. Grantees shall not permit any Mechanics’ Lien to be filed against the Grantor Property; Grantees shall be

required to obtain from each supplier and contractor performing work on the Grantor Property an unconditional waiver of any right to assert a Mechanics' Lien against the Grantor Property.

8. Upon execution hereof, this document shall be recorded with the Clerk and Recorder of Mesa County, Colorado. Fees for recording shall be paid by the Grantee.

9. This Agreement constitutes the entire agreement between the Parties, and may not be modified, revoked, or terminated except by a written instrument duly executed by both Parties, with signatures notarized, and recorded in the Mesa County land records. Neither this Agreement, nor the Utility Easement specified herein shall be deemed abandoned by inactivity, non-use, obstruction, or otherwise in the absence of the execution and recording by Grantor, Grantee, the City, and, if applicable, their successors or assigns in title of a written document providing for the abandonment or termination of the Utility Easement.

10. This Agreement and the respective rights and obligations of the Parties and their heirs, personal representatives, successors and assigns shall be interpreted, construed and enforced in accordance with the laws of the State of Colorado. In the event of any dispute over such rights and obligations, venue shall be in a court of competent jurisdiction in Mesa County, Colorado, and the Parties agree and stipulate that the matter shall be heard and decided by the court sitting without a jury, regardless of the denomination of the legal claims that may be brought. Injunctive relief shall be granted upon a showing of breach and shall not be conditioned upon the posting of bond by the movant. The parties further agree that any uncured material breach or default or subsequent similar breach or default under this Agreement shall constitute sufficient grounds for Parties to obtain injunctive relief against the other Party or any of its contractors. In any action for enforcement of rights hereunder, the substantially prevailing party shall be entitled to an award for recovery of their costs and fees, including reasonable attorney fees and expert witness fees and costs. All such remedies shall be cumulative.

11. This Agreement may be executed in multiple counterparts or legible scanned/emailed or facsimile copy, each of which shall constitute an original, but all of which, taken together, shall constitute one and the same instrument. The scanned/emailed or facsimile transmission of a signed copy of this Agreement shall be considered valid and have the same effect as a signed original.

12. Except as expressly set forth herein, nothing contained herein shall be construed as creating any rights in any third persons or parties. Nothing contained herein shall be interpreted or construed to create a public dedication of the Utility Easement or to create any rights for the general public or use by the general public.

13. This Agreement is the product of mutual bargaining; it shall be interpreted in accordance with its plain meaning, regardless of the identity of any party who may have drafted same. This Agreement shall be interpreted in a manner that preserves, to the maximum extent provided by law, the grant of the subject Utility Easement for the purposes expressed herein. In the event that any provision of this Agreement is found to be unlawful or invalid, the offending provision shall be stricken, and the remainder of the Agreement shall be enforced as written.

14. Grantor warrants, covenants and represents that it has good and sufficient title to Grantor Property and has the full right and authority to convey the easement rights granted hereby and to undertake the obligations hereof, and that the individual signing below has the authority to bind the Grantor entity with respect to all matters related to this Agreement.

15. Notices under this Agreement shall be by personal delivery or by mailing, posted in the U.S. mail, first class postage prepaid, certified and return receipt requested, to the following addresses, or to such other address as a Party may from time to time designate to the other Party in writing:

To Grantor: City of Grand Junction
250 N. 5th St.
Grand Junction, CO 81501.

To Grantees: Stephen and Cynthia Coop
P.O. Box 4368
Grand Junction, CO 81502

IN WITNESS WHEREOF each of the Parties has executed this Agreement as of the Effective Date.

GRANTOR: CITY OF GRAND JUNCTION, a Colorado home rule municipal corporation

By: [Signature]

Date: 5/25/22

Printed Name: Jodi Welch,

Title: Acting City Manager (Finance Director)

ATTEST:
[Signature]
City Clerk



STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me on May 25, 2022, by Jodi Welch as the Acting City Manager of the City of Grand Junction.

Witness my hand and official seal.

[Signature]
JENNIFER L. CINQUINI
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID #20084026733
My Commission Expires May 25, 2025

My commission expires: May 25, 2025

Notary Public

GRANTEES:

Stephen E. Coop
Stephen E. Coop

Date: 5/25/22

Cynthia A. Coop
Cynthia A. Coop

Date: 05/25/2022

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me on 05/25/2022, 2020, by Stephen E. Coop and Cynthia A. Coop.

Witness my hand and official seal.

Katherine G. Hinkle
Notary Public

My commission expires: January 4, 2023

GRAND VALLEY RURAL POWER LINES, INC.

By: Matthew Williams

Date: 5/25/2022

Printed Name: Matthew Williams

Title: Manager of Engineering

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me on May 25, 2022, by Matthew Williams as the Manager of Engineering of ~~the~~ Grand Valley Power ~~City of Grand Junction~~.

Witness my hand and official seal.

J. DeRose
Notary Public

My commission expires: Feb. 4, 2025

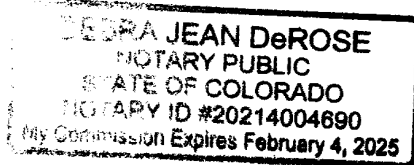
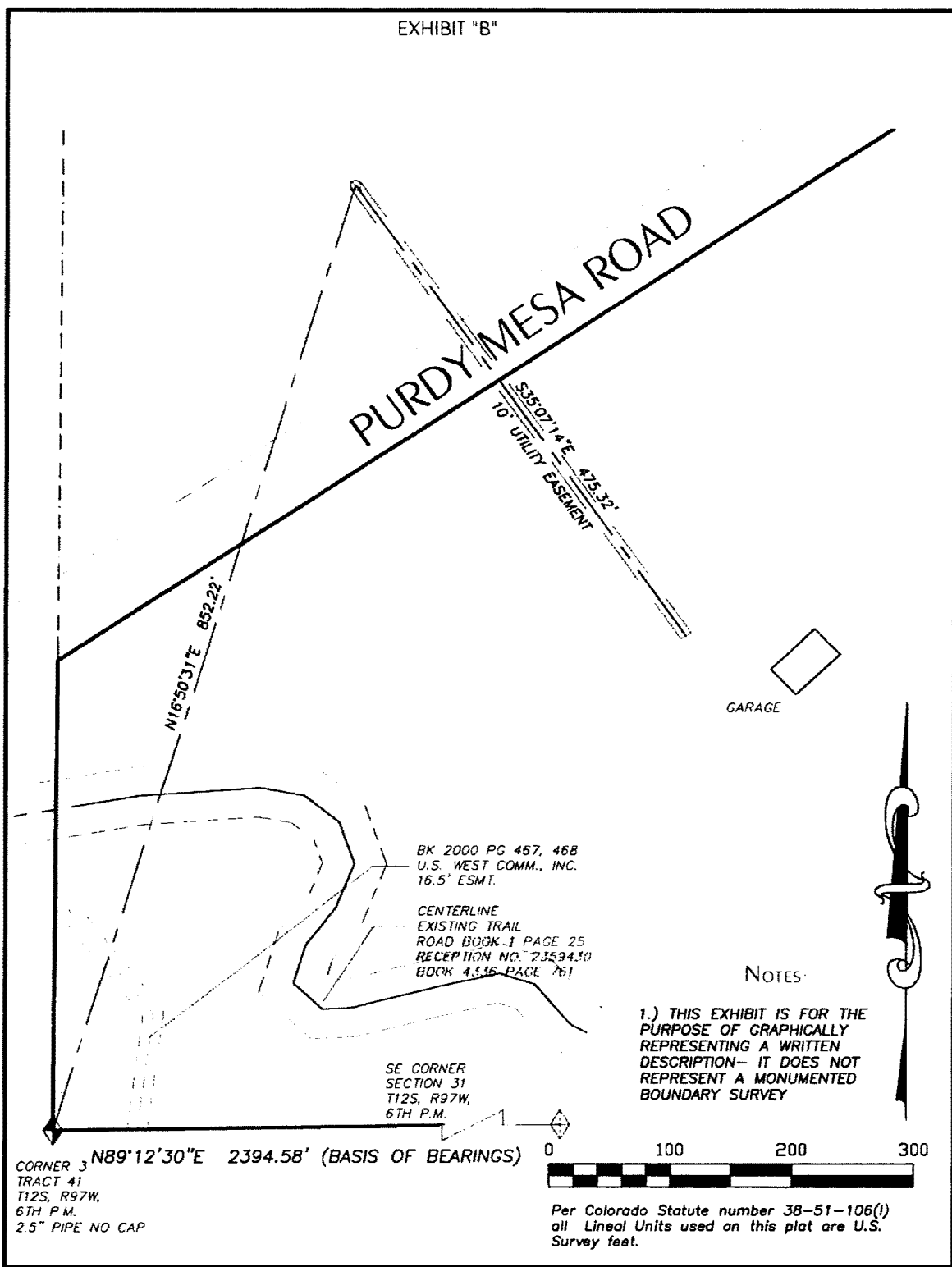



EXHIBIT "A"
UTILITY EASEMENT LEGAL DESCRIPTION

A 10' UTILITY EASEMENT in the SE1/4 Section 31, Township 12 South, Range 97 East, of the 6TH P.M., the centerline of which being described as follows:
Commencing at Corner 3 of TRACT 41 of said Section 31 and considering the South line of TRACT 41 of said Section 31 to bear N89°12'30"E and all other bearings contained herein to be relative thereto;
Thence N16°50'31"E 852.22 feet to an existing power pole and the Point of Beginning:
thence S35°07'14"E 475.32 feet to the point of Termination.

all in Mesa County, Colorado.

Authored by:
David M. Morris PLS #30111
Q.E.D. Surveying Systems Inc.
2718 Sierra Vista Rd.
Grand Junction, Colorado 81503
(970)241-2370



10' UTILITY EASEMENT		
SITUATED IN THE SE 1/4 SECTION 31, TOWNSHIP 12 SOUTH, RANGE 97 WEST, 6TH P.M		
FOR: COOP	 <p style="margin: 0;">Q.E.D. SURVEYING SYSTEMS Inc. 2718 Sierra Vista GRAND JUNCTION COLORADO 81503 (970) 241-2370 464-7568</p>	SURVEYED BY: MEM
SCALE: 1" = 100'		DRAWN BY: DMM
DATE: 1/28/2022		ACAD ID: 4901 PURDY
		SHEET NO.
		FILE: 2022-008.1