

RESOLUTION NO. 43-94

CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT TO
BRANDON S. BERGUIN

WHEREAS, Brandon S. Berguin represents that he is the owner of the real property described as Lot 1 of Berguin Minor Subdivision situated in the SW¹/₄ SW¹/₄ of Section 7, Township 1 South, Range 1 East of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, as recorded in Plat Book 14 at Page 150 in the office of the Mesa County Clerk and Recorder, also known as 2801 Bunting Avenue in the City of Grand Junction, and has petitioned the City Council of the City of Grand Junction for a Revocable Permit to allow the installation of landscape improvements in the following described public right-of-way for Bunting Avenue and 28 Road:

Beginning at the Southwest Corner of Lot 1 of Berguin Minor Subdivision; thence along the Westerly and Northerly boundary lines of said Lot 1 (the same being the Easterly and Southerly right-of-way lines for 28 Road and Bunting Avenue, respectively) the following three (3) courses and distances:

- 1) N 00°00'19" W a distance of 129.67 feet;
- 2) N 44°55'53" E a distance of 16.44 feet;
- 3) S 89°54'18" E a distance of 168.39 feet to the Northeast Corner of said Lot 1;

thence N 00°00'19" W a distance of 2.0 feet to the back of sidewalk for Bunting Avenue; thence along the back of sidewalk for Bunting Avenue and 28 Road the following four (4) courses and distances:

- 1) N 89°54'18" W a distance of 183.0 feet;
- 2) S 40°52'39" W a distance of 11.63 feet to a point of curvature;
- 3) 27.38 feet along the arc of a curve to the right having a radius of 1180.42 feet, a central angle of 01°19'44", and a long chord which bears S 02°42'07" W a distance of 27.38 feet to a point of reverse curvature;
- 4) 107.39 feet along the arc of a curve to the left having a radius of 1111.42 feet, a central angle of 05°32'11", and a long chord which bears S 03°21'59" W a distance of 107.35 feet;

thence leaving said back of sidewalk, N 89°59'41" E a distance of 17.26 feet to the Point of Beginning; and

WHEREAS, the City Council has determined that such action would not at this time be detrimental to the inhabitants of the City of Grand Junction.

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

That the City Manager, on behalf of the City and as the act of the City, is hereby authorized and directed to grant the attached Revocable Permit to the above named Petitioner for the purposes aforescribed and within the public rights-of-way aforescribed, subject to each and every term and condition contained in the attached Revocable Permit.

PASSED and ADOPTED this 1st day of June, 1994.

/s/ R.T. Mantlo
President of the Council

ATTEST:

/s/ Stephanie Nye
City Clerk

REVOCABLE PERMIT

WHEREAS, Brandon S. Berguin represents that he is the owner of the real property described as Lot 1 of Berguin Minor Subdivision situated in the SW¹/₄ SW¹/₄ of Section 7, Township 1 South, Range 1 East of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, as recorded in Plat Book 14 at Page 150 in the office of the Mesa County Clerk and Recorder, also known as 2801 Bunting Avenue in the City of Grand Junction, and has petitioned the City Council of the City of Grand Junction for a Revocable Permit to allow the installation of landscape improvements in the following described public right-of-way for Bunting Avenue and 28 Road:

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thence leaving said back of sidewalk, N 89°59'41" E a distance of 17.26 feet to the Point of Beginning; and

WHEREAS, the City Council of the City of Grand Junction has determined that such action would not at this time be detrimental to the inhabitants of the City of Grand Junction.

NOW, THEREFORE, IN ACCORDANCE WITH THE ACTION OF THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

There is hereby granted to Brandon S. Berguin a Revocable Permit for the purposes aforescribed and within the public rights-of-way aforescribed; provided, however, that the issuance of this Revocable Permit shall be conditioned upon the following terms and conditions:

1. The City, on behalf of itself and all other public utilities, hereby reserves and retains a perpetual right to utilize the aforescribed public right-of-way for the installation, operation, maintenance and repair of existing and future street improvements and utilities, including the right of ingress and egress for workers and equipment on, along, over, under, through and across said rights-of-way. The City further reserves and retains the right to revoke this Permit at any time and for any reason.

2. The Petitioner, for himself and for his heirs, successors and assigns, agrees that he will not hold, nor attempt to hold, the City of Grand Junction, its officers, employees and agents or any other public utility liable for damages caused to the improvements situated within said rights-of-way, or any other property of the Petitioner or any other party, as a result of the Petitioner's occupancy and use of said rights-of-way or the installation, operation, maintenance and repair of street improvements and utilities by the City of Grand Junction or any other public utility.

3. This Revocable Permit shall be issued only upon the concurrent execution by the Petitioner of an agreement that the Petitioner will save and hold the City of Grand Junction, its officers, employees and agents harmless from, and indemnify the City, its officers, employees and agents, any claim or cause of action however stated arising out of the encroachment and use granted, and that upon revocation of this Permit by the City the Petitioner will, within thirty (30) days of notice of revocation, peaceably surrender said rights-of-way and, at his own expense, remove any encroachment so as to make the rights-of-way available for use by the City of Grand Junction or any other public utility.

4. The Petitioner, for himself and for his heirs, successors and assigns, agrees that he shall be solely responsible for maintaining and repairing the condition of said rights-of-way and all improvements installed by the Petitioner.

5. This Revocable Permit, the foregoing Resolution and the following Agreement shall be recorded by the Petitioner in the office of the Mesa County Clerk and Recorder.

Dated this _____ day of _____, 1994.

Attest:

City Clerk

City Manager

Acceptance:

Brandon S. Berguin

AGREEMENT

Brandon S. Berguin, for himself and for his heirs, successors and assigns, does hereby agree to: Abide by each and every term and condition contained in the foregoing Revocable Permit; Indemnify the City of Grand Junction, its officers, employees and agents and hold the City of Grand Junction, its officers, employees and agents harmless from all claims and causes of action as recited in said Permit; Within thirty (30) days of revocation of said Permit, peaceably surrender said public rights-of-way to the City and, at his own expense, remove any encroachment so as to make the rights-of-way available for use by the City of Grand Junction or any other public utility.

Dated this _____ day of _____, 1994.

Brandon S. Berguin

STATE OF COLORADO)
)ss.
COUNTY OF MESA)

The foregoing Agreement was acknowledged before me this _____ day of _____, 1994, by Brandon S. Berguin.

Witness my hand and official seal.
My commission expires: _____

Notary Public