

RESOLUTION NO. 90-94

AUTHORIZING A LEASE OF CITY PROPERTY AT 538 UTE AVENUE
TO JACK W. BISH

WHEREAS, the City is the owner of the vacant real property described as Lots 21, 22 and 23 of Block 126 of the City of Grand Junction, also known as 538 Ute Avenue in the City of Grand Junction; and

WHEREAS, Jack W. Bish has requested a lease of said property for the purpose of managing the parking lot thereon for the benefit of employees of the Colorado State Services Building located at 6th Street and Ute Avenue.

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

That the City Manager be authorized, on behalf of the City and as the act of the City, to execute the attached Lease Agreement with Jack W. Bish for the lease of said property for a term commencing on October 1, 1994, and expiring June 30, 1995, and for a rental fee of \$150.00 per month, subject to the several other terms and conditions of the attached Lease Agreement.

PASSED and ADOPTED this 5th day of October, 1994.

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

Attest:

/s/ Stephanie Nye
City Clerk

LEASE AGREEMENT

THIS LEASE AGREEMENT is entered into as of the 1st day of October, 1994, between the City of Grand Junction, a Colorado home rule municipality, hereinafter referred to as "the City", and Jack W. Bish, hereinafter referred to as "the Lessee".

RECITALS

A. The City is the owner of the following described real property situated in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

Lots 21, 22 and 23 of Block 126 of the City of Grand Junction, also known as 538 Ute Avenue in the City of Grand Junction and hereinafter referred to as "the Property".

B. The Lessee desires to lease the Property under the terms and conditions of this Lease Agreement.

NOW, THEREFORE, in consideration of the terms, promises, covenants and conditions stated herein to be kept by the parties hereto, the City hereby leases the Property to the Lessee.

1. The term of this Lease shall commence on October 1, 1994, and expire on June 30, 1995.
2. The Lessee agrees to pay to the City as rental for the Property the amount of \$150.00 per month, in advance, due and payable without demand by the City on or before the 1st day of each month during the term of this Lease. The first payment shall be due and payable on or before October 10, 1994. In the event the payment of rent is not received by the City on or before the 10th day of each month, the Lessee agrees to pay a late charge of \$50.00, which amount shall be added to the amount of rent(s) due.
3. The Lessee agrees to:
 - a. Maintain and keep the Property and keep the Property in good repair, all at the Lessee's expense and, at the expiration or termination of this Lease, to surrender the Property and improvements to the City in as good a condition as when the Lessee entered the Property, reasonable use and wear excepted.
 - b. Keep the Property free from all litter, dirt debris, weeds and obstructions.
 - c. Waive and forego any claim, cause of action or demand the Lessee may have against the City, its officers, employees and agents for injury to or destruction of any property of the Lessee or any third party that may be lost, injured, damaged, destroyed or devalued as a result of the act, or failure to act of the Lessee or any third party; and to indemnify the City, its officers, employees and agents and to hold the City, its officers, employees and agents harmless from any and all claims, damages, actions costs and expenses of every kind in any manner arising out of, or resulting from the Lessee's use and occupancy of the Property.

d. Use said Property for no purpose prohibited by the laws of the United States of America, the State of Colorado, the County of Mesa or the City of Grand Junction; to comply with all police, fire, sanitary and environmental regulations imposed by any municipal, state or federal authority either now in force or hereinafter enacted, and to use the Property for no improper or questionable purposes whatsoever.

4. (a) The Lessee has inspected the Property and accepts the Property in its present condition. The Lessee further agrees that the condition of the Property is sufficient for the purposes of the Lessee. The City makes no warranties nor promises that the Property is sufficient for the purposes of the Lessee. (b) In the event the Property is damaged to the extent that is no longer functional for the purposes of the Lessee, the City shall have no obligation to repair such damage(s) nor to otherwise make the premises usable or occupiable; damages shall be at the Lessee's sole risk. If the City determines not to perform repairs or to otherwise make the premises usable or occupiable, the Lessee may terminate this Lease by giving notice to the City that this Lease is to be terminated.

5. During the term of this Lease, the Lessee shall have the exclusive right-of-way for ingress and egress to and from the Property, provided that the City, its officers, employees and agents shall have the right to be on the Property during emergencies and may inspect the Property at any time.

6. This Lease shall automatically terminate in the event the Lessee; is subject to the assignment of creditors or if a receiver is appointed; should become disabled or suffer death; fails in any manner to comply with any of the terms, promises, covenants or conditions of this Lease to be kept and performed by the Lessee; by any act of negligence or carelessness, or through any act of commission or omission permit, or suffer to be permitted, damage to the Property or the demised premises in any substantial or unreasonable manner. In such event, the City may immediately retake possession.

7. Notwithstanding the provisions of paragraph 6 above, if the Lessee is in default in the performance of any term or condition of this Lease, the City may, at its option, terminate this Lease by giving thirty (30) days advance written notice. If the Lessee fails within any such thirty (30) day period to remedy each and every default specified in the City's notice, this Lease shall then terminate. If the Lessee remedies such default(s), the Lessee shall not thereafter have the right of thirty (30) days to remedy with respect to the same default, but rather, the Lessee's rights shall, with respect to a subsequent similar default, terminate upon the giving of notice by the City. All notices sent pursuant to the Lease Agreement shall be delivered by United States Certified Mail, return receipt requested, and shall be considered served upon the Lessee as of the date of mailing indicated on the postal receipt. All notices to the Lessee shall be mailed to the Lessee at _____ . All notices to the City shall be mailed to the City Property Agent, 250 North 5th Street, Grand Junction, Colorado 81501.

8. The Lessee shall not sublet, assign or transfer any of the Lessee's interests in this Lease, or enter into any contract or agreement affecting the Lessee's interest in this Lease without obtaining the prior written approval of the City. Further, the Lessee shall make no structural changes or improvements to the Property without the prior written consent of the City, which consent shall not be unreasonably withheld.

9. Should the Lessee fail, for whatever reason, to vacate the Property at the expiration of this Lease or when this lease is terminated earlier than the expiration date, the Lessee agrees to pay to the City, in addition to all other sums due hereunder, daily rental in the amount of \$75.00 per day for each and every day thereafter. The parties agree that it would be difficult to establish the actual damages to the City in such event and that said \$75.00 per day is an appropriate liquidated damages amount.

10. It is expressly agreed and understood that this Lease is one of lease and not of partnership and that the City shall not be or become responsible for any debts contracted by the Lessee. The Lessee shall save, indemnify and hold the City, its officers, employees and agents harmless against all liability or loss, and against all claims or actions based upon or arising from any claim, lien, damage or injury, including death, to persons or property caused by the Lessee or sustained in connection with the performance of this Lease or by conditions created thereby, or based upon any violation of statute, code, ordinance or regulation, and the defense of any such claims or actions, including attorney's fees.

11. In the event the City uses its City Attorney or engages an attorney to enforce the City's rights hereunder, including, but not limited to, any lawsuit or any collection efforts, the Lessee agrees to pay for the value or cost of such attorney or collection efforts, plus costs including the costs of any experts. This Lease shall be governed by, construed, and enforced in accordance with the laws of the State of Colorado. Venue shall be in Mesa County, Colorado.

12. The provisions of this Lease shall not inure to the benefit of the heirs, successors or assigns of the parties hereto.

IN WITNESS WHEREOF, each party to this Lease Agreement has caused it to be executed on the date indicated below.

Attest:

For the City of Grand Junction, Colorado

City Clerk

Date

City Manager

Date

Lessee:

Jack W. Bish

Date