

RESOLUTION NO. 85-01

**CONCERNING THE GRANTING OF A NON-EXCLUSIVE ELECTRIC UTILITY EASEMENT
TO THE PUBLIC SERVICE COMPANY OF COLORADO**

WHEREAS, the City of Grand Junction believes it is the owner of certain real property described as the North twelve and one-half (12 ½) acres of the West ½ of the Northeast ¼ of the Southwest ¼ of Section 7, Township 1 South, Range 1 East of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, commonly known as "Columbine Park"; and

WHEREAS, the Public Service Company of Colorado has requested an easement across the above-described City property for the purposes of installing, operating, maintaining, repairing and replacing electric power lines and facilities appurtenant thereto.

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

That the City Manager is hereby authorized to execute the attached Grant of Easement conveying to the Public Service Company of Colorado a non-exclusive electric utility easement over and across the limits of the City property described therein.

PASSED and ADOPTED this 15th day of August, 2001.

Attest:

/s/ Janet Terry
President Pro Tem of the Council

/s/ Stephanie Nye
City Clerk

GRANT OF EASEMENT

The City of Grand Junction, a Colorado home rule municipality, Grantor, whose address is 250 North 5th Street, Grand Junction, Colorado 81501, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00), the receipt and sufficiency of which is hereby acknowledged, has given and granted, and by these presents does hereby give and grant unto the PUBLIC SERVICE COMPANY OF COLORADO, a Colorado corporation, Grantee, whose address is Seventeenth Street Plaza, 1225 17th Street, Denver, Colorado 80202-5533, a non-exclusive easements to install, operate, maintain, repair and replace electric lines and related facilities where the same may cross real property owned by Grantor within the limits of the following described premises, to wit:

Beginning at the Northwest Corner of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 7, Township 1 South, Range 1 East of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, and considering the north line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 7 to bear S 89°51'39" E with all bearings contained herein being relative thereto;

thence S 89°51'39" E along the north line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 7 a distance of 653.58 feet to the Northeast Corner of the West $\frac{1}{4}$ of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 7;

thence S 00°08'07" W along the east line of the West $\frac{1}{4}$ of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 7 a distance of 20.00 feet;

thence leaving said east line, N 89°51'39" W a distance of 299.81 feet;

thence S 84°39'29" W a distance of 18.88 feet;

thence S 02°30'44" E a distance of 5.82 feet;

thence S 87°29'16" W a distance of 5.00 feet;

thence N 02°30'44" W a distance of 5.57 feet;

thence S 84°39'29" W a distance of 135.00 feet;

thence S 09°19'43" W a distance of 17.20 feet;

thence N 80°40'17" W a distance of 5.00 feet;

thence N 09°19'43" E a distance of 16.31 feet;

thence S 89°38'00" W a distance of 191.47 feet to a point on the west line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 7;

thence N 00°12'26" E along the west line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 7 a distance of 36.86 feet to the Point of Beginning.

TO HAVE AND TO HOLD unto said Grantee, subject to the terms and conditions contained herein.

1. Reservations from Grant. Grantor reserves the right to use and occupy the real property of Grantor which is burdened by this Easement for any purpose which is not inconsistent with the rights herein granted.
2. Term. The initial term of this grant shall be twenty-five (25) years from the day and year first above written.

3. Option to Extend. Subject to the provisions of paragraph 4 below, Grantee shall be entitled to exercise successive extensions of this grant and conveyance, and Grantor hereby grants such right, for additional twenty-five (25) year periods ("later terms"). If the grant is extended for later terms, each such later term shall be upon the same terms and conditions of this Agreement.

4. Abandonment/Automatic Termination. In the event of permanent abandonment of the Easement by Grantee, all rights, privileges and interests herein granted shall automatically terminate. Permanent abandonment shall have occurred if Grantee shall fail to use the Easements for any twelve (12) consecutive month period.

5. Express Limitations. Grantee's utilization of the Easement shall be specifically limited to the installation, operation, maintenance and repair of Grantee's facilities as they presently exist. The easement rights herein granted do not include the right to expand utilization of the Easement for any other purposes unless such uses are authorized by subsequent conveyance instrument(s).

6. Standard of Care. Grantee's work and act of installing and maintaining said Grantee's facilities shall be performed with the highest standard of care; the surface and condition of the ground along the Easement shall not be disturbed without the prior written consent of Grantor; in the event Grantee disturbs the surface and condition of the ground Grantee shall, at Grantee's sole cost and expense, substantially restore the surface and condition of the ground to its original level and condition immediately upon the completion of installation, maintenance and repair work; all damages to persons or property resulting from the failure to exercise due care, or other higher standard of care as may be applicable, shall be paid for and repaired at the expense of Grantee.

7. General Indemnification. Grantee hereby releases, covenants not to bring suit and agrees to indemnify, defend and hold Grantor, its officers, employees, agents and assets harmless from any and all claims, costs, judgements, awards or liability, including reasonable attorneys' fees and costs (except those caused by Grantor's gross negligence or its willful or wanton acts) to any person or with regard to any property, including claims arising from injury or death, resulting from Grantee's gross negligence or willful act or failure to act. The foregoing indemnification obligations shall extend to claims which are not reduced to a suit and any claim which may be compromised by Grantee prior to the culmination of any litigation or the institution of any litigation.

8. Grantee's Acceptance Subject to Existing Conditions.

8.1 Grantee has inspected the Easement and accepts the same in its present condition and location. Grantee agrees that the condition of the Easements is sufficient for the purposes of Grantee. Grantor makes no warranties, promises or representations, express or implied, that the Easement is sufficient for the purposes of Grantee. If the Easement is damaged due to fire, flood or other casualty, or if the Easement is damaged or deteriorates to the extent that it is no longer functional for the purposes of Grantee,

Grantor shall have no obligation to repair the Easement nor to otherwise make the Easement usable or occupiable, since such damages shall be at Grantee's own risk.

8.2 Grantor makes no representations or warranties regarding the presence or existence of any toxic, hazardous or regulated substances on, under or about the Easement.

Executed and delivered this _____ day of _____, 2001.

Attest: The City of Grand Junction, a Colorado home rule municipality

City Clerk

City Manager

State of Colorado)
)ss.
County of Mesa)

The foregoing instrument was acknowledged before me this _____ day of _____, 2001, by _____ as City Manager and attested to by _____ as City Clerk of the City of Grand Junction, a Colorado home rule municipality.

My commission expires: _____
Witness my hand and official seal

Notary Public