

GRAND JUNCTION, COLORADO MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL

September 4, 1991

The City Council of the City of Grand Junction, Colorado, convened in regular session the 4th day of September, 1991, at 7:30 p.m. in the City/County Auditorium at City Hall. Those present were Jim Baughman, John Bennett, Bill Bessinger, Bill McCurry, Paul Nelson, Reford Theobold, and President of the Council Conner Shepherd. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Neva Lockhart.

Council President Shepherd called the meeting to order and Councilman Bennett led in the Pledge of Allegiance.

INVOCATION - Councilman Reford Theobold.

RECOGNITION OF BOY SCOUT TROOPS 342 AND 328

CONSIDERATION OF MINUTES

Upon motion by Councilman McCurry, seconded by Councilman Nelson and carried, the minutes of the August 21, 1991, City Council Meeting were approved as submitted.

PROCLAMATION DECLARING SEPTEMBER, 1991, AS "LEARN TO SQUARE DANCE MONTH" IN GRAND JUNCTION

PROCLAMATION DECLARING SEPTEMBER 22, 1991, AS "AMERICAN BUSINESS WOMEN'S ASSOCIATION DAY" IN GRAND JUNCTION

PRESENTATION OF SERVICE PLAQUE TO VICKI FELMLEE FOR HER TWO YEARS ON THE VISITOR AND CONVENTION BUREAU BOARD

APPOINTMENT TO HOUSING AUTHORITY - FIVE-YEAR TERM

Upon motion by Councilman Theobold, seconded by Councilman McCurry and carried, Cindy-Enos Martinez was appointed by a five-year term on the Grand Junction Housing Authority.

SCOTT VOYTILLA, REPRESENTING WESTERN COLORADO JET SKI ASSOCIATION, REGARDING USE OF BLUE HERON LAKE

Mr. Scott Voytilla, representing Western Colorado Jet Ski Association, requested combined uses of the City's Blue Heron Lake between the newly formed Colorado Jet Ski Association, and the wind surfers, who are presently using the lake. The lake is posted with signs reading "No Motorized Boats." Mr. Voytilla stated that his association has also gone before the Riverfront Commission. Research by the Assistant City Attorney has revealed there is no City ordinance which addresses this particular situation. He suggested perhaps alternate days where wind surfers can have use of the lake three days a week, and jet skiers three days a week.

He would like to see a committee formed between the two groups to come with an agreement.

Councilman Nelson recommended:

1. An even-odd, or three days and three days usage, so that the users could share the lake with motorized and non-motorized days;
2. That signs be posted saying "No Motors over 25 Horse Power", etc.

Councilman Theobald suggested that both groups get together and form their own agreement. He would like to see the wind surfers and the Western Colorado Jet Ski Association get with the City's property agent Tim Woodmansee. Jane Quimby, representing the Riverfront Commission, was present and stated that she is willing to suggest to the Riverfront Commission that the group be allowed to use Blue Heron Lake on a temporary basis until a permanent solution can be found.

Mr. Stacey Cook, a member of the Western Colorado Jet Ski Association, was present and stated that his tax dollars go towards maintaining Blue Heron Lake and felt his group should be allowed use of the lake.

Councilman Baughman felt that Council vote should be required on this item.

City Manager Mark Achen suggested that the Riverfront Commission and the Parks & Recreation Board be authorized to come up with a temporary solution until next Spring, and at that time to come back to Council with a more permanent solution.

It was moved by Councilman Theobald, seconded by Councilman Nelson and carried, that the Riverfront Commission and the Parks & Recreation Board be authorized to come up with a temporary solution until Spring of 1992, and at that time to come back to Council with a more permanent solution, with a sign being posted reflecting the decision.

CHANGE ORDER TO LYLE STATES CONSTRUCTION, INC., IN THE AMOUNT OF \$25,000 FOR THE PROJECT "SEWER LINE REPLACEMENTS 1991, 8TH TO 12TH STREETS BETWEEN MAIN AND ROOD"

Upon motion by Councilman McCurry, seconded by Councilman Bessinger and carried, the change order to Lyle States Construction, Inc., in the amount of \$25,000 for the project "Sewer Line Replacements, 1991, 8th to 12th Streets between Main and Rood" was approved.

HEARING - APPLICATION BY B.P.O. ELKS LODGE 575 FOR A 3.2% BEER SPECIAL EVENTS PERMIT FOR SATURDAY, OCTOBER 5, 1991, ON MAIN STREET FROM 5TH TO 7TH STREETS, AND FROM THE ALLEY ON THE NORTH TO THE ALLEY ON THE SOUTH OF THE 6TH STREET AND MAIN INTERSECTION -

## 9TH ANNUAL OKTOBERFEST - FIRST PERMIT

A hearing was held after proper notice on the application by B.P.O. Elks Lodge 575 for a 3.2% Beer Special Events Permit for Saturday, October 5, 1991, from 10:00 a.m. to 11:00 p.m. on Main Street from 5th to 7th Streets, and from the alley on the north to the alley on the south of the 6th Street and Main Intersection for the 9th annual Oktoberfest. Ron Ward, 2957 Parkway Drive, was present for the application. There were no opponents, letters, or counterpetitions. The hearing was closed. Upon motion by Councilman McCurry seconded by Councilman Baughman and carried, the application was approved.

PROPOSED ORDINANCE AUTHORIZING THE CITY OF GRAND JUNCTION, COLORADO, TO PLEDGE CERTAIN SALES TAX REVENUES TO GUARANTEE CERTAIN OUTSTANDING BONDS OF THE GRAND JUNCTION WEST WATER AND SANITATION DISTRICT, MESA COUNTY, COLORADO, AS PART OF A COMPREHENSIVE ANNEXATION PLAN; APPROVING THE FORM OF THE GUARANTEE; PROVIDING FOR THE PAYMENT OF ANY CLAIMS ON THE GUARANTEE FROM A OPTION OF THE REVENUES OF THE SALES AND USE TAX IMPOSED BY THE CITY; AND PROVIDING OTHER DETAILS IN CONNECTION THEREWITH.

The following entitled proposed ordinance was presented and read: AN ORDINANCE AUTHORIZING THE CITY OF GRAND JUNCTION, COLORADO, TO PLEDGE CERTAIN SALES TAX REVENUES TO GUARANTEE CERTAIN OUTSTANDING BONDS OF THE GRAND JUNCTION WEST WATER AND SANITATION DISTRICT, MESA COUNTY, COLORADO, AS PART OF A COMPREHENSIVE ANNEXATION PLAN; APPROVING THE FORM OF THE GUARANTEE; PROVIDING FOR THE PAYMENT OF ANY CLAIMS ON THE GUARANTEE FROM A PORTION OF THE REVENUES OF THE SALES AND USE TAX IMPOSED BY THE CITY; AND PROVIDING OTHER DETAILS IN CONNECTION THEREWITH. Upon motion by Councilman Theobold, seconded by Councilman McCurry and carried with Councilman BAUGHMAN voting NO, the proposed ordinance was passed for publication.

## ORDINANCES ON FINAL PASSAGE - PROOFS OF PUBLICATION

Proofs of Publication on the following Ordinances proposed for final passage have been received and filed. Copies of the Ordinances proposed for final passage were submitted to the City Council prior to the meeting.

### ORDINANCE NO. 2535 - VACATING CIDER MILL ROAD IN COLONY PARK SUBDIVISION

Upon motion by Councilman Bennett, seconded by Councilman Bessinger and carried, and following entitled proposed ordinance was called up for final passage and read by title only: VACATING CIDER MILL ROAD IN COLONY PARK SUBDIVISION.

There were no comments. Upon motion by Councilman Theobold, seconded by Councilman McCurry and carried by roll call vote with Councilman BAUGHMAN ABSTAINING, the Ordinance was passed, adopted,

numbered 2535, and ordered published.

ORDINANCE NO. 2536 - VACATING AN EASEMENT LOCATED ON PROPERTY WITH A STREET ADDRESS OF 2850-1/2 MESA AVENUE

Upon motion by Councilman Bennett, seconded by Councilman Bessinger and carried, the following entitled proposed ordinance was called up for final passage and read by title only: VACATING AN EASEMENT LOCATED ON PROPERTY WITH A STREET ADDRESS OF 2850-1/2 MESA AVENUE.

There were no comments. Upon motion by Councilman McCurry, seconded by Councilman Nelson and carried by roll call vote, the Ordinance was passed, adopted, numbered 2536, and ordered published.

ORDINANCE NO. 2530 - FIRST AND PATTERSON ANNEXATION LOCATED ON THE SOUTHWEST AND NORTHWEST CORNERS OF FIRST STREET AND PATTERSON ROAD - 40.99 ACRES (CONTINUED FROM THE AUGUST 7 AND AUGUST 21 MEETINGS)

Upon motion by Councilman Bennett, seconded by Councilman Bessinger and carried, the following entitled proposed ordinance was called up for final passage and read by title only: AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO (FIRST AND PATTERSON ANNEXATION) SOUTHWEST AND NORTHWEST CORNERS OF FIRST STREET AND PATTERSON ROAD.

Councilman Baughman stated that he has received the letter from the Community Development Department regarding allowed uses for his property. Dr. Moore has received a similar letter.

City Attorney Dan Wilson clarified that Councilman Baughman's "salvage vehicles" will be allowed as conforming to the City's ordinances as he has a garage that he will be putting the vehicles in. The theory is that those are the kind of things that have to be corrected. He wanted to be clear that Staff recommendations for the other areas west of mr. Baughman's property is going to be that those have to be brought into compliance with the ordinance. It is categorized as a health issue and is treated with that kind of a view. Animals are not a problem, and sort of a classic use of the non-conforming "grandfather" clause. The purpose of the letter is to state what is on the property presently, so that there is no dispute in the future.

There were no other comments. Upon motion by Councilman Theobold, seconded by Councilman Nelson and carried by roll call vote, the Ordinance was passed, adopted, numbered 2530, and ordered published.

RESOLUTION NO. 56-91 AUTHORIZING OFFICERS OF THE CITY TO DIRECT THE DEFEASANCE AND REDEMPTION OF THE CITY'S SALES AND USE TAX REVENUE BONDS, SERIES 1985; RATIFYING ALL ACTIONS HERETOFORE TAKEN IN CONNECTION THEREWITH; AND PROVIDING OTHER DETAILS IN CONNECTION THEREWITH

The following Resolution was presented and read: (See next page.). Upon motion by Councilman McCurry, seconded by Councilman Bessinger and carried by roll call vote, the Resolution was passed and adopted as read.

RESOLUTION NO. 57-91 GRANTING A REVOCABLE PERMIT TO GEORGE D. YOUNG, COLONY PARK FILING NO. 2, FOR THE INSTALLATION OF A SCREEN FENCE AND LANDSCAPE IMPROVEMENTS IN THE PUBLIC RIGHT-OF-WAY ON PATTERSON ROAD

The following Resolution was presented and read: (See next page.). Upon motion by Councilman McCurry, seconded by Councilman Bessinger and carried by roll call vote, the Resolution was passed and adopted as read.

#### COUNCIL WORKSHOP ITEMS

##### Selection of New Water Attorney

City Attorney Dan Wilson announced that the City's current water attorney, Mr. Jim Dufford, will soon be retiring. A 3-person panel consisting of a water attorney who does not cover water in the City of Grand Junction, a citizen member, and a business member of the community, will select two names of candidates. They will make recommendations to the City Manager, City Attorney, and City Utilities Director Greg Trainor, who would ratify a name to City Council. A Request for Proposal will be submitted.

##### Discussion of Annual Consumer Price Index-Based Adjustments of City Fees and Charges

City Administrative Services Director Ron Lappi reviewed a proposal which would provide for a blanket consideration of all City fees and charges annually. A proposed ordinance will be presented to Council on the September 18, 1991, agenda.

Councilman Baughman did not like the idea of comparison of the eastern slope to the western slope for a Consumer Price Index-Based Adjustment of charges and fees. He felt the City should raise fees and charges only when necessary, rather than an automatic increase every year.

#### DISCUSSION OF MENTAL HEALTH CARE

Councilman Bessinger was concerned over the cost to the City to apprehend individuals who seem to be mentally disturbed. The City is presently paying law enforcement officers to be the primary care providers for these individuals. He asked Council to be thinking about this problem and possibly come up with some ideas for a mental health care facility. Councilman Bennett stated that mental health care is provided by various County and State agencies in the area.

ADJOURNMENT

Upon motion by Councilman McCurry, seconded by Councilman Bessinger and carried, the meeting was adjourned.

Neva B. Lockhart, CMC  
City Clerk

RESOLUTION NO. 56-91

A RESOLUTION AUTHORIZING OFFICERS OF THE CITY TO DIRECT THE DEFEASANCE AND REDEMPTION OF THE CITY'S SALES AND USE TAX REVENUE BONDS, SERIES 1985; RATIFYING ALL ACTIONS HERETOFORE TAKEN IN CONNECTION THEREWITH; AND PROVIDING OTHER DETAILS IN CONNECTION THEREWITH.

WHEREAS, the City of Grand Junction (the "City") has heretofore issued its Sales and Use Tax Revenue Bonds, Series 1985 (the "1985 Bonds") pursuant to the City's Ordinance No. 2254 (the "1985 Bond Ordinance"); and

WHEREAS, the 1985 Bonds are currently outstanding in the aggregate principal amount of \$705,000 and are due on December 15 in the amounts, rates and years as follows:

Maturity	Principal Amount	Interest Rate
1991	\$120,000	7.25%
1992	130,000	7.50
1993	140,000	7.70
1994	150,000	7.90
1995	165,000	8.00

WHEREAS, pursuant to the 1985 Bond Ordinance, the 1985 Bonds maturing on and after December 15, 1991, are subject to redemption prior to maturity, at the option of the City, as a whole or in integral multiples of \$5,000, in inverse order of maturity, and if less than an entire maturity is to be redeemed then by lot within such maturity, on December 15, 1990, and on any interest payment date thereafter, upon payment of par,

accrued interest, and a premium of 1.00% of the principal amount so redeemed; and

WHEREAS, pursuant to the 1985 Bond Ordinance, the 1985 Bonds shall no longer be deemed to be outstanding (i.e. the 1985 Bonds shall be "defeased") within the meaning of the 1985 Bond Ordinance when the City has placed in escrow and in trust with a commercial bank located within or without the State of Colorado, and exercising trust powers, an amount sufficient (including the known minimum yield from direct obligations of, or obligations the timely payment of the principal of and interest on which is unconditionally guaranteed by, the United States of American ("Federal Securities") in which such amount may be initially invested) to meet all requirements of principal, premium, if any, and interest as the same become due to their final maturities or upon designated prior redemption dates; and

WHEREAS, the City Council has determined that it is in the best interests of the City that the 1985 Bonds be called on the next call date (December 15, 1991) and that the City now place in escrow and in trust an amount sufficient to defease the 1985 Bonds and pay them on such call date; and

WHEREAS, there has been presented to this meeting of City Council a form of escrow agreement (the "Escrow Agreement") to be used in connection with the defeasance of the 1985 Bonds.

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

Section 1. The defeasance of the 1985 Bonds is hereby directed and authorized, and the Mayor and the City Clerk are hereby directed to execute the Escrow Agreement in substantially the form presented to City Council at this meeting with such modifications and completions as shall be necessary or desirable to effect the transactions described herein.

Section 2. The City hereby appoints Central Bank, National Association, in Denver, Colorado as escrow agent (the "Escrow Agent") in connection with the defeasance of the 1985 Bonds.

Section 3. The City hereby irrevocably elects to call all of the outstanding 1985 Bonds which are not due on such date on December 15, 1991, at a price of 101% of the principal amount thereof. The 1985 Bonds which mature on December 15, 1991 shall be duly paid at maturity as specified in the 1985 Bond Ordinance. The Escrow Agent (which is also the paying agent for the 1985 Bonds) is hereby instructed to give notice of such redemption at the time and in the manner specified in the 1985 Bond Ordinance.

Section 4. The Finance Director of the City is hereby instructed to pay to the Escrow Agent, from available moneys of the City, an amount sufficient to buy Federal Securities to effect the defeasance. The City Council hereby finds and determines that the

moneys to be used for the optional redemption of the 1985 Bonds will have been on deposit in the applicable fund or account (either held by the City or, on and after the effective date of the Escrow Agreement, held by the Escrow Agent) for at least 123 days on December 14, 1991, when the 1985 Bonds are called.

Section 5. The offices and employees of the City are hereby authorized and directed to take all action necessary or appropriate to implement the provisions of this resolution.

Section 6. All action heretofore taken by the City (not inconsistent with this resolution) in connection with the defeasance of the 1985 Bonds is hereby ratified, approved, and confirmed.

PASSED, ADOPTED AND APPROVED this September 4, 1991.

Conner W. Shepherd

\_\_\_\_\_  
Mayor

(SEAL)

Attest:

Neva B. Lockhart, CMC

\_\_\_\_\_  
City Clerk

CITY OF GRAND JUNCTION, COLORADO SALES AND USE TAX REVENUE BONDS  
SERIES 1985 ESCROW AGREEMENT

DATED as of September 1, 1991, by and between the CITY OF GRAND JUNCTION, COLORADO (the "City"), a political subdivision, duly organized and created under the laws of the State of Colorado (the "State") and CENTRAL BANK, NATIONAL ASSOCIATION, in Denver, Colorado, (the "Escrow Bank") a bank having and exercising full and complete trust powers, duly organized and existing under the laws of the United States of American, being a member of the Federal Deposit Insurance Corporation and the Federal Reserve System.

(1) WHEREAS, the City is duly organized and existing under the laws of the State and its officers from time to time have been duly chosen and qualified; and

(2) WHEREAS, pursuant to Ordinance No. 2254 (the "1985 Ordinance"), the City has heretofore issued its Sales and Use Tax Revenue Bonds, Series 1985 (the "1985 Bonds"); and

(3) WHEREAS, the 1985 Bonds were issued in the original aggregate principal amount of \$1,210,000, of which \$705,000 remains outstanding, bearing interest at the rates designated below, payable semiannually on June 15 and December 15 each year, and



maturing serially on December 15 in each of the years and amounts as follows:

Maturity	Principal Amount	Interest Rate
1991	\$120,000	7.25%
1992	130,000	7.50
1993	140,000	7.70
1994	150,000	7.90
1995	165,000	8.00

(4) WHEREAS, those 1985 Bonds maturing on and after December 15, 1991 are redeemable at the option of the City on December 15, 1990 or any interest payment date thereafter in inverse order of maturity upon payment of par and accrued interest and a premium equal to 1% of the principal amount of each 1985 Bond or a portion thereof redeemed; and

(5) WHEREAS, the City is not delinquent in the payment of the principal, premium or interest on any of the 1985 Bonds; and

(6) WHEREAS, the City Council of the City (the "Council") has determined and hereby declares that it is advantageous and favorable to the City to defease, pay and discharge the principal of, interest on and premium due in connection with all of the outstanding 1985 Bonds upon the prior redemption (or in the case of the 1985 Bonds maturing on December 15, 1991, upon the maturity) thereof on December 15, 1991, (the payment of such principal, interest and premium on the 1985 Bonds to be referred to herein as the "Defeased Bond Requirements"), and such Defeased Bond Requirements shall be paid pursuant to this Agreement; and

(7) WHEREAS, pursuant to resolution (the "Defeasance Resolution"), adopted by the Council on September 4, 1991, the Council authorized the defeasance of the 1985 Bonds with available City moneys and the payment or prior redemption of such Bonds on December 15, 1991; and

(8) WHEREAS, the City, by the Defeasance Resolution, among other matters:

A. Directed to be deposited in the Escrow Account (as defined

below) to be maintained by the Escrow Bank City moneys in an aggregate amount fully sufficient, together with the known minimum yield from the investment of such moneys in non-callable bills, certificates of indebtedness, notes, bonds, or obligations which are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States of America ("Federal Securities"), other than an initial cash balance of \$\_\_\_\_\_ remaining uninvested, to pay the Defeased Bond Requirements as set forth therein and herein;

B. Provided for the purchase of Federal Securities with such moneys credited to the Escrow Account, other than such initial cash balance remaining uninvested (as defined below); and

C. Authorized the completion and execution of this Agreement; and

(9) WHEREAS, a copy of the Defeasance Resolution has been delivered to the Escrow Bank and the provisions therein set forth are herein incorporated by reference as if set forth herein verbatim in full; and

(10) WHEREAS, the Federal Securities described in Exhibit 1 to this Agreement have appropriate maturities and yields to insure the payment, together with the initial cash, of the Defeased Bond Requirements; and

(11) WHEREAS, a schedule of receipts from such Federal Securities and a schedule of payments and disbursements in Exhibit 1 to this Agreement demonstrate the sufficiency of the Federal Securities and initial cash for such purpose; and

(12) WHEREAS, the Escrow Bank is empowered to undertake the obligations and commitments on its part herein set forth; and

(13) WHEREAS, the undersigned officers of the Escrow Bank are duly authorized to execute and deliver this Agreement in the Escrow Bank's name and on its behalf; and

(14) WHEREAS, the City is empowered to undertake the obligations and commitments on its part herein set forth; and

(15) WHEREAS, the undersigned officers of the City are duly authorized to execute and deliver this Agreement in the City's name and on its behalf.

NOW, THEREFORE, THIS ESCROW AGREEMENT WITNESSETH:

That in consideration of the mutual agreements herein contained, and the payment of the fees and costs specified in Section 9 duly paid by the City to the Escrow Bank at or before the execution and delivery of this Agreement, the receipt of which is hereby acknowledged, and in order to secure the payment of the Defeased Bond Requirements, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives,

successors and assigns, as follows:

Section 1. Creation of Escrow.

A. On \_\_\_\_\_, 1991, the City with \$\_\_\_\_\_ of available City moneys shall purchase (to the extent not heretofore purchased) the Federal Securities described in Exhibit 1 to this Agreement (the "Initial Federal Securities") and shall cause the Initial Federal Securities and an initial cash balance of \$\_\_\_\_\_ (the "initial cash") to be credited to and accounted for in a separate trust account hereby created, to be designated as the "City of Grand Junction, Colorado, Sales and Use Tax Revenue Bonds, Series 1985 Escrow Account" (the "Escrow Account"). Receipt of \$\_\_\_\_\_ by the Escrow Bank to be applied as provided herein is hereby acknowledged.

B. Other Federal Securities may, at any time, be substituted for any Federal Securities if the Initial Federal Securities are unavailable for purchase on the date of delivery of this Escrow Agreement or if such substitution of Federal Securities is required by the Internal Revenue Code (the "Tax Code") or requested by the City and permitted by the Tax Code, and the applicable regulations thereunder, subject in any case to sufficiency demonstrations and the continued exclusion of interest on the 1985 Bonds from gross income for federal income tax purposes, and in any event in such a manner so as not to increase the price which the City pays for the initial acquisition of Federal Securities for the Escrow Account. Any Federal Securities which are temporarily substituted for the Initial Federal Securities (if the Federal Securities are unavailable for purchase on the date of delivery of the Escrow Agreement) may be withdrawn from the Escrow Account when the Initial Federal Securities are purchased and credited to the Escrow Account. Similarly, any temporary advancement of moneys to the Escrow Account to pay designated Defeased Bond Requirements because of a failure to receive promptly the principal of and interest on any Federal Securities at their respective fixed maturity dates, or otherwise, may be repaid to the person advancing such moneys upon the receipt by the Escrow Bank of such principal and interest payments on such Federal Securities.

C. The initial cash, the proceeds of the Initial Federal Securities (and of any other Federal Securities acquired as an investment or reinvestment of moneys accounted for in the Escrow Account) and any such Federal Securities themselves (other than Federal Securities, including the Initial Federal Securities, held as book entries) shall be deposited with the Escrow Bank and credited to and accounted for in the Escrow Account. The securities and moneys accounted for therein shall be redeemed and paid out and otherwise administered by the Escrow Bank for the benefit of the City and owners of the 1985 Bonds as provided in this Agreement.

Section 2. Purpose of Escrow.

A. The Escrow Bank shall hold the initial cash, all Federal Securities accounted for in the Escrow Account (other than Federal Securities, including the Initial Federal Securities, held as book-entries) and all moneys received from time to time as interest on and principal of such Federal Securities in trust to secure and for the payment of the Defeased Bond Requirements.

B. Except as provided in paragraph B of section 1 hereof, the Escrow Bank shall collect the principal of and interest on such Federal Securities promptly as such principal and interest become due and shall apply all money so collected to the payment of the Defeased Bond Requirements as aforesaid.

### Section 3. Accounting for Escrow.

A. The moneys and the Federal Securities accounted for in the Escrow Account shall not be subject to checks drawn by the City or otherwise subject to its order except as otherwise provided in paragraph B of section 1 and in section 8 hereof.

B. The Escrow Bank, however, as paying agent for the 1985 Bonds, shall transfer from the Escrow Account sufficient moneys to permit payment, without any default, of the Defeased Bond Requirements on December 15, 1991, as provided herein and as directed by the duly authorized officers of the City. The Escrow Bank shall never be required to advance its own funds for payments in connection with the 1985 Bonds.

C. Except as otherwise provided in paragraph B of section 1 of this Agreement, there shall be no sale of any Federal Securities held hereunder and no Federal Securities held hereunder and callable for prior redemption at the City's option shall be called at any time for prior redemption, except if necessary to avoid a default in the payment of the Defeased Bond Requirements.

### Section 4. Maturities of Federal Securities.

A. Any Federal Securities shall be purchased in such manner:

(1) So that such Federal Securities may be redeemed in due season at their respective maturities to meet such Defeased Bond Requirements, and

(2) So that any sale or prior redemption of such Federal Securities shall be unnecessary.

B. There shall be no substitution of any Federal Securities except as otherwise provided in paragraph B of section 1 of this Agreement.

### Section 5. Reinvestments.

A. The Escrow Bank shall reinvest the cash balances, if any,

listed in Exhibit 2 hereof for the period designated in Exhibit 2 in state and local government series securities ("slgs") purchased by the Escrow Bank for the City directly from the United States Government. All of the slgs in which such reinvestments are made shall bear interest at the rate of 0% per annum and shall mature on or before the date or dates when the proceeds thereof must be available for the prompt payment of the Defeased Bond Requirements. The Escrow Bank agrees to comply with Part 344 of Title 31, Code of Federal Regulations and with such other regulations of the United States Treasury, Bureau of Public Debt as are from time to time in effect in subscribing for and purchasing such slgs, including without limitation requirements with respect to submitting subscriptions to a Federal Reserve Bank or Branch in advance (currently between 60 and 15 days in advance) of the date of purchase of the slgs.

B. In addition to or, as the case may be, in lieu of the reinvestments required by paragraph A of this section 5, the Escrow Bank at the written direction of the City shall reinvest in Federal Securities any moneys received in payment of the principal of and interest on any Federal Securities accounted for in the Escrow Account, subject to the limitations of sections 1 and 4 hereof and to the following additional limitations:

(1) Any such Federal Securities shall not be subject to redemption prior to their respective maturities at the option of their issuer.

(2) Any such Federal Securities shall mature on or prior to the date or dates when the proceeds thereof must be available for the prompt payment of the Defeased Bond Requirements.

(3) Under no circumstances shall any reinvestment be made under this paragraph B of section 5 if such reinvestment, alone or in combination with any other investment or reinvestment, violates the applicable provisions of the Tax Code, and the rules and regulations thereunder.

(4) The Escrow Bank shall make no such reinvestment under this paragraph B of section 5 unless the City first obtains and furnishes to the Escrow Bank a written opinion of nationally recognized bond counsel to the effect that such reinvestment, as described in the opinion, complies with subparagraph (3) of this paragraph B of section 5.

C. Except as provided in this section 5, the Escrow Bank shall have no obligation by virtue of this Agreement, general trust law or otherwise to make any reinvestment of any moneys in the Escrow Account at any time.

Section 6. Sufficiency of Escrow. The moneys and Federal Securities accounted for in the Escrow Account shall be in an amount (or have appropriate maturities and yields to produce an amount) which at all times shall be sufficient to pay the

Defeased Bond Requirements, subject to the provisions of section 10 hereof.

Section 7. Transfers and Redemption Notice for Defeased Bond Requirements.

A. The Escrow Bank, as paying agent for the 1985 Bonds shall ensure, to the extent of moneys in the Escrow Account properly allocable to and available thereof, the timely payment of the Defeased Bond Requirements.

B. The Escrow Bank shall cause notice of the redemption of the 1985 Bonds to be given in the time and manner required by the 1985 Ordinance.

Section 8. Termination of Escrow Account. When the Escrow Bank, as paying agent for the 1985 Bonds, shall have made payment or provisions for payment so that all Defeased Bond Requirements shall be or shall have been paid in full and discharged, the Escrow Bank shall immediately pay over to the City the moneys, if any, then remaining in the Escrow Account and shall make forthwith a final report for the City to the City Director of Finance. Such moneys may be used by the City for any lawful purpose.

Section 9. Fees and Costs.

A. The Escrow Bank's total fees and costs for and in carrying out the provisions of this Agreement have been fixed at \$\_\_\_\_\_, which amount is to be paid at or prior to the time of the effectiveness of this Agreement, directly to the Escrow Bank as payment in full of all charges (except the costs of mailing and publishing notices of redemption) of the Escrow Bank pertaining to this Agreement for services performed hereunder. In addition, the City shall pay and/or reimburse the Escrow Bank for its costs of publishing and mailing the redemption notices required to be given by the Escrow Bank pursuant to paragraph B of section 7 hereof.

B. Such payment for services rendered and to be rendered by the Escrow Bank shall not be for deposit in the Escrow Account, and the fees of and the costs incurred by the Escrow Bank shall not be deducted from such account.

Section 10. Possible Deficiencies.

A. If at any time it shall appear to the Escrow Bank that the money and any interest on and principal of the Federal Securities in escrow allocable for such use under this Agreement, including, without limitation, the known minimum yield from the Initial Federal Securities, will not be sufficient to make any required payment due on the Defeased Bond Requirements, the Escrow Bank shall notify in writing the City Director of Finance as soon as reasonably practicable of such fact, the amount of such

deficiency and the reason therefor.

B. Thereupon the City shall forthwith deposit with the Escrow Bank for deposit in the Escrow Account such additional moneys as may be required.

C. The Escrow Bank shall in no manner be responsible for the City's failure to make any such deposit.

#### Section 11. Status Report.

A. As specified by Section 8 hereof, by January, 1992, the Escrow Bank shall submit to the City Director of Finance a report covering all money which the Escrow Bank shall have received and all payments which it shall have made or caused to be made hereunder during the next preceding 12 calendar months.

B. Such report shall further indicate for which period any Federal Securities pledged to secure the repayment to the City of any uninvested moneys were placed in pledge, as permitted by section 13.

#### Section 12. Character of Deposit.

A. It is recognized that title to the Federal Securities and moneys accounted for in the Escrow Account from time to time shall remain vested in the City but subject always to the prior charge and lien thereon of this Agreement and the use thereof required to be made by the provisions of this Agreement and the Defeasance Resolution.

B. The Escrow Bank shall hold all such Federal Securities (except as they may be held as book-entries) and moneys in the Escrow Account as a special trust fund and account, separate and wholly segregated from all other securities and funds of the Escrow Bank or deposited therein, and shall never commingle such securities or moneys with other securities or moneys.

#### Section 13. Securing Deposit.

A. The Escrow Bank may cause the Federal Securities accounted for in the Escrow Account to be registered in the name of the City for payment, if they are registrable for payment, and in such event shall obtain the necessary endorsements from the duly authorized officials of the City as they become due.

B. The City, in connection with any Federal Securities accounted for in the Escrow Account and held as book-entries, shall cooperate with the Escrow Bank and shall forthwith make arrangements with an appropriate representative of the issuer of such Federal Securities, so that the interest on and the principal of the Federal Securities shall be promptly transmitted, as the same become due from time to time, to the Escrow Bank for the benefit of the City.

C. All uninvested moneys held at any time in the Escrow Account shall be continuously secured by the deposit of Federal Securities in a principal amount and value always not less than the total amount of uninvested moneys in the Escrow Account:

- (1) In any branch of the Federal Reserve Bank, or
- (2) In any commercial bank which:
  - (a) Is a state or national bank or trust company, and
  - (b) Is a member of the Federal Deposit Insurance Corporation, and
  - (c) Is a member of the Federal Reserve System, and
  - (d) Has a capital and surplus of \$10,000,000.00 or more, and
  - (e) Is exercising full and complete trust powers, and
  - (f) May be located in the State or without the State ("trust bank"), or
- (3) In any branch of the Federal reserve Bank and in one or more trust banks (or any combination thereof).

D. Such Federal Securities so held as a pledge shall be used whenever necessary to enable the Escrow Bank, as paying agent for the 1985 Bonds, to pay the Defeased Bond Requirements, to the extent other moneys are not transferred or caused to be transferred for such purpose by the Escrow Bank.

E. Any Federal Securities (except as they may be held as book-entries) and any uninvested moneys accounted for in the Escrow Account may from time to time be placed by the Escrow Bank for safekeeping wholly or in part in any such trust bank, only if prior to any such transfer the City Director of Finance consents thereto in writing.

F. Each such trust bank holding any Federal Securities accounted for in the Escrow Account or any uninvested moneys accounted for therein shall be furnished by the Escrow Bank with a copy of this Agreement prior to such deposit.

G. By the acceptance of such Federal Securities or such uninvested moneys, each such trust bank shall be bound in the same manner as the Escrow Bank, as herein provided.

H. The Escrow Bank, however, shall remain solely responsible to the City:

- (1) For any investment or reinvestments of moneys pursuant to sections 1 and 5 hereof,



(2) For transfers of moneys and causing redemption notices to be given pursuant to section 7 hereof,

(3) For the termination of the Escrow Account pursuant to section 8 hereof,

(4) For any notification of prospective deficiencies pursuant to section 10 hereof,

(5) For the status report pursuant to section 11 hereof, and

(6) For defraying any charges of any branch of the Federal Reserve Bank or any trust bank for any deposits of Federal Securities as pledge to secure invested moneys of Federal Securities in escrow, and of uninvested moneys in escrow (or any combination thereof) or for any other service relating to this Agreement or the Escrow Account.

I. Notwithstanding the liabilities of the Escrow Bank stated in Subsection H of this section, the Escrow Bank may cause any one, all or any combination of the duties stated in Subsection H to be performed on its behalf by any trust bank.

J. If at any time the Escrow Bank fails to account for any moneys or Federal Securities held by it or by any such trust bank in the Escrow Account, such moneys and securities shall be and remain the property of the City.

K. If for any reason such moneys or Federal Securities cannot be identified, all other assets of the Escrow Bank and of each such trust bank failing to account therefor shall be impressed with a trust for the amount thereof, and the City shall be entitled to a preferred claim upon such assets.

L. No moneys paid into and accounted for in the Escrow Account shall ever be considered as a banking deposit and neither the Escrow Bank nor any such trust bank shall have any right or title with respect thereto.

Section 14. Purchaser's Responsibility. The initial purchaser and the holders from time to time of the 1985 Bonds shall in no manner be responsible for the application or disposition of the proceeds thereof or any moneys or Federal Securities accounted for in the Escrow Account.

Section 15. Amendment.

A. Except as herein provided, this Agreement shall be irrevocable and not subject to amendment after executed.

B. The provisions of this Escrow Agreement cannot be amended, waived or modified except to correct ambiguities or to add to the protection of the owners of the 1985 Bonds and such amendments shall be in writing executed by the parties hereto.

Section 16. Exculpatory Provisions.

A. The duties and responsibilities of the Escrow Bank are limited to those expressly and specifically stated in this Agreement.

B. The Escrow Bank and any of its officers, agents or employees shall not be liable or responsible for any loss resulting from any investment or reinvestment made pursuant to this Escrow Agreement and made in compliance with the provisions hereof.

C. The Escrow Bank and any of its officers, agents or employees shall not be personally liable or responsible for any act which it may do or omit to do hereunder, while acting with reasonable care, except for duties expressly imposed upon the Escrow Bank hereunder or as otherwise expressly provided herein.

D. The Escrow Bank shall neither be under any obligation to inquire into or be in anyway responsible for the performance or nonperformance by the City of any of its obligations, nor shall the Escrow Bank be responsible in any manner for the recitals or statements contained in this Agreement, in the Defeasance Resolution, in the 1985 Bonds, or in any proceedings taken in connection therewith, such recitals and statements being made solely by the City.

E. Nothing in this Agreement creates any obligation or liabilities on the part of the Escrow Bank to anyone other than the City and the holders of the 1985 Bonds.

Section 17. Time of Essence. Time is of the essence in the performance of the obligations from time to time imposed upon the Escrow Bank by this Agreement.

Section 18. Successors.

A. Whenever in this Agreement the City or the Escrow Bank is named or is referred to, such provision is deemed to include any successor of the City or the Escrow Bank, respectively, immediately or intermediate, whether so expressed or not.

B. All of the stipulations, obligations and agreements by or on behalf of and other provisions for the City or the Escrow Bank contained in this Agreement:

(1) Shall bind and inure to the benefit of any such successor, and

(2) Shall bind and inure to the benefit of any officer, board, authority, agent or instrumentality to whom or to which there shall be transferred by or in accordance with law and relevant right, power or duty of the City or the Escrow Bank, respectively, or of its successor.

Section 19. Severability. If any section, paragraph, clause or provision of this Escrow Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Agreement.

Section 20. Notices. All notices, certificates, opinions and other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified mail, return receipt requested, postage prepaid, addressed as follows: if to the Escrow Bank, and the paying agent for the 1985 Bonds, at 1515 Arapahoe Street, Denver, Colorado, attention: Corporate Trust Department; if to the City, at 250 North Fifth Street, Grand Junction, Colorado 81501-2668, attention: Director of Finance.

IN WITNESS WHEREOF, THE CITY OF GRAND JUNCTION, COLORADO has caused this Escrow Agreement to be signed in the City's name by the Mayor of the City, and to be attested by the City Clerk, with the seal thereof hereunto affixed; and Central Bank, Denver National Association has caused this Escrow Agreement to be signed in its corporate name by one of its Authorized Officers, sealed with its corporate seal, and attested by or one of its Authorized Officers, all as of the day and year first above written.

CITY OF GRAND JUNCTION, COLORADO

Conner W. Shepherd

\_\_\_\_\_  
Mayor

(CITY SEAL)

Attest:

Neva B. Lockhart, CMC

\_\_\_\_\_  
City Clerk

CENTRAL BANK, NATIONAL ASSOCIATION, Denver, Colorado

By:

\_\_\_\_\_  
Authorized Officer

(BANK SEAL)

Attest:

\_\_\_\_\_  
Authorized Officer

EXHIBIT 1

FEDERAL SECURITIES

EXHIBIT 2

REINVESTMENTS

NONE

RESOLUTION NO. 57-91

CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT TO GEORGE D. YOUNG

WHEREAS, George D. Young, who represents that he is the owner in fee simple of Colony Park, Filing No. 2: A Replat of a portion of Colony Park, Filing No. 1, and a portion of that parcel described in document recorded in Book 1814, Page 405 in the office of the Mesa County Clerk and Recorder, and Colony Park, Phase 1, Filing 2, located in the E1/2 NW1/4 NE1/4 of Section 10, Township 1 South, Range 1 West of the Ute Meridan has petitioned the City Council of the City of Grand Junction, Colorado, for a Revocable Permit to allow the installation of a fence and landscape improvements in the following described public right-of-way for Patterson Road, to wit:

The right-of-way for Patterson, aka F Road, located south of the sidewalk for Patterson Road and north of the northern boundary of the above described property; 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;

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 directed to grant the attached Revocable Permit to the above-named Petitioner, his heirs and assigns, for the installation of a fence and landscape improvements within the public right-of-way aforescribed, subject, however, to the several terms, covenants and conditions contained in the attached Revocable Permit.

PASSED and ADOPTED this 4th day of September, 1991.

Conner W. Shepherd

---

President of the Council

Attest:

Neva B. Lockhart, CMC

\_\_\_\_\_  
City Clerk

REVOCABLE PERMIT

WHEREAS, George D. Young, who represents that he is the owner in fee simple of Colony Park, Filing No. 2: A Replat of a portion of Colony Park, Filing No. 1, and a portion of that parcel described in document recorded in Book 1814, Page 405 in the office of the Mesa County Clerk and Recorder, and Colony Park, Phase 1, Filing 2, located in the E1/2 NW1/4 NE1/4 of Section 10, Township 1 South, Range 1 West of the Ute Meridan has petitioned the City Council of the City of Grand Junction, Colorado, for a Revocable Permit to allow the installation of a fence and landscape improvements in the following described public right-of-way for Patterson Road, to wit:

The right-of-way for Patterson, aka F Road, located south of the sidewalk for Patterson Road and north of the northern boundary of the above described property; 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;

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

There is hereby granted to George D. Young, his heirs and assigns, a Revocable Permit to allow the installation of a fence and landscape improvements within the public right-of-way aforescribed; provided, however, that the issuance of this Revocable Permit shall be conditioned upon the following: The location of the fence shall be no less than 20 feet south of the curb line for Patterson Road; Prior to installation of said fence, the petitioner shall obtain a Fence Permit, and install said fence in accordance with the regulations and requirements as set forth in Section 5-1-5 of the Zoning and Development Code of the City of Grand Junction; The fence and landscape improvements shall not be installed in a manner which will limit sight distance or create any other hazardous situation or dangerous condition for vehicular or pedestrian traffic; The installation and maintenance of said fence and landscape improvements shall be subordinate to all existing utilities and irrigation facilities and all preexisting easements; The Petitioner will not hold the City liable for any damages caused to said fence or landscape improvements as a result of the City's or any other Public Utility's maintenance or future installation of roadway improvements or public utilities within the aforescribed public right-of-way; The Petitioner, his heirs and assigns, shall be responsible for the proper care and maintenance of said fence and landscape improvements; 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, its

officers, employees and agents harmless from, and indemnify the City, its officers, employees and agents, with respect to any claims or causes of action however stated arising out of the encroachment or use granted, and that upon revocation of this Permit, the Petitioner will, within thirty (30) days of notice of revocation, peaceably surrender said right-of-way to the City and, at his own expense, remove any encroachment so as to restore the right-of-way to its original condition.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1991.

\_\_\_\_\_  
Mark K. Achen, City Manager

Attest:

\_\_\_\_\_  
City Clerk

Acceptance:

\George D. Young

AGREEMENT

George D. Young, for himself, his heirs and assigns, does hereby agree that he will abide by each and every condition contained in the foregoing Permit; that he shall indemnify the City of Grand Junction, its officers, employees and agents, and hold it, its officers, employees and agents harmless from all claims and causes of action as recited in said Permit; and that upon revocation of the Permit, he agrees to within thirty (30) days peaceably surrender said public right-of-way to the City and, at his own expense, remove any encroachment so as to restore the right-of-way to its original condition.

DATED at Grand Junction, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 1991.

\_\_\_\_\_  
George D. Young

STATE OF COLORADO )

)

ss:

COUNTY OF MESA )

The foregoing Agreement was acknowledged before me this \_\_\_\_\_  
day of \_\_\_\_\_, 1991, by George D. Young.

Witness my hand and official seal.  
My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

NO RECORDED INFORMATION