

PLANNING AND DEVELOPMENT MEMORANDUM

#08-48

October 23, 2008

TO: Honorable Mayor Kathleen M. Novak and City Council Members

FROM: James Hayes, Acting City Manager ^{JH}
Patrick Breitenstein, Zoning Administrator ~~PB~~

SUBJECT: CR-159, Granting an Easement to Public Service Company.

RECOMMENDATION:

Attached to this memorandum is CR-159 which, if approved would grant an easement to Public Service Company for a natural gas line to serve an emergency power generator for the Verizon cell tower in the Northwest Open Space.

Staff recommends approval of the Resolution.

BACKGROUND:

The Verizon cell tower located east of the fresh water treatment plant in the Northwest Open Space requires an emergency backup power source to prevent loss of service in the event of a general power outage. The backup source proposed is a natural gas powered generator to be installed at the base of the tower. Extension of a natural gas line is necessary to serve the emergency generator and any subsequent generators for other antennas and service providers co-located on the tower.

The natural gas line is proposed to extend south from 112th Avenue for approximately 500 feet adjacent to the access road to the Northwest Open Space parking lot. From the access road the gas line will proceed due west for 120 feet to the cell tower. The requested easement is ten feet in width.

The natural gas service line and easement have been reviewed by the Staff Development Review Committee for conflicts with City operations and facilities. The committee found no conflicts and has no objection to the gas line and easement.

BUDGET/TIME IMPLICATIONS:

Approval of this easement would have no financial impact on the City.

STAFF REFERENCE:

If Council members have any comments or questions they may contact Patrick Breitenstein at 303-450-8742 or pbreitenstein@northglenn.org.

SPONSORED BY: MAYOR NOVAK

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-159
Series of 2008

Series of 2008

A RESOLUTION APPROVING A UTILITY EASEMENT IN FAVOR OF PUBLIC SERVICE COMPANY OF COLORADO

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

Section 1. The Easement Agreement between the City of Northglenn and Public Service Company of Colorado, attached hereto as Exhibit A, is hereby approved and the Mayor is authorized to execute same on behalf of the City.

DATED at Northglenn, Colorado, this ____ day of _____, 2008.

KATHLEEN M. NOVAK
Mayor

ATTEST:

JOHANNA SMALL, CMC
Acting City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

PUBLIC SERVICE COMPANY OF COLORADO EASEMENT

THIS EASEMENT AGREEMENT ("Agreement") is dated this 6th day of October, 2008, by CITY OF NORTHGLENN, COLORADO, a Colorado home rule municipality, 11701 Community Center Drive, Northglenn, Colorado 80233 ("City") and Public Service Company of Colorado, 1225 17th Street, Denver, Colorado 80202-5533 ("Company").

WHEREAS, Company desires to acquire an easement for the purpose of the construction and operation of natural gas utility lines, and all fixtures and devices used, or useful in the operation of said lines (the "Gas Utility Facilities"), through, over, under, across, and along the surface of the property described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Easement Property"); and

WHEREAS, City is willing to convey an easement to Company for the aforesaid purposes on the terms and conditions set forth below.

NOW, THEREFORE, for and in consideration of the sum of ten dollars (\$10) paid by Company to City, the covenants of Company herein contained, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the parties hereby covenant and agree as follows:

Section 1. Conveyance of Easement. City does hereby grant and convey unto Company, its successors and assigns an easement through, over, under, across, and along the surface of the Easement Property for the operation of the Gas Utility Facilities. Company shall have the right of ingress and egress, consistent with this Agreement, upon the Easement Property for the purposes of surveying, construction, reconstruction, operation, maintenance, repair, replacement, control and/or removal of the Gas Utility Facilities, including the ability to remove objects interfering with the Gas Utility Facilities, and the trimming of trees and bushes.

Section 2. Covenants of the Company. The Company hereby represents, covenants, and warrants in favor of the City as follows:

a. Company shall be solely responsible for constructing and maintaining the utility facilities.

b. The Company shall protect the Easement Property and the adjacent lands from damage caused in whole or in part by acts or omissions of the Company, its employees, agents, contractors, subcontractors, assigns, lessees, licensees, agents, patrons, invitees, and visitors. The Company shall clean, cure, restore and correct any such damage to the Easement Property.

c. In all activities undertaken on property belonging to the City by the Company or its employees, agents, contractors, subcontractors, successors, assigns, lessees, or licensees, all work shall be completed in a good and workmanlike manner.

d. The Company shall not allow, cause, or permit to be caused by any of its employees, agents, contractors, subcontractors, successors, assigns, lessees, or licensees, any hazardous substances, as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), pollutants or contaminants, as defined by CERCLA, or hazardous waste, as defined by the Resource, Conservation and Recovery Act ("RCRA") including, but not limited to, asbestos, and/or urea formaldehyde, or any pollutants or toxic pollutants as defined by the Clean Water Act, and any amendments thereto, to be dumped, spilled, released, permanently stored, or deposited on, over, or beneath the Easement Property or any other lands owned by the City. Any hazardous, toxic, or flammable substances used by the Company, its employees, agents, contractors, subcontractors, successors, assigns, or lessees, shall be utilized in a lawful manner and in compliance with all federal, state, and local rules and regulations relating to protection of health or the environment.

Section 3. Indemnification of the City by the Company. The Company agrees to, and hereby does, to the extent permitted by law, indemnify and hold harmless the City, its agents, employees, officers and assigns, from any costs, expenses, damages, claims, or demands incurred or asserted against the City or arising out of the activities of the Company, its employees, agents, contractors, subcontractors, successors, assigns, lessees or licensees, patrons, visitors, or invitees in the construction, operation, or maintenance of the Easement Property.

Section 4. Insurance. The Company shall obtain for itself, its agents, successors, assigns, lessees, licensees, and agents, necessary and adequate worker's compensation insurance, personal injury insurance, and property damage insurance, with limits commensurate with the hazards and risks associated with the use of the Easement Property, but in no event less than the liability limits established by the Colorado Governmental Immunity Act, Colo. Rev. Stat. §24-10-101, et seq., as now in effect or as hereinafter amended, and a deductible of not less than one thousand dollars (\$1,000.00). Neither the Company nor its agents, successors, assigns, lessees and/or licensees shall commence any use, construction, operation, or maintenance in the Easement Property until it has obtained all insurance required under this section and shall have filed a certificate of insurance or a certified copy of the insurance policy with the City. Each insurance policy shall list the City as an additional insured and shall contain a clause providing that coverage shall not be cancelled by the insurance company without thirty (30) days written notice to the City of intention to cancel.

Section 5. Retained Rights. City shall have all rights to the Easement Property not granted hereby, but in no event shall City erect any building or structures on the Easement Property, or otherwise locate any mobile home or trailer units thereon.

Section 6. Miscellaneous.

a. Except as otherwise expressly provided herein, all provisions herein contained, including the benefits, burdens and covenants, are intended to run with the land and shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

b. Company and City shall, at their discretion, insure themselves separately, to the extent permitted by law, against liability, loss, or damages arising out of the existence, use or operation of the Gas Utility Facilities.

c. This Agreement constitutes all of the agreements, understandings, and promises between the parties hereto with respect to the subject matter hereof.

d. This Agreement shall be of no force and effect until it is duly and validly executed by all parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their respective duly authorized officers as of the date and year first above written.

CITY OF NORTHGLENN, COLORADO:

By: _____

ATTEST:

PUBLIC SERVICE
COMPANY OF COLORADO

By: Peter West

Peter West, Managing Director
Local Affairs, Xcel Energy Services, Inc.
Agent for Public Service Company of Colorado

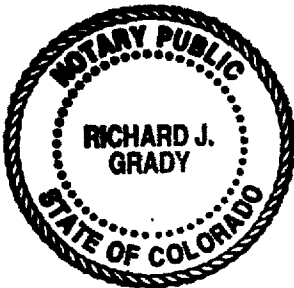
STATE OF COLORADO)

) ss.

COUNTY OF DENVER)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 5th day of October, 2008, by Peter West, Managing Director Local Affairs Xcel Energy Services Inc. Agent for Public Service Company of Colorado
My commission expires: 1-29-2010

(SEAL)



Richard J. Grady
Notary Public

**PROPERTY DESCRIPTION
UTILITY EASEMENTS**

BEING A STRIP OF LAND LOCATED WITHIN THE NORTHWEST QUARTER OF SECTION 9,
TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS,
STATE OF COLORADO LYING 5.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED
CENTERLINE::

UTILITY EASEMENT

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 9;
THENCE SOUTH 88°57'04" EAST, A DISTANCE OF 1007.55 FEET TO THE POINT OF BEGINNING;
THENCE SOUTH 00°20'39" EAST, A DISTANCE OF 157.17 FEET;
THENCE SOUTH 01°58'25" EAST, A DISTANCE OF 126.51 FEET;
THENCE SOUTH 09°54'35" EAST, A DISTANCE OF 28.32 FEET;
THENCE SOUTH 16°26'40" EAST, A DISTANCE OF 110.87 FEET;
THENCE SOUTH 15°19'40" EAST, A DISTANCE OF 89.93 FEET;
THENCE NORTH 89°40'39" EAST, A DISTANCE OF 131.73 FEET TO THE END OF SAID STRIP OF
LAND.

AS SHOWN ON THE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

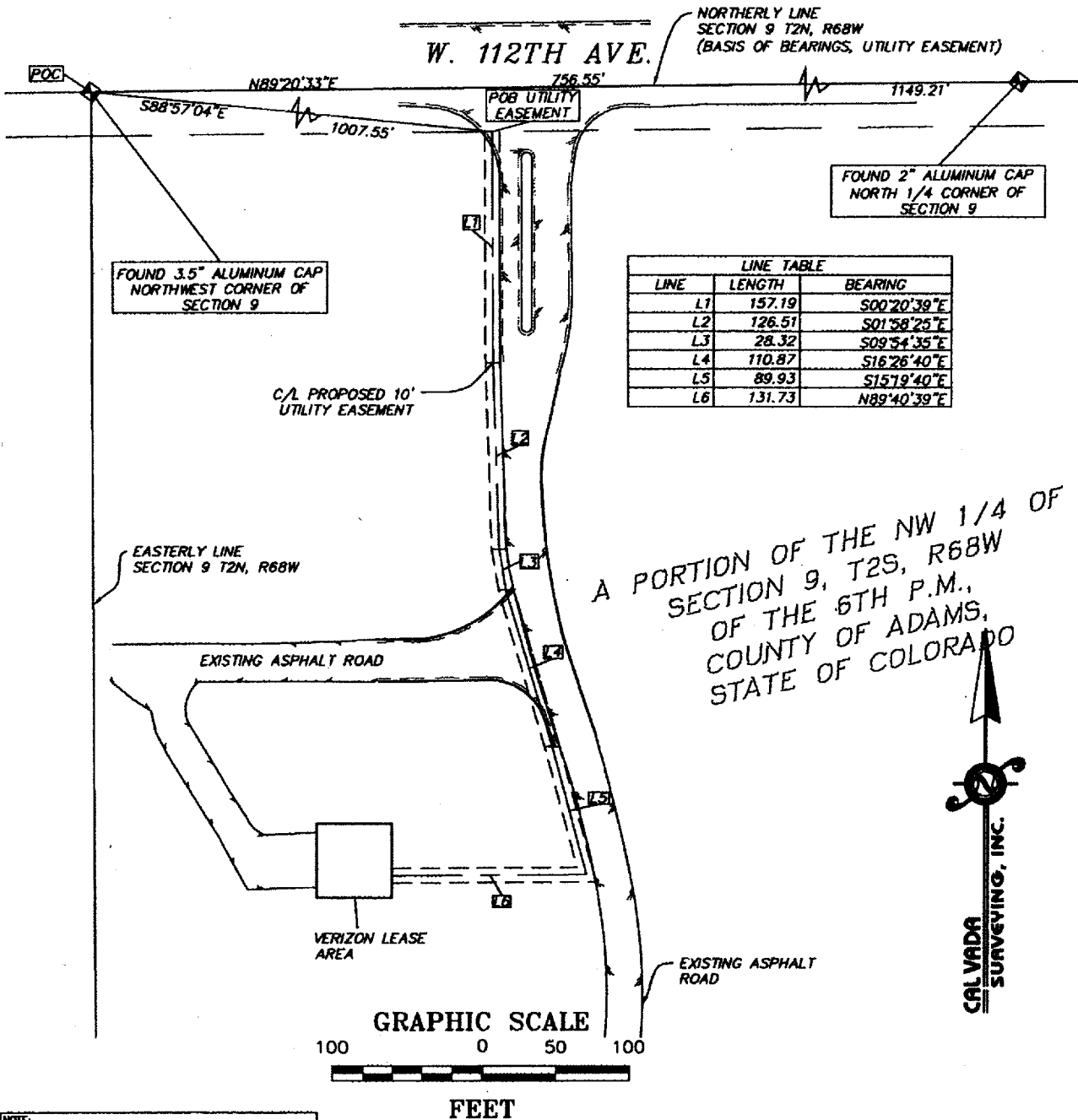
BEARINGS ARE BASED UPON THE NORTHERLY LINE OF SECTION 9, TOWNSHIP 2 NORTH,
RANGE 68 WEST, 6TH P.M., WHICH BEARS NORTH 89°20'33" EAST

THE SIDELINES OF SAID STRIP ARE TO BE LENGTHENED OR SHORTENED TO PREVENT GAP
AND/OR OVERLAPS.

JESUS A. LUGO PLS 38081
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR
FOR AND ON BEHALF OF CALVADA SURVEYING, INC.

EXHIBIT A

TO ACCOMPANY DESCRIPTION



NOTE:
THIS EXHIBIT DOES NOT REPRESENT A LAND SURVEY PLAT
OR AN IMPROVEMENT SURVEY PLAT. THE PURPOSE OF THIS
EXHIBIT IS TO DEPICT THE ATTACHED LEGAL DESCRIPTION.

CAL VADA
SURVEYING, INC.

SHEET 2 OF 2

JOB NO. 07150

DATE: 07/11/08

SCALE: 1"=100'

56 Inverness Drive East Suite 101 Englewood, CO 80112-1448 Phone: (720) 488-1303 ~ Fax: (720) 488-1306