

**RESOLUTION NO. 21-16**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
CASTLE PINES, COLORADO, APPROVING A NON-  
EXCLUSIVE PUBLIC UTILITY EASEMENT AGREEMENT  
WITH PUBLIC SERVICE COMPANY OF COLORADO**

**WHEREAS**, the City of Castle Pines (“City”) owns certain real property (“Subject Property”) with a legal description and as depicted in Exhibit A of the Non-Exclusive Public Utility Easement Agreement (“Easement Agreement”) attached hereto as **Exhibit 1**; and

**WHEREAS**, the Subject Property is known as Tract A of the Lagae Family Trust Minor Development; and

**WHEREAS**, the Public Service Company of Colorado has need to place a gas line on a portion of the Subject Property in order to provide natural gas service to The Canyons development; and

**WHEREAS**, the easement proposed to be granted across the Subject Property is described in the Easement Agreement; and

**WHEREAS**, the City Council desires to approve the Easement Agreement and grant a perpetual, non-exclusive public utility easement to Public Service Company of Colorado for the purpose of installing and maintaining gas line facilities.

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF  
CASTLE PINES, COLORADO, THAT:**

**Section 1.** The City Council hereby: (1) approves the Non-Exclusive Public Utility Easement Agreement with Public Service Company of Colorado in substantially the form attached hereto as **Exhibit 1**; (2) authorizes the City Attorney to make such changes as may be necessary to correct any non-material errors or language in the Easement Agreement that do not increase the obligations of the City; and (3) authorizes the Mayor to execute the Easement Agreement on behalf of the City when in final form.

**Section 2.** If any section, paragraph, clause or provision of this Resolution 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 issues of this Resolution.

**Section 3.** This Resolution shall take effect upon its approval by the City Council.

*(continued on next page)*

**INTRODUCED, READ, AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES BY A VOTE OF 7 IN FAVOR AND 0 AGAINST THIS 23RD DAY OF MARCH, 2021.**



**ATTEST:**

DocuSigned by:

*Tobi Basile*

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Tobi Basile, CMC, City Clerk

DocuSigned by:

*Tera Stave Radloff*

6E0C8EB279DC479

Tera Stave Radloff, Mayor

**APPROVED AS TO FORM:**

DocuSigned by:

*Linda C. Michow*

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Linda C. Michow, City Attorney

**EXHIBIT 1**  
**NON-EXCLUSIVE PUBLIC UTILITY EASEMENT AGREEMENT**

*(see attached document)*

Non-Exclusive Public Utility Easement  
Grantor/Owner: City of Castle Pines  
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## NON-EXCLUSIVE PUBLIC UTILITY EASEMENT AGREEMENT

This **NON-EXCLUSIVE PUBLIC UTILITY EASEMENT AGREEMENT** ("Agreement") is entered into by and between the **CITY OF CASTLE PINES, COLORADO**, a home rule municipality of the State of Colorado with offices at 360 Village Square Lane, Suite B, Castle Pines, Colorado 80108 (the "City" or "Grantor"), and **PUBLIC SERVICE COMPANY OF COLORADO**, a Colorado corporation with an address of 1800 Larimer Street, Suite 1100, Denver, Colorado 80202 (the "Grantee") (together the "Parties"). This Agreement shall be effective upon the date of its mutual execution by the Parties ("Effective Date").

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor hereby grants, bargains, sells, and conveys to the Grantee a perpetual non-exclusive easement, over, across, under and upon the easement area more particularly described in **EXHIBIT A**, attached hereto and incorporated herein by this reference (the "Easement"), to access, construct, install, operate, repair, remove, replace, reconstruct, alter, relocate, patrol, inspect, improve, enlarge, and maintain gas pipelines, with necessary and proper valves, manholes, gas meter/regulator stations, guardrails, fences, and other appurtenances and devices used or useful in connection therewith (collectively the "Gas Line Improvements"), pursuant to the following terms and conditions:

1. **Subject Property.** The Parties agree that the Easement encumbers a portion of Tract A of the Lagae Family Trust Minor Development as shown on the Lagae Family Trust Minor Development Final Plat, recorded at Reception No. 2020078058 on August 21, 2020 in the Douglas County Clerk and Recorder's Office (the "Subject Property").
2. **Placement of Gas Line Improvements.** Grantee shall install and place the Gas Line Improvements exclusively within the Easement. Grantee covenants and agrees that the installation and maintenance of the Gas Line Improvements will not substantially interfere with any structures or other improvements existing as of the Effective Date of this Agreement located on the Subject Property or any structures or other improvements planned to be constructed on the Subject Property by the City as of the Effective Date of this Agreement. Any Gas Line Improvements installed above-ground shall not interfere with the City Improvements, as that term is defined below, and shall require written approval from the City prior to their installation on the Subject Property.
3. **Construction by Grantor on Subject Property.** Grantee understands and acknowledges that the Grantor is in the process of completing grading and the construction of roadway and storm drainage improvements ("City Improvements") on the Subject Property, including within the area of the Easement, as of the Effective Date of this Agreement. Grantee has received and reviewed the Construction Plans for the Lagae Family Trust Minor Development, No. MDV19-001, including the Construction Plans for the Lagae Family Trust Water and Sanitary Sewer, prepared by Rick Engineering Company and dated August 20, 2020 ("Construction Plans"), which show the plans for construction of the City Improvements. Grantee agrees that its use of and access to the Easement for the purposes stated herein shall not interfere with or obstruct the Grantor's right to construct the City Improvements in accordance with the Construction Plans or the Grantor's use of the City Improvements following their construction.

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4. Access to Easement. The Grantee, its agents, successors, and permitted assigns shall have and exercise the right of permanent and perpetual ingress and egress in, on, to, through, over, under, and across the Easement for any purpose necessary and at any and all times necessary or convenient for the full enjoyment of the rights granted to it in this Agreement. The Grantee shall be liable to the extent allowed by law for loss and damage which is caused by any wrongful exercise of Grantee's rights of ingress and egress or by the wrongful or negligent act or omission of its agents or employees in the course of their employment in exercising the rights of ingress or egress to the Easement granted by this Agreement.
5. Use of Easement. The Grantee shall not use the Easement for any use other than those uses listed herein. The Grantee, its agents, successors, and permitted assigns shall have the right to enter upon the Easement and to survey, construct, reconstruct, install, operate, use, maintain, repair, replace, and/or remove the Gas Line Improvements made within the Easement. The Grantee shall not be authorized to use, occupy or access any portion of the Subject Property outside the Easement boundaries without the prior written approval of the Grantor.
6. Restoration of Easement and Subject Property. Except as otherwise provided herein, upon completion of its activities, the Grantee, to the extent practicable, shall restore: (a) the Easement, including the surface of the ground and all landscaping; and (b) such portions of the Subject Property used by the Grantee as may be permitted by this Agreement, to substantially the condition said areas were in immediately prior to the installation of the Gas Line Improvements, except as necessarily modified to accommodate the Gas Line Improvements. The Grantee, for itself, its successors and assigns, agrees that it will pay the reasonable value of actual physical damage done to the Subject Property, including but not limited to any adjacent roadway or City Improvements owned by the Grantor, or its successors and assigns, arising at any time out of the exercise by Grantee of the rights herein granted.
7. Future Growth of Trees and Brush. Grantee, its successors and assigns, shall have the right to control the future growth of all trees and brush located within the Easement which may, in Grantee's judgment, interfere with the operation of and access to the Gas Line Improvements within the Easement. Notwithstanding the foregoing, Grantee shall not alter any landscaping included in the City Improvements without the prior written approval of Grantor.
8. Ownership and Maintenance of Gas Line Improvements. Grantor agrees that Gas Line Improvements installed on above-described lands at the Grantee's expense shall remain the property of the Grantee, removable at the option of the Grantee. Grantee shall maintain the Gas Line Improvements in a sightly and clean manner, and Grantee shall repair and reconstruct any Gas Line Improvements determined by the Grantor to be in a state of disrepair.
9. Future Reversion. The Grantee agrees that in the event that and at such time as the Easement described herein is abandoned by the Grantee and any assignee permitted under this Agreement, such Easement shall terminate and the real property interest represented by such Easement shall revert to the Grantor, its successors, and/or assigns.
10. Reservation of Grantor's Rights. The Grantor reserves the right to use the Subject Property for purposes which are consistent with the rights and privileges herein granted,

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including construction and use of the City Improvements, and which will not interfere with or endanger the Grantee's facilities therein or interfere with the uses or any of the rights herein granted. As a non-exclusive public utility easement, the Grantor reserves the full right to dedicate or convey easement rights to others, provided such easements do not substantially interfere with the use of the Easement by Grantee.

11. No Assignment. It is expressly acknowledged and agreed that the Grantee shall have neither the right nor the authority to assign to any third party the rights or obligations granted by virtue of this Agreement without prior written approval from Grantor.
12. Successors and Covenants Running with the Land. Each and every one of the benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, successors, and permitted assigns of the Grantor and the Grantee. The rights and responsibilities set forth in this Agreement are intended to be covenants on the Easement and are to run with the land until the Easement is abandoned or terminated pursuant to the terms set forth herein.
13. No Waiver of Immunity. Nothing in this Agreement is intended to waive any protection afforded to the Grantor, or its respective officials, employees, and agents by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.*, or any other applicable law providing immunity to the Grantor, its officials, employees, and agents.
14. Recordation. This Agreement shall be recorded in the offices of the County Clerk and Recorder for Douglas County, Colorado.
15. Counterparts. This Agreement may be executed in counterparts, each of which will be an original, but all of which together shall constitute one and the same instrument.
16. Section Headings. Any section headings contained herein are included for reference purposes only.
17. Attorneys' Fees. In the event either party seeks to enforce its rights hereunder through litigation or another legal proceeding, the court or panel shall award to the prevailing party in such litigation or other legal proceeding, as part of its judgment or award, its reasonable attorneys' fees and costs.
18. Governing Law. The terms, covenants and provisions hereof shall be governed by and construed under the applicable laws of the State of Colorado.
19. Police Powers Reserved. Nothing in this Agreement waives or is intended to waive the Grantor's authority to exercise its police powers.

*SIGNATURE PAGES FOLLOW*

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IN WITNESS WHEREOF, the parties have executed this Agreement as set forth below.

**GRANTOR:**

CITY OF CASTLE PINES, a home rule municipality  
of the State of Colorado

By: \_\_\_\_\_  
Tera Stave Radloff, Mayor

Date of execution: \_\_\_\_\_

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Tobi Basile, CMC, City Clerk

\_\_\_\_\_  
City Attorney

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**GRANTEE:**

PUBLIC SERVICE COMPANY OF COLORADO, a  
Colorado corporation

By: Richard J. Grady  
Richard J. Grady

Name: Manager, Siting and Land Rights.  
Right of Way & Permits Department

Title: Public Service Company of Colorado

Date of execution: 3/9/2021

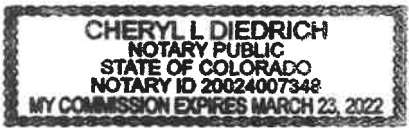
STATE OF COLORADO            )  
  ) ss.  
COUNTY OF JEFFERSON        )

The foregoing Non-Exclusive Public Utility Easement Agreement was subscribed, sworn to and acknowledged before me this 9th day of March, 2021, by Richard J. Grady, as Manager, Right of Way & Permits of Public Service Company of Colorado, a Colorado corporation.

My commission expires: 3/23/2022

(SEAL)

Cheryl L. Diedrich  
Notary Public





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**EXHIBIT A  
EASEMENT LEGAL DESCRIPTION AND LOCATION**

**PERMANENT EASEMENT  
LEGAL DESCRIPTION**

Being a portion of Tract A of the Lagae Family Trust Minor Development Final Plat recorded at Reception Number (R.N.) 2020078058 on August 21, 2020 in the records of the Douglas County Clerk & Recorder's Office, State of Colorado situated in the Southwest one-quarter of Section 3, Township 7 South, Range 67 West of the 6th Principal Meridian, Douglas County, State of Colorado, more particularly described as follows:

**BASIS OF BEARINGS:** All bearings are grid bearings of the Colorado State Plane Coordinate System, Central Zone, North American Datum of 1983(2011). The Basis of Bearings is the line between National Geodetic Survey control points "Unbewust" (PID KK2154) and "Eckhardt" (PID KK2053). The Northerly point of said line being a found standard brass disk set in a rock outcrop, and the Southerly point of said line being a found steel rod in a range box. Said line bears South 02° 53' 41.83" West a distance of 21,728.55 feet.

**BEGINNING** at a point on the South line of said Tract A from whence the Southwest corner of said tract bears North 89° 29' 13" West a distance of 27.77 feet, the Southerly point of the Basis of Bearings bears South 16° 22' 57.72" East a distance of 6,671.24 feet, and the Southwest corner of said Section 3, being a found 3 1/4 inch aluminum cap stamped "PLS 37993", bears South 32° 21' 06" West a distance of 1,520.22 feet;

**THENCE** North 33° 49' 03" West a distance of 448.38 feet to a point on the Southerly Right-of-Way line of East Castle Pines Parkway from whence the Northwest corner of said Tract A bears South 83° 57' 43" West a distance of 16.93 feet, the West one-quarter of said Section 3, being a found 2 inch aluminum cap stamped "PLS 10734", bears North 34° 20' 12" West a distance of 1,047.22 feet, and the North point of the Basis of Bearings bears North 12° 11' 57.43" East a distance of 15,280.51 feet;

**THENCE** along said Right-of-Way on a non-tangent curve to the left having a radius of 1,262.00 feet, a central angle of 02° 31' 43" and an arc length of 55.70 feet. The chord of said curve bears North 82° 18' 48" East a distance of 55.69 feet;

**THENCE** departing said Right-of-Way South 33° 49' 03" East a distance of 458.00 feet to a point on the South line of said Tract A;

**THENCE** along the South line of said Tract A North 89° 29' 13" West a distance of 60.55 feet to the **POINT OF BEGINNING.**

The easement described herein contains 22,648 square feet or 0.520 acres, more or less.

Exhibit attached and by this reference made a part hereof.

I, Eric R. White, a duly registered Professional Land Surveyor under the laws of the State of Colorado, do hereby certify that this legal description was prepared by me or under my direct supervision and that it is

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correct to the best of my knowledge and belief. It is not to be construed, nor does it represent a monumented land survey.

Eric R. White  
Colorado Professional Land Surveyor  
License Number 38278  
September 24, 2020

Prepared for and on behalf of NV5, Inc.  
2650 18<sup>th</sup> Street, Suite 202  
Denver, Colorado 80211  
Tel: (303) 220-6400



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