

DDA032RV

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: **CONTRACT**

NAME OF CONTRACTOR: GRAND JUNCTION DOWNTOWN DEVELOPMENT  
AUTHORITY

SUBJECT/PROJECT: A SIGN ON THE TWO RIVERS CONVENTION  
CENTER SITE

PURPOSE: TO INFORM GRAND JUNCTION CITIZENS AND  
VISITORS OF THE ACTIVITIES AND ASSETS IN DOWNTOWN INCLUDING  
THOSE AT TRCC AND THE AVALON

CITY DEPARTMENT: DOWNTOWN DEVELOPMENT AUTHORITY

YEAR: 2003

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

**AN AGREEMENT  
BETWEEN THE CITY OF GRAND JUNCTION AND  
THE GRAND JUNCTION DOWNTOWN DEVELOPMENT AUTHORITY  
FOR USE OF THE TWO RIVERS CONVENTION CENTER SIGN**

This Agreement is made between the City of Grand Junction ("City") and the Grand Junction Downtown Development Authority ("DDA") this 6<sup>th</sup> day of May 2003.

**Recitals.**

- A. The City owns and operates the Two Rivers Convention Center ("TRCC") located at the west end of Main Street (159 Main Street). The City owns and operates, with the assistance of the DDA and the Avalon Committee, a Colorado non-profit corporation, the Avalon Theater located at the east end of Main Street (645 Main Street) in downtown Grand Junction.
- B. Between these two key public "anchors" is the award-winning Main Street Shopping Park ("Park") that is also owned and operated by the City. The Park is a central feature of the DDA's geographic limits and a critical attribute to the DDA's programs and functions. One of the statutory powers of the DDA is to promote the economic health of the downtown and to promote the economic health, within constitutional and statutory limits, of the merchants and other businesses in the downtown area of the City.
- C. The efforts of the City and the DDA are complemented by the energy and efforts of the downtown merchants and business people. Those merchants and business people have created the Downtown Merchant's Association, a Colorado not-for-profit corporation ("DTA"), to promote their activities and to support, in turn, the downtown efforts of the City and the DDA.
- D. The parties agree that a healthy, safe and attractive downtown is a key component to a safe and healthy city. Working in complementary ways, these entities can maximize efforts to promote the downtown, thus benefiting the downtown and the entire City.
- E. A sign on the TRCC site, located as it is on U.S. Highway 50, is one valuable way to inform Grand Junction citizens and visitors of the activities and assets in downtown, including those at TRCC and the Avalon.
- F. The City intends to replace the existing TRCC sign. This Agreement addresses the costs of constructing and maintaining such a sign, including the sign messages. Such joint and cooperative use of the sign will save tax dollars while promoting public purposes.

- G. For all of these reasons, and for purposes of this Agreement, the Avalon, Two Rivers and the connecting Downtown Park will be treated as an integrated unit for purposes of the sign that is the subject of this agreement.

**NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**1. Sign Construction.**

- (a) During 2003 the City shall, with the assistance of a reputable sign contractor, design and construct a new sign ("Sign" or "the Sign") in the general location of the existing sign on the premises of the Two Rivers Convention Center ("Two Rivers" or "TRCC"). An artistic rendering of the proposed sign is attached.
- (b) The City shall own, operate and maintain the Sign, including changing the messages on it from time to time as provided for in this Agreement.

**2. Funding.**

- (a) The DDA shall pay for up to one-half of the costs of the Sign which include, but are not limited to: the cost to demolish and remove the existing sign; any necessary site preparation, construction and installation costs; the cost of the physical structure(s); an extended warranty on the sign/character generator and \$5000.00 to the Sign Fund established herein below. The DDA, by this agreement, agrees to share in such costs not to exceed a total of \$47,000.00.
- (b) The City shall annually, subject to appropriation by the City Council beginning in 2004, contribute \$500.00 for a period of 10 years to the Sign Fund. The appropriation shall be in addition to the funding provided by the DDA in paragraph 2(a) above. The purposes of the Sign Fund are the replacement, repair and maintenance of the Sign.
- (c) Expenses shall be charged against the Sign Fund on a '50-50' basis. The City shall keep and account for the Sign Fund and expenditures made from it. The City may spend any or all of the accrued balance of the Sign Fund without prior approval from the DDA, including but not limited to for catastrophic loss or damage as provided herein.
- (d) If at the end of 10 years the Sign Fund has not been wholly expended, then the accrued and unencumbered balance shall be used to upgrade the Sign or as a "down payment" for the replacement of the Sign in 2013. Upgrade or replacement shall occur only with the concurrence of the DDA, which concurrence shall not be unreasonably withheld.

(e) The City, by this agreement, agrees to bear the risk of catastrophic loss or damage to the Sign, which is defined as damage of greater than \$10,000.00. The Sign Fund shall be first used to the extent of all unencumbered, accrued funds up to \$10,000.00 for repair and/or replacement. The City may request contribution from the DDA for the repair and/or replacement of the Sign, but the DDA shall not, by this Agreement or otherwise, be obligated to pay additional funds over and above those in the Sign Fund at the time of the loss. The City may separately insure or may self-insure the sign without naming the DDA as an additional insured and/or designating the DDA as having an insurable interest.

**3. Operation, Sign Usage and Content.**

- (a) The City understands the importance of advertising to promote Two Rivers Convention Center, the Avalon and downtown and will accordingly attempt to evenly allocate the time and space for City and DDA messages.
- (b) In order to account for and allocate the time and space in accordance with that understanding, the City and the DDA stipulate and agree that advertising for all events at the Avalon, including but not limited to Avalon "free days," for profit and not-for-profit shows, productions, plays, exhibitions, concerts and oratories held at the Avalon shall be counted equally against the City and the DDA for purposes of allocating the time and space on the Sign.
- (c) The City agrees to reasonably cooperate with the DDA if unforeseen need arises for the DDA to use more than half the time and half the space of the Sign, and the DDA agrees to reasonably cooperate with the City if unforeseen need arises for the City to use more than half the time and space on the Sign. Cooperation and consent of the Parties, one to another, shall not be unreasonably withheld.
- (d) The City shall keep a record of the messages and the time that each are displayed with the expectation, subject to (b) above that the annual usage by the City and the DDA shall be as close as possible to being equivalent, over the course of each year, accounting for unforeseen use as provided in (c) above.
- (e) The DDA may request, no more frequently than monthly, an accounting from the City of the time and content of messages displayed by and for the DDA.

- (f) The Sign shall be used only for the purpose of advertising events sponsored or approved by the City and/or the DDA, including events that are taking place at the TRCC and the Avalon Theater. Examples of such events include, but are not limited to, street festivals, parades on Main Street and other events sponsored, funded or promoted under the auspices of the City, the DDA or any other non-profit organization.
- (g) The sign may not advertise a specific business(es) or commercial activity(ies) or commercial activities that are not sponsored, funded or promoted by the City, the DDA or any other non-profit organization. Examples of permissible advertising for Two Rivers Convention Center events include but are not limited to:
- “XYZ Company Annual Meeting – date and time”
  - “Lions Club Carnival – date and time”
  - “United Way Appreciation Banquet -- date and time”
  - “KAFM Blues-a-thon -- date and time”

Examples of permissible advertising for Main Street/Shopping Park events include but are not limited to:

- “Downtown Association Car Show on Main Street – date and time”
- “Art and Jazz Festival – between 4<sup>th</sup> and 5<sup>th</sup> Streets on Main – date and time”
- “GJHS Homecoming Parade – date and time”
- “35<sup>th</sup> Annual Oktoberfest – date and time”

Examples of permissible advertising for Avalon events include but are not limited to:

- “Lyle Lovett at the Avalon – date and time”
- “Senior Follies at the Avalon – date and time”
- “Saturday Cinema at the Avalon - *Casa Blanca* – date and time”
- “Avalon Ticket Information – telephone number”

- (h) Advertising on the Sign shall be informational only, in accordance with §4.2 (C) of the City’s January 20, 2002 Sign Code (“Sign Code”). Depending on the circumstances, any one or more of the following subsections of the Sign Code may apply to signage and advertising that is contemplated by this Agreement: 4.2 (C) (a), (b), (f) and (h).
- (i) Until the Parties agree otherwise by written consent of the staff Contacts of both:
- (i) No event may be advertised for more than ten (10) calendar days prior to the event; and

(ii) Advertising of an event shall be removed by the end of the next business day following the event.

(iii) The Parties shall first by discussion, negotiation and, if possible, agreement, attempt to decide any ambiguities and resolve any issues that may arise out of this Agreement; if unsuccessful the dispute shall be resolved in accordance with paragraph 5.

**4. Staff Contacts.**

(a) For purposes of this Agreement, the City's Director of Parks and Recreation is designated as the City's contact person.

(b) For purposes of this Agreement, the DDA Executive Director is designated as the DDA's contact person.

(c) Either party may change the designated contact person at any time by giving written notice.

**5. Dispute Resolution.**

(a) Claims, disputes or other matters in question between the parties to this Agreement shall first be referred to and resolved by mediation if the effort called for in (i) (iii) has failed.

(b) Any mediation shall be held in accordance with rules that the Parties mutually agree upon and establish. Upon the parties' reasonable attempt and failure to agree upon rules for mediation, the rules of the American Arbitration Association for the mediation of commercial disputes shall be imposed.

(c) Demand for mediation shall be filed in writing with the other party. Any demand for mediation shall be made within a reasonable time after the claim, dispute or other matter in question has arisen and not been resolved as provided in (i) (iii).

(d) In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based upon such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

(e) Any claim, dispute or other matter in question not resolved by mediation shall be decided by arbitration in accordance with rules that the Parties mutually agree upon and establish. Upon the parties' reasonable attempt and failure to agree upon rules for the arbitration, the rules of the American Arbitration Association for the arbitration of commercial disputes shall be imposed.

- (f) If the claim, dispute or other matter in question is not resolved by meditation and arbitration then either party may resort to litigation but only after providing notice (not less than 180 days) prior to initiation of an action, with the stipulated remedy to be specific performance of and under the agreement. Following notice the party alleged to be in breach of the agreement may cure said breach and assert the same as a defense to any action.
- (g) A party may not file an action for specific performance if the alleged non-performance by the other party is as a result or consequence of non-appropriation of funds or other such impracticability.
- (h) Each party shall bear its own costs of any meditation, arbitration or litigation.

**6. Venue**

Venue for any action arising out of or under this agreement or an alleged violation thereof shall be in Mesa County, Colorado.

**7. Compliance with Laws**

The City shall comply with all applicable federal, state and local laws, including the ordinances, resolutions, rules and regulations of the City, particularly the City's Sign Code relating to signs. If the City determines that any proposed advertising or use of the Sign is beyond or contrary to this Agreement or the City's Sign Code, then the City reserves the right to refuse to advertise. Any such refusal shall be resolved in accordance with paragraph 5.

**THIS AGREEMENT IS ENTERED INTO:**

DATED: May 6<sup>th</sup>, 2003.

CITY OF GRAND JUNCTION  
A Municipal Corporation

GRAND JUNCTION  
DOWNTOWN DEVELOPMENT  
AUTHORITY

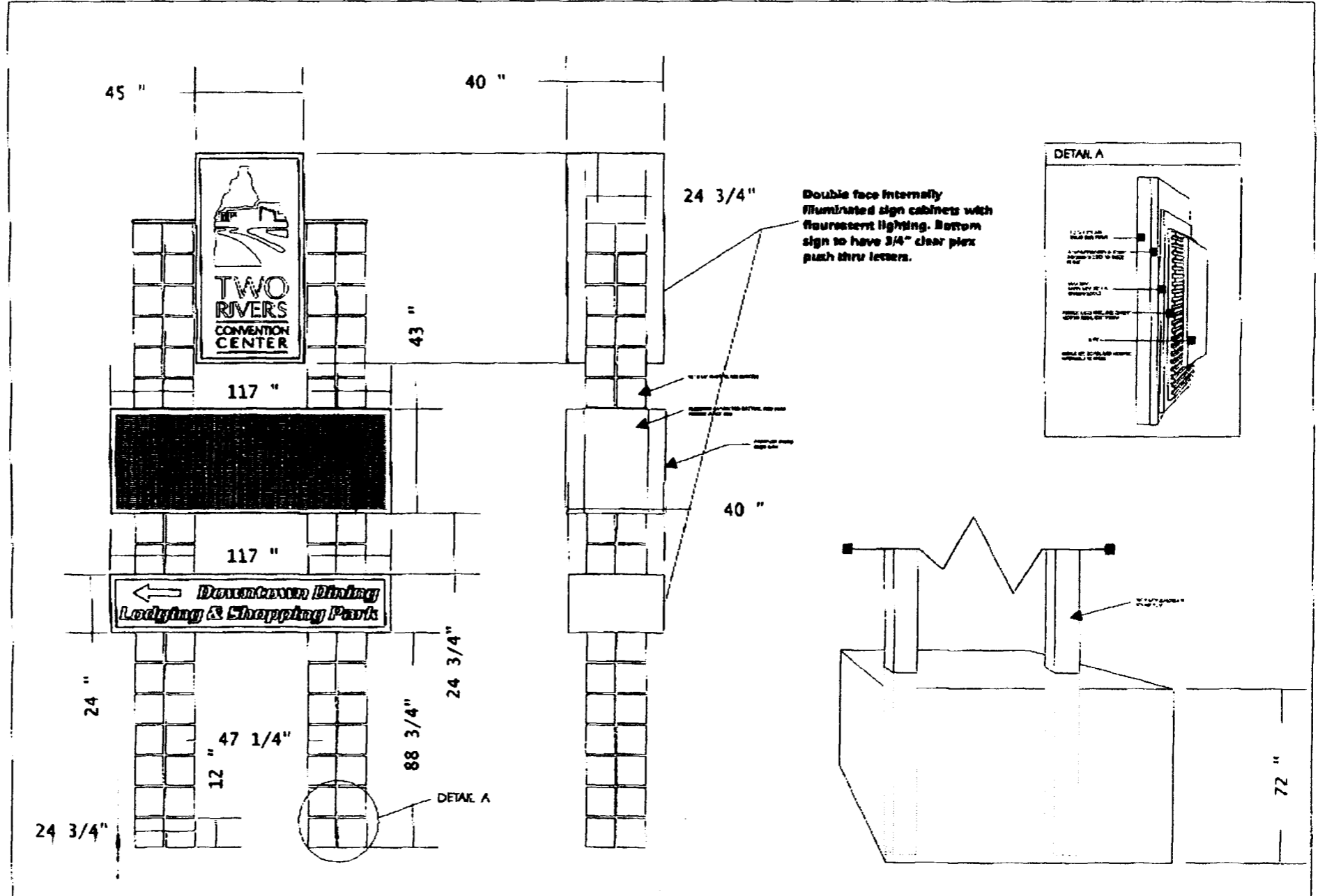
By: [Signature]  
Title: City Manager



By: [Signature]  
Title: Chairman

Attest: Stephanie Luen

Attest: [Signature]



2010 Hwy. 63-20 Grand Junction, CO 81504 8201240-0257  
 ARCHITECTURAL SERVICES AND SIGN FABRICATION

**TWO RIVERS  
CONVENTION CENTER**  
 GRAND JUNCTION COLORADO

**City of Grand Junction  
Parks & Recreation**

**Detail 1  
Revision 0  
Date: 1-22-03**