

DDA94AVL

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: CONTRACT (SUBGRANTEE)

NAME OF AGENCY OR CONTRACTOR: DOWNTOWN DEVELOPMENT AUTHORITY

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: AVALON THEATER  
645 MAIN STREET-DDA TO ACT AS CONTRACTOR FOR ADMINISTRATION OF  
ENERGY IMPACT ASSISTANCE FUNDS

CITY DEPARTMENT: ADMINISTRATION

YEAR: 1994

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

## CONTRACT

This Contract is made and entered into this 17<sup>th</sup> day of August, 1994, by and between THE CITY OF GRAND JUNCTION, CO ("City"), and the Downtown Development Authority of the City of Grand Junction, a political subdivision organized pursuant to Article 25 of title 31, ("Sub-Grantee").

WHEREAS, City has applied, on behalf of Sub-Grantee, to the State of Colorado for Mineral Impact Funds to fund the acquisition and renovation of the Avalon Theater building; and

WHEREAS, the State of Colorado has approved the City's application with an award of \$225,000 in Energy Impact Assistance Funds; and

WHEREAS, Sub-Grantee has the full resources to act as contractor in the administration and operation of the program and City wishes to have Sub-Grantee assume all benefits and obligations related thereto;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Scope of Services

Sub-Grantee shall be the contractor for the Energy Impact Contract. Sub-Grantee shall, in a satisfactory and proper manner, carry out all of the work elements and all of the obligations and responsibilities imposed upon the City in the Contract, which Contract is attached hereto as Exhibit "A," and the contents of which are specifically incorporated herein by this reference.

2. Time of Performance

The time of performance of this Contract shall be identical to the time of performance of the Contract for the purposes of the grants. Specifically, this Contract shall be deemed to have been executed and shall become effective at the same time as the execution of the Contract.

3. Funding/Compensation

The Sub-Grantee shall receive as compensation those eligible program administrative cost reimbursements from various sources in accordance with the Contract. The local funding of \$151,400 will be obtained by the Sub-Grantee from local sources and fundraising upon execution of this agreement. The City and DDA will each provide \$100,000.

4. Budget

All expenditures of Energy Impact Funds by Sub-Grantee shall be in accordance with a Project Budget to be submitted to the

City for its approval. Such proposed budget shall be submitted by August 1, 1994.

5. Personnel

Sub-Grantee represents that it has, or will secure, sufficient personnel to perform its obligation(s) under this Contract. Such personnel shall be fully qualified and shall be authorized or permitted under federal, state and local law to perform such services.

The executive director of the City of Grand Junction Downtown Development Authority (sub-grantee) is the designee of the Downtown Development Authority and shall act as the administrator under this contract. This sub-grantee designation is for purposes of this contract only.

Sub-Grantee is an independent contractor, and no officer, agent or employee of Sub-Grantee shall be deemed to be an employee or agent of the City.

6. Modifications and Amendment

A. Modification by Operation of the Law: This Contract is subject to such modification as may be required by changes in federal, state or local law or regulations. Any such required modification shall be incorporated into this Contract as if fully set forth herein.

B. Programmatic or Budgetary Modifications: Sub-Grantee shall follow the revision procedures set forth in any applicable State required or recommended Financial Management Manual if programmatic or budgetary modifications are desired. Any such modifications shall require City and State approval, accomplished through a corresponding modification in the Contract.

C. Other Modifications: If either the City or Sub-Grantee desires to modify the terms of this Contract, written notice of the proposed modifications shall be given to the other party. No modifications shall take effect unless and until agreed to in writing by both parties in an amendment to this Contract properly executed and approved in accordance with applicable law.

7. Termination

A. Termination Due to Loss of Funding: The parties hereto expressly recognized that Sub-Grantee is only to be paid with funds provided by the State to the City pursuant to the Contract and therefore, Sub-Grantee expressly understands and agrees that any rights, demands, and claims to any compensation arising under this Contract are contingent upon receipt of such funds from the State

by the City. In the event that such funds or any part thereof are not received by the City, either party may immediately terminate or amend this Contract, and upon termination all obligations of the parties hereunder shall be suspended forthwith, except loan servicing and the provisions of paragraph 11.

- B. Termination for Causes: If Sub-Grantee shall fail to fulfill in timely and proper manner any of its obligations under this Contract, or if Sub-Grantee shall violate any of the covenants, agreements, or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract for cause by giving notice to Sub-Grantee of such termination and specifying the reasons for and effective date thereof at least five (5) days before the effective date of such terminations, which notice may preserve City's rights under paragraph 11.

8. Conflict of Interest:

Sub-Grantee shall comply with the conflict of interest provisions of the Contract, state law, and shall insure that no member of its Board or staff, or of the governing body of the City, or any other officer, employee or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the project, shall have any personal or financial interest, direct or indirect, in this Contract.

9. Compliance with Applicable Laws

At all times during the performance of this Contract, Sub-Grantee shall strictly adhere to all applicable federal, state and local laws, orders, standards, regulations, interpretations, or guidelines issued pursuant thereto.

Sub-Grantee shall keep itself fully informed of all federal and state laws and all municipal ordinances and regulations in any manner affecting the work or performance of its Contract or any extra work and shall at all times observe and comply with such laws, ordinances or regulations, whether or not such laws, ordinances or regulations, are mentioned herein, and shall indemnify the City, its officers, agents and employees against any claim or liability arising from or based on the violation of, or alleged violation of, any such laws, ordinances or regulations.

10. Indemnification

Sub-Grantee shall indemnify, save, hold harmless and defend the City and all of its officials, employees, agents and officers from:

- A. Any and all claims, lawsuits, damages, or liabilities, including reasonable attorney's fees (or the reasonable value of an attorney's time) and court costs, which at any time may be or are stated, asserted, or made against the City, its officers, employees or agents, by the State of Colorado, the federal government or any agency thereof or any other third party whomsoever, in any way arising out of, or related to, the Contract or representations, covenants, or obligations of Sub-Grantee under the Contract or the prosecution of the Project contemplated by the Contract regardless of whether said claims are frivolous or groundless; and
- B. The failure of any of Sub-Grantee's officers, agents, employees, or contractors to comply in any respect with any of the requirements, obligations or duties imposed on the City by the Contract, or reasonably related to or inferred therefrom; and
- C. Any and all liability, claims demands, actions, debts, and attorney fees arising out of, claimed on account of, or in any manner predicated upon loss or damage to the property of, injuries to, or death of all persons whatsoever which may occur or be sustained in connection with the performance of the Contract.

11. Materials

Sub-Grantee, and its Executive Director agree that s(he) has carefully read the Contract and all materials referenced in the Contracts and all other materials sent to the State of Colorado in order to procure the Contract. Sub-Grantee hereby covenants and agrees that it will abide by each and every document and will abide by each and every provision thereof.

12. Assignment

Sub-Grantee shall not sublet any part of the work under this Contract nor assign any monies due it hereunder without first obtaining the written consent of the City.

13. Binding on Successors

This Contract shall inure to the benefit of and be binding upon the parties and their respective successors or assigns.

IN WITNESS WHEREOF, the parties have executed this Contract on the day first written.

CITY OF GRAND JUNCTION

BY:

*Martin*

City Manager

ATTEST:

*Theresa J. Martinez*  
City Clerk, Deputy

DATED

*8-17-74*

DOWNTOWN DEVELOPMENT AUTHORITY

BY:

*Richard P. Crasman*

Director

ATTEST:

*Wing*

DATED

*8-15-74*