

RESOLUTION NO. 62-93

AUTHORIZING A THREE YEAR LEASE OF LOTS 20, 21 & 22 IN BLOCK 101
OF THE CITY OF GRAND JUNCTION
FOR USE AS A PUBLIC PARKING LOT

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

1. That the City Manager is hereby authorized and directed to execute the attached Lease Agreement for the lease of the above described property from Ralph N. Schmidt.

2. As provided in said Lease Agreement, the essential terms are as follows:

(a) The basic term of the lease shall be for a period of three years, commencing on October 15, 1993, and expiring on October 14, 1996, with an option to extend said Lease for two successive three year periods upon the same terms and conditions of the basic term;

(b) Rent shall be \$600.00 paid annually;

(c) It is the express intent of the parties to said Lease Agreement that the Property, so long as it is used by the City, be exempt from ad valorem taxation pursuant to C.R.S. 31-15-802;

(d) The City shall be entitled to a first right of refusal to purchase the Property under the same terms and conditions contained in any bona fide offer to purchase which is acceptable to the Lessor. The City shall have 30 days to exercise said first right of refusal.

PASSED and ADOPTED this 6th day of October, 1993.

Attest:

City Clerk

President of the Council

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into as of the 15th day of October, 1993, by and between RALPH N. SCHMIDT, hereinafter referred to as "the Lessor", and the CITY OF GRAND JUNCTION, a Colorado home rule municipality and hereinafter referred to as "the City".

NOW, THEREFORE, In consideration of the mutual covenants contained herein, the parties agree as follows:

SECTION ONE
Description of Premises

1.1 Lessor leases to the City and the City leases from Lessor, under the terms and conditions of this Lease, the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

Lots 20, 21 and 22 of Block 101, City of Grand Junction,

also known as 256 Main Street and hereinafter referred to as "the Property".

SECTION TWO
Term

2.1 The term of this Lease shall be for three (3) Lease years (basic term), commencing on October 15, 1993 and expiring on October 14, 1996. If the City performs as required pursuant to this Lease and as part of the consideration for the payment of all rentals provided for herein, Lessor hereby gives and grants to the City an option to extend this Lease for two (2) successive three (3) year periods, each commencing upon the expiration of the prior three (3) year term, upon the same terms and conditions as herein set forth. In order to exercise the option for each three (3) year extended term, the City shall give written notice to Lessor of its intention to exercise the option not less than sixty (60) days prior to the expiration of the basic term or any extended term of this Lease.

2.2 Should the City holdover and continue in possession of the Property after expiration of the basic term or any extended term of this Lease, the City's continued occupancy of the Property shall be considered a month-to-month tenancy subject to all of the terms and conditions of this Lease.

SECTION THREE
Rent

3.1 The City agrees to pay to Lessor, at the address of Lessor set forth herein or at such other address as Lessor may from time to time designate in writing, an annual rent for the use of the Property in the amount of Six Hundred Dollars (\$600.00), payable in advance on or before October 15 of each Lease year.

3.2 The City agrees to pay, in addition to the rental amount(s) set forth in paragraph 3.1 above, any special assessments and the general property taxes assessed against the Property during the basic term

or any extended term of this Lease; provided, however, that the Property may become exempt from ad valorem taxation so long as it is used for proprietary functions of the City pursuant to C.R.S. 31-15-102.

SECTION FOUR
Use of the Property

4.1 The City agrees to use the Property only to construct, operate and maintain thereon a parking lot for the benefit and use of the general public and shall not use not permit the Property to be used in any other fashion or in any manner contrary to the laws, ordinances or regulations of any governmental unit or agency exercising jurisdiction over the property.

4.2 With the approval of the Lessor, which approval shall not be unreasonably withheld and so long as the signs conform to ordinances and zoning laws imposed by applicable governmental agencies, the City may install and maintain appropriate signs on the Property associated with the operation which it conducts thereon.

4.3 The City shall not commit nor permit waste, damage or injury to the Property.

SECTION FIVE
Repairs and Maintenance

5.1 The City shall maintain all aspects of the Property, including but not limited to the appearance and integrity of any improvements, landscaping, irrigation systems and signs, in good order, good appearance, condition and repair and in a clean, sanitary, orderly and safe condition and in accordance with all applicable laws, ordinances and regulations of any governmental authority having jurisdiction.

5.2 If the City refuses or neglects to commence repairs or perform maintenance work required under the terms hereof to be performed or paid for by the City within forty-five (45) days after written demand, or fails to complete such repairs or perform such maintenance within a reasonable time thereafter, Lessor may, without any obligation or requirement to do so, enter on the Property and make such repairs or perform such maintenance without liability to the City's operations by reason thereof, and if the Lessor makes such repairs or performs such maintenance, the City shall pay to Lessor, on demand, as additional rent the cost thereof with interest at the rate of fifteen percent (15%) per annum from the date of payment by the Lessor for such repairs until paid by the City. Any repairs made or maintenance performed by the City or the Lessor shall be completed expeditiously.

SECTION SIX
Nonliability of Lessor for Damage

6.1 Lessor shall not be liable for liability or damage claims for injury to persons or property from any cause relating to the occupancy of the Property by the City, including those arising out of damages or losses occurring on sidewalks and other areas adjacent to the Property during the term of this Lease or any extension thereof, nor for any injury or damage to any property of the City from any cause. The City shall indemnify the Lessor from all liability, loss or other damage claims or obligations resulting

from any injuries or losses of any nature described in this paragraph 6.1.

SECTION SEVEN
Insurance

7.1 The City is self-insured up to \$150,000 per claim with excess coverage through Lloyd's of London pursuant to its membership in the CIRSA pool. The City avails itself to the protection of the Governmental Immunity ACT (C.R.S. 24-10-101 et.seq.). The law limits liability to up to \$150,000 per person and up to \$600,000 per occurrence, based on current statutory limits. So long as the City is insured through CIRSA or an equivalent organization, the City shall have no obligation to purchase public liability insurance and other coverage for protection against liability for damage claims through public use of or arising out of accidents occurring in and around the Property. The City's insurance coverage as set forth above shall provide coverage for the contingent liability of Lessor on any claims or losses and shall designate the Lessor as an additional insured under the terms of the City's insurance.

SECTION EIGHT
Pledges

8.1 The City shall not pledge or attempt to pledge or grant or attempt to grant as collateral or security its interest in any of the Property without the prior written consent of the Lessor.

SECTION NINE
Improvements

9.1 Unless otherwise agreed by the parties, all improvements placed on or attached to the Property by the City shall be and become part of the Property and shall be the sole and separate property of the Lessor as of the termination (other than by exercise of the first right of refusal to purchase) of this Lease as set forth in paragraph 10.1 below.

SECTION TEN
First Right of Refusal

10.1 During the term of this Lease or any extension thereof, the City shall be entitled to a first right of refusal to purchase the Property under the same terms and conditions contained in any bona fide offer to purchase which is acceptable to the Lessor. The Lessor shall notify the City in writing of the terms and conditions of any such bona fide offer, and the City shall have thirty (30) days from the Lessor's mailing of such notice to exercise its first right of refusal by its unconditional acceptance of all terms and conditions of the offer.

10.2 The City's first right of refusal to purchase the Property is not intended to, and shall in no way, preclude the Lessor from actively marketing the Property for sale, whether through the efforts of the Lessor, a real estate broker, or any other person; nor shall such provision and first right of refusal prevent the Lessor from selling the Property to any other party in the event the City determines to not exercise its first right of refusal as set forth under the terms and conditions of Section 10.1 above.

SECTION ELEVEN

Destruction of the Property

11.1 In the event the improvements on the Property become destroyed or substantially injured by any means, the City shall either promptly rebuild and restore the improvements or such portion as may have been injured or destroyed, or clear the damaged or destroyed improvements from the Property. If the improvements on the Property become damaged to the extent where they are no longer functional for the purposes of the City, the Lessor shall have no obligation to repair the improvements nor otherwise make the Property useable or occupiable; damages shall be at the City's own risk. If the Lessor or the City determine not to perform repairs or to otherwise make the premises useable or occupiable, the City may terminate this Lease by giving its notice to the Lessor that this Lease is terminated.

SECTION TWELVE Sublease and Assignment

12.1 The City shall not assign or sublease the Property without first obtaining the written consent of the Lessor, which consent shall not be unreasonably withheld. Any consent to assign or sublease by the Lessor shall not be a consent to a subsequent assignment or sublease. The Lessor reserves the right to reject sublessees or assignees, depending on whether the proposed sublessee or assignee is an entity of a type similar to the City.

SECTION THIRTEEN Total Agreement; Applicable to Successors

13.1 This Lease contains the entire agreement between the parties and cannot be changed or terminated except by a written instrument subsequently executed by the parties hereto. This Lease and the terms and conditions hereof apply to and are binding upon the heirs, successors and authorized assigns of both parties.

SECTION FOURTEEN Applicable Law

14.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

IN WITNESS WHEREOF, the parties hereto have executed this Lease Agreement as of the date first above written.

LESSOR:

Ralph N. Schmidt

LESSEE:

Attest: The City of Grand Junction, a
Colorado home rule municipality

City Clerk

City Manager