

RESOLUTION NO. 78-94

CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT
TO DONADA, INC., A COLORADO CORPORATION

WHEREAS, DONADA Inc., a Colorado corporation, has petitioned the City Council of the City of Grand Junction for a Revocable Permit to allow the installation of landscape entrance wall features in the following described public rights-of-ways for 28 Road and Hawthorne Avenue in the City of Grand Junction:

Parcel No. 1: Beginning at the Northwest Corner of Lot 1, Block 2 of Grand View Subdivision Filing No. One situated in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 6, Township 1 South, Range 1 East of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, from whence the Mesa County brass cap at the Southwest Corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 6 bears S00°03'34"W a distance of 121.58 feet and N89°58'12"W a distance of 70.0 feet; thence N89°58'12"W a distance of 10.0 feet; thence S45°02'41"W a distance of 42.44 feet; thence S00°03'34"W a distance of 9.82 feet; thence N89°58'12"W a distance of 1.50 feet; thence N00°03'34"E a distance of 10.44 feet; thence N45°02'41"E a distance of 43.68 feet; thence S89°58'12"E a distance of 12.12 feet; thence S00°03'34"W a distance of 1.50 feet; thence N89°58'12"W a distance of 1.50 feet to the Point of Beginning.

Parcel No. 2: Beginning at the Southwest Corner of Lot 1, Block 1 of Grand View Subdivision Filing No. One situated in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 6, Township 1 South, Range 1 East of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, from whence the Mesa County brass cap at the West $\frac{1}{4}$ Corner of said Section 6 bears N89°58'12"W a distance of 70.0 feet and N00°03'34"E a distance of 1149.04 feet; thence N89°58'12"W a distance of 10.0 feet; thence N44°57'35"W a distance of 42.41 feet; thence N00°03'34"E a distance of 9.81 feet; thence N89°58'12"W a distance of 1.50 feet; thence S00°03'34"W a distance of 10.43 feet; thence S44°57'35"E a distance of 43.66 feet; thence S89°58'12"E a distance of 12.12 feet; thence N00°03'34"E a distance of 1.50 feet; thence N89°58'12"W a distance of 1.50 feet to the Point of Beginning;

and

WHEREAS, the City Council has determined that such action would not at this time be detrimental to the inhabitants of the City of Grand Junction.

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

That the City Manager, on behalf of the City and as the act of the City, is hereby authorized and directed to grant the attached Revocable Permit to the above named Petitioner for the purpose aforescribed and within the public rights-of-ways aforescribed, subject to each and every term and condition contained in the attached Revocable Permit.

PASSED and ADOPTED this 21st day of September, 1994.

Attest:

/s/ R.T. Mantlo
President of the Council

/s/ Stephanie Nye
City Clerk

REVOCABLE PERMIT

WHEREAS, DONADA Inc., a Colorado corporation, has petitioned the City Council of the City of Grand Junction for a Revocable Permit to allow the installation of landscape entrance wall features in the following described public rights-of-ways for 28 Road and Hawthorne Avenue in the City of Grand Junction:

Parcel No. 1: Beginning at the Northwest Corner of Lot 1, Block 2 of Grand View Subdivision Filing No. One situated in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 6, Township 1 South, Range 1 East of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, from whence the Mesa County brass cap at the Southwest Corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 6 bears S00°03'34"W a distance of 121.58 feet and N89°58'12"W a distance of 70.0 feet; thence N89°58'12"W a distance of 10.0 feet; thence S45°02'41"W a distance of 42.44 feet; thence S00°03'34"W a distance of 9.82 feet; thence N89°58'12"W a distance of 1.50 feet; thence N00°03'34"E a distance of 10.44 feet; thence N45°02'41"E a distance of 43.68 feet; thence S89°58'12"E a distance of 12.12 feet; thence S00°03'34"W a distance of 1.50 feet; thence N89°58'12"W a distance of 1.50 feet to the Point of Beginning.

Parcel No. 2: Beginning at the Southwest Corner of Lot 1, Block 1 of Grand View Subdivision Filing No. One situated in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 6, Township 1 South, Range 1 East of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, from whence the Mesa County brass cap at the West $\frac{1}{4}$ Corner of said Section 6 bears N89°58'12"W a distance of 70.0 feet and N00°03'34"E a distance of 1149.04 feet; thence N89°58'12"W a distance of 10.0 feet; thence N44°57'35"W a distance of 42.41 feet; thence N00°03'34"E a distance of 9.81 feet; thence N89°58'12"W a distance of 1.50 feet; thence S00°03'34"W a distance of 10.43 feet; thence S44°57'35"E a distance of 43.66 feet; thence S89°58'12"E a distance of 12.12 feet; thence N00°03'34"E a distance of 1.50 feet; thence N89°58'12"W a distance of 1.50 feet to the Point of Beginning;

and

WHEREAS, the City Council of the City of Grand Junction has determined that such action would not at this time be detrimental to the inhabitants of the City of Grand Junction.

NOW, THEREFORE, IN ACCORDANCE WITH THE ACTION OF THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

There is hereby granted to the DONADA, Inc., a Colorado corporation, a Revocable Permit for the purpose aforescribed and within the public rights-of-ways aforescribed; provided, however, that the issuance of this Revocable Permit shall be conditioned upon the following terms and conditions:

1. The City, on behalf of itself and all other public utilities, hereby reserves and retains a perpetual right to utilize the aforescribed public rights-of-ways for the installation,

operation, maintenance and repair of future street improvements and utilities, including the right of ingress and egress on, along, over, under, through and across said public rights-of-ways. The City further reserves and retains the right to revoke this Permit at any time and for any reason.

2. The Petitioner, for itself and for its successors and assigns, agrees that it will not hold, nor attempt to hold, the City of Grand Junction, its officers, employees and agents or any other public utility liable for damages caused to the improvements situated within said rights-of-ways, or any other property of the Petitioner or any other party, as a result of the Petitioner's occupancy and use of said rights-of-ways or the installation, operation, maintenance and repair of street improvements and utilities by the City of Grand Junction or any other public utility.

3. This Revocable Permit shall be issued only upon the concurrent execution by the Petitioner of an agreement that the Petitioner will save and hold the City of Grand Junction, its officers, employees and agents harmless from, and indemnify the City, its officers, employees and agents, any claim or cause of action however stated arising out of the encroachment and use granted, and that upon revocation of the Permit by the City, the Petitioner will, within thirty (30) days notice of revocation, peaceably surrender said rights-of-ways and, at its own expense, remove any encroachment so as to make said rights-of-ways available for use by the City of Grand Junction or any other public utility.

4. The Petitioner, for itself and for its successors and assigns, agrees that it shall be solely responsible for maintaining and repairing the condition of said rights-of-ways and all improvements installed thereon by the Petitioner.

5. This Revocable Permit, the foregoing Resolution and the following Agreement shall be recorded by the Petitioner in the office of the Mesa County Clerk and Recorder.

Dated this _____ day of _____, 1994.

City Clerk

City Manager

Acceptance:

Don D. dela Motte, President

AGREEMENT

The DONADA Inc., a Colorado corporation, for itself and for its successors and assigns, does hereby agree to: Abide by each and every term and condition contained in the foregoing Revocable Permit; Indemnify the City of Grand Junction, its officers, employees and agents and hold the City of Grand Junction, its officers, employees and agents harmless from all claims and causes of action as recited in said Permit; Within thirty (30) days of notice of revocation of said Permit, peaceably surrender said rights-of-ways to the City and, at its own expense, remove any encroachment so as to make said rights-of-ways available for use by the City of Grand Junction or any other public utility.

Dated this _____ day of _____, 1994.

Attest:

DONADA Inc., a Colorado Corporation

Ada M. dela Motte, Secretary

Don D. dela Motte, President

STATE OF COLORADO)
)ss.
COUNTY OF MESA)

The foregoing Agreement was acknowledged before me this _____ day of _____, 1994, by Don D. dela Motte as President and Ada M. dela Motte as Secretary of DONADA Inc., a Colorado corporation.

Witness my hand and official seal.

My commission expires: _____

Notary Public