

**GRAND JUNCTION CITY COUNCIL
WORKSHOP AGENDA**

**MONDAY, MAY 14, 2007, 7:00 PM
CITY HALL AUDITORIUM, 250 N. 5TH STREET**

MAYOR'S INTRODUCTION AND WELCOME

- 7:00 **COUNCILMEMBER REPORTS**
- 7:15 **CITY MANAGER'S REPORT**
- 7:20 **REVIEW OF FUTURE WORKSHOP AGENDAS** [Attach W-1](#)
- 7:25 **REVIEW WEDNESDAY COUNCIL AGENDA**
- 7:30 **APPOINTMENTS TO BOARDS & COMMISSIONS:** An update on the status of appointments to various volunteer boards. [Attach W-2](#)
- 7:35 **REQUIREMENTS FOR DEVELOPMENT IMPROVEMENTS AGREEMENTS USED FOR DEVELOPMENTS:** Public Works and Planning Director Tim Moore and Planning Manager Lisa Cox will review Development Improvements Agreements. [Attach W-3](#)
- 8:10 **GJ COMMUNICATIONS CENTER UPDATE:** The Police Department will update the City Council on planning for and implementing solutions for the immediate space needs and other infrastructure challenges at the police department, and planning for a new public safety facility relative to the Grand Junction Regional Communications Center (GJRCC). [Attach W-4](#)

ADJOURN

Attach W-1

Future Workshop Agendas

FUTURE CITY COUNCIL WORKSHOP AGENDAS

(December 19, 2011)

JUNE 2007

↪ **JUNE 4, MONDAY 11:30 AM: Administration Conference Room**

11:30 POLICE DEPARTMENT: Street Crimes Unit Update

↪ **JUNE 4, MONDAY 7:00 PM: City Hall Auditorium**

7:00 COUNCIL REPORTS, REVIEW WEDNESDAY AGENDA AND FUTURE WORKSHOP AGENDAS

7:25 CITY MANAGER'S REPORT

7:30 APPOINTMENTS TO BOARDS & COMMISSIONS

7:40 GRAND JUNCTION REGIONAL CENTER: Update on their activities and offer for collaborative community efforts. (Christian Mueller 255-5711)

8:00: DISCUSS AWARD OF COMPREHENSIVE PLAN CONTRACT AND GRAND VALLEY TRAFFIC MODEL UPDATE

↪ **JUNE 18, MONDAY 11:30 AM: Administration Conference Room**

11:30 REGIONAL COMMUNICATIONS CENTER TOUR

↪ **JUNE 18, MONDAY 7:00 PM: City Hall Auditorium**

7:00 COUNCIL REPORTS, REVIEW WEDNESDAY AGENDA AND FUTURE WORKSHOP AGENDAS

7:25 CITY MANAGER'S REPORT

7:30 HOUSING MARKET ANALYSIS DONE BY CHFA: Jim Coil (see report at <http://www.colohfa.org/documents/GrandJunctionRpt-0107.pdf>) & Jody Kole

8:00 WATERSHED COMMUNITY PLAN PRESENTATION – Review of the Final Draft of the Plan

8:15 WATERSHED REGULATIONS IMPLEMENTATION RESOLUTION: Regulations in watershed and regulations on other City-owned lands

8:45 WATER CONSERVATION EFFORTS BY THE PARKS DEPARTMENT

JULY 2007

↪ **JULY 2 WORKSHOPS AND JULY 4 REGULAR MEETING CANCELED DUE TO HOLIDAY AND 125TH CELEBRATION!**

↪ **JULY 16, MONDAY 11:30 AM: Administration Conference Room**

11:30 LISTENING TO BUSINESS REPORT, 2007 – Georgann Jouflas

↪ **JULY 16, MONDAY 7:00 PM: City Hall Auditorium**

- 7:00 COUNCIL REPORTS, REVIEW WEDNESDAY AGENDA AND FUTURE WORKSHOP AGENDAS
- 7:25 CITY MANAGER'S REPORT
- 7:30 REQUEST FROM WESTERN COLORADO CONGRESS: Information to be provided to Council regarding the impact on water from commercial oil shale operations.
- 7:45 MESA LAND TRUST – buffer Program Update

↪ **JULY 30, MONDAY 11:30 AM: Two Rivers Convention Center**

11:30 MEET WITH CHAMBER OF COMMERCE: Luncheon with their board

↪ **JULY 30, MONDAY 7:00 PM: City Hall Auditorium**

- 7:00 COUNCIL REPORTS, REVIEW WEDNESDAY AGENDA AND FUTURE WORKSHOP AGENDAS
- 7:25 CITY MANAGER'S REPORT
- 7:30 OPEN

↪ **AUGUST 13, MONDAY 11:30 AM: Administration Conference Room**

11:30 OPEN

↪ **AUGUST 13, MONDAY 7:00 PM: City Hall Auditorium**

- 7:00 COUNCIL REPORTS, REVIEW WEDNESDAY AGENDA AND FUTURE WORKSHOP AGENDAS
- 7:25 CITY MANAGER'S REPORT
- 7:30 OPEN

↪ **BIN LIST** ↪

1. OUTDOOR DINING ON MAIN STREET (background report to Council)
2. ORDINANCE REQUEST: Requiring that sex offenders live a minimum of 500 feet from a school, pre-school and public daycare facilities.
3. 211 TELEPHONE SERVICE (early August?)
4. MOAB PROJECT SUPPLIER ALLIANCE (MPSA): Promotes businesses that want to support DOE's Moab Reclamation Project. (Wait until DOE contractor is known). (July 16?)
5. AMENDMENT TO SMOKING ORDINANCE – Request from VFW
6. MEET WITH ABC: Annual Luncheon?
- NEW** 7. REQUEST FROM GJEP: Lunch *See letter attached*
8. NORTH AVENUE CORRIDOR PLAN: Discussion of the draft plan and specifically implementation strategies
9. AVALON THEATRE ANNUAL REPORT: written report to be distributed to City Council





RECEIVED APR 30 2007

The Honorable Mayor and City Council Members
City of Grand Junction
250 North 5th Street
Grand Junction, CO 81501

April 26, 2007

Dear Mayor Doody and Members of City Council:

Congratulations on the recent elections and the new City Council taking seat. We look forward to working with you in continuing to create quality jobs and strengthening and diversifying the economy of Grand Junction and Mesa County.

In order to strengthen the relationship between GJEP and the City and provide a forum for communication on economic development, I would like to invite City Council and Management to an informal lunch with GJEP leadership.

Again, congratulations, and thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ann Driggers".

Ann Driggers
President and CEO, Grand Junction Economic Partnership

cc. David Varley
Laurie Kadrich
Rick Taggart, GJEP Chair

**Attach W-2
Appointments to Boards and Commissions**

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA						
Subject		Upcoming Appointments to Boards & Commissions – Commission on Arts and Culture, Avalon Theatre Advisory Committee, Downtown Development Authority (and DGJBID), Forestry Board, Parks and Recreation Advisory Board, Urban Trails Committee, Ridges ACC, Airport Authority and Riverfront Commission				
Meeting Date		May 14, 2007				
Date Prepared		December 19, 2011			File # NA	
Author		Stephanie Tuin		City Clerk		
Presenter Name		Stephanie Tuin		City Clerk		
Report results back to Council		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	When	
Citizen Presentation		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Name	
<input checked="" type="checkbox"/>	Workshop		Formal Agenda		<input type="checkbox"/>	Consent
						Individual Consideration

Summary: The City Clerk will update the City Council on the status of each volunteer board vacancy.

Budget: NA

Action Requested/Recommendation: A brief update on board vacancies

Attachments: Current Rosters

Background Information:

COMMISSION ON ARTS AND CULTURE

A recent resignation has created a vacancy for a term that will expire in 2009. Since the City Council recently appointed some new members to this Commission, the Arts Commission was asked to identify their needs in the area of expertise at this time and their response is attached along with the current roster. All of the applicants from the last round of applications are still interested in appointment. Although we are advertising, no new applications have been received. We will accept applications until June 1.

Currently the Commission has been volunteering with the Art on the Corner Sculpture change. Duties include cleaning the permanent pieces and painting the pedestals. The next big project is a survey on the economic impact of the arts in the Grand Valley. This report is done every five years. Questionnaires have gone out to all non-profit cultural

organizations and the Commission will have a community-wide luncheon to present the information to the community (to include elected officials, the Chamber of Commerce, and economic development groups among others) on June 25th at Two Rivers Convention Center. The One Percent for the Arts Project for the Rood Avenue Parking Garage is moving forward. The artist has been selected and is working on the project.

AVALON THEATRE ADVISORY COMMITTEE: Two terms are expiring and both incumbents are eligible for reappointment. Letters to that effect were sent to both incumbents. The current roster is attached. Applications are being accepted until June 1. At large members should come from the following areas: Marketing/ Business Management/Tourism/Event Management, Fund Raising/Capital Improvement Management/Grant Writing, Arts Community/Historic Preservation/Cultural Influences or a Citizen/Avalon Patron.

The Avalon Advisory Committee is working on an annual report including enhancement proposals that will be shared with City Council. The Committee is also supportive of improvements currently underway for the concession stand and balcony at the theatre, funded by the Avalon Foundation Board and the City.

DOWNTOWN DEVELOPMENT AUTHORITY/DOWNTOWN GRAND JUNCTION BUSINESS IMPROVEMENT DISTRICT

One incumbent is term limited and there was also a resignation so there are two openings, both full terms. One new application has been received. Applications are being accepted until May 15.

The summer event season is kicking off with the Arts and Jazz Festival this past weekend and Farmer's Market starting in a couple of weeks. The Seventh Street reconstruction has been a major topic of discussion and completion of the Main Street intersection is still planned by June 14th.

There are some minor Main Streetscape improvements going on and the streetscape plan for Colorado Avenue is in the works. Other future downtown improvements have also been discussed recently and the South Downtown Plan group is developing a preferred alternative which City Council will likely see early in the fall. An RFP is being developed for a consultant for a Downtown Plan and may go out for bid in June.

FORESTRY BOARD

The Forestry Board has three vacancies and one member serving on an expired term. One incumbent who had requested reappointment has since moved and another has expressed interest in staying on but has not submitted a letter. Forester Mike Vendegna has been in contact with a couple of others who have expressed an interest but as of this date, no applications have been received. The Forestry Board is a critical element in maintaining the Tree City U.S.A. designation and the Arbor Day celebration is a very popular program with the school kids. The Code requires one member to be a representative from the State Forest Service.

PARKS AND RECREATION ADVISORY BOARD

There are three seats expiring this year and all three are eligible for reappointment. Letters to those incumbents have been sent. No new applications have been received and applications are being accepted until June 1.

The City Council has recently met with the Parks and Recreation Advisory Board so is current with their activities.

URBAN TRAILS COMMITTEE

There are four openings on the Committee, two from recent resignations and two expiring terms. Both incumbents are eligible for reappointment. Joe Moreng has submitted his letter requesting reappointment and we have received two new applications. The Riverfront Commission reviews the applications for this Committee and asks that City Council ratify their selections. That ratification will be brought to City Council once received.

The City Council has recently met with the Urban Trails Committee so is current with their activities.

RIDGES ARCHITECTURAL CONTROL COMMITTEE

The Committee needs additional members so we are advertising for them. Once that advertising period is over, it is recommended that the three current members be reappointed to another term as they have indicated their interest but, although requested, they have not submitted a letter.

WALKER FIELD PUBLIC AIRPORT AUTHORITY

There is one City appointment with the term expiring. The incumbent is eligible for reappointment and has submitted a letter requesting such. No new applications have been received.

The Airport is planning some major improvements and was before the Council on the amendment to their Master Plan at a recent City Council meeting. Their enplanements are up and their tenants are very supportive of the planned improvements.

RIVERFRONT COMMISSION

There are four terms expiring this summer and all four are eligible for reappointment. There are no new applications so far but applications are being accepted until June 15.

The City Council recently met with this board so is current with their activities.

COMMISSION ON ARTS & CULTURE

9 Member - Three-Year Terms

NAME	APPTED	REAPPT'D	EXP	OCCUP'N
Lora Quesenberry E	2-18-04	04-04-07	02-07 02-10	Housewife, Art Teacher
Vacant			02-09	
Doug Clary E	09-05-01	03-20-02 02-16-05	02-02 02-08	Publisher/ Flower grower
Jeanine Howe E	11-16-05		02-09	Teacher at Moss Performing Arts Center
Gunilla Bishop L	02-16-05		02-08	Bereavement Counselor for Hospice
Kat Rhein E	11-16-05		02-09	Home Mortgage Consultant / Performer / Director / Actor
Vera Mulder E	02-16-05		02-08	Retired Art Teacher
Donald Meyers E	04-04-07		02-10	Artist & Retired Art Professor
Jeanne Killgore E	04-04-07		02-10	Owner, JBK Interiors

All nine members are appointed by the Grand Junction City Council. At least five members must have acknowledged accomplishment as either an amateur or professional in architecture, art criticism, art education, art history, choreography, dance, communicative arts, crafts, folk and ethnic arts, literature, media arts, music, opera, painting, photography, sculpture, theater or urban design.

Created: September, 1989, By-Laws: 1991, Amendment that City Council member is a voting member on 10-5-94, Amendment that one appointment may be a councilmember but doesn't need to be on 6-5-96.

Meetings: Fourth Wednesday, 4:00 p.m., Parks Conference Room, 1340 Gunnison Avenue

E – expertise
L – layperson

From: Allison Sarmo
To: Stephanie Tuin
Date: 5/1/07 1:54 PM
Subject: Arts Commission Vacancy

Dear Stephanie,

At the April 25 Arts Commission meeting, board members discussed the current vacancy on the Commission and what types of expertise are needed on the board at this time. Given the recent appointments, the Arts Commission would like to recommend that the City Council might look for, first of all, an architect or someone in the architecture field, since we are often dealing with selection of art for buildings and structures, and secondly, someone who is a musician, since we don't have a musician on the Commission right now.

As always, the Commission hopes that applicants recognize (and if possible City Council reinforces during the interviews) that this is a working board and that members must be willing to commit the time to attend the regular meetings once a month, and help with Commission projects such as the City Hall art exhibit installations and receptions. Prospective board members should be active participants in the cultural community in some way, and willing to attend various cultural events.

Thanks so much,
Allison

Allison Sarmo, Cultural Arts Coordinator
GJ Commission on Arts and Culture
1340 Gunnison Avenue
Grand Junction, CO 81501
P: 254-3865 F: 242-1637 www.gjarts.org

AVALON THEATRE ADVISORY COMMITTEE

Three year Terms
Seven Member Board

NAME	APPTED	REAPPTED	EXP	Occupation
Ron Beach	7-5-06		06-30-09	Newspaper Mgmt. Consulting
Alan Friedman, Chair	7-5-06		06-30-09	Marketing and Internet Consulting
Edward Lipton	7-5-06		06-30-08	Avalon Theatre Foundation, Inc. Representative
Marianne North	7-5-06		06-30-07	Educational and Grants Consultant
Stephan Schweissing	7-5-06		06-30-09	Cinema at the Avalon Representative
Harold Stalf	7-5-06		06-30-08	Downtown Development Authority Representative
André van Schafften	7-5-06		06-30-07	Business Consultant

Created in 2006 by Resolution No. 27-06

Board consists of a representative from DDA, CAI and the Avalon Foundation Board as well as 4 at large members.

Meetings are the third Tuesday, 7:30 a.m.

DDA - 248 S. 4th St
CAI - P.O. Box 1657, Grand Junction, Co. 81502
Avalon Foundation Board - 248 S. 4th St.

Tim Seeberg – Staff contact

DOWNTOWN DEVELOPMENT AUTHORITY

Four-Year Term
Nine-Member Board

NAME	APPTED	REAPPT'D	EXP	OCC'PN
Doug Simons	08-04-99	07-02-03	06-30-03 06-30-07	Enstrom Candies - President
Stephen Thoms	07-05-06		06-30-10	Owner, The Winery Restaurant
Bill Keith	07-05-06		06-30-10	Owner, Quilters Corner
Scott Howard, Chair	07-02-03		6-30-09	Part Owner, Rockslide Brew Pub
Bill Wagner	5-19-04		6-30-08	Metro Brokers
Vacant			06-30-07	
Harry Griff	05-01-02	5-19-04	6-30-08	Attorney, Partner in law firm
Peggy Page	6-15-05		6-30-09	Owner President
Jim Doody	05-05		05-07	City Council rep

Nine member board appointed by the Grand Junction City Council. Each of the eight members must be a resident, business lessee or own real property within the boundaries of the DDA. One member shall be appointed from the City Council and is exempt from the above qualifications.

Created: 1976

Meetings: Second Thursday (effective 8/06) at 7:30 a.m., Whitman Education Center, 248 S. 4th Street

DOWNTOWN GRAND JUNCTION BUSINESS IMPROVEMENT DISTRICT

(DGJBID)

Four-Year Term
Nine-Member Board

NAME	APPTED	REAPPT'D	EXP	OCC'PN
Doug Simons	1/2006		06-30-03 06-30-07	Enstrom Candies - President
Stephen Thoms	07-05-06		06-30-10	Owner, The Winery Restaurant
Bill Keith DTA Rep.	07-05-06		06-30-10	Owner, Quilters Corner
Scott Howard, Chair	1/2006		6-30-09	Part Owner, Rockslide Brew Pub
Bill Wagner	1/2006		6-30-08	Metro Brokers
Vacant			06-30-07	
Harry Griff	1/2006		6-30-08	Attorney, Partner in law firm
Peggy Page DTA Rep.	1/2006		6-30-09	Owner President
Jim Doody	1/2006		05-07	

Nine member board appointed by the Grand Junction City Council. Each of the eight members must be a resident, business lessee or own real property within the boundaries of the BID. One member shall be appointed from the City Council and is exempt from the above qualifications.

Created: 2006

Meetings: Quarterly, the fourth Thursday, 7:30 a.m., (January, April, July, October) Whitman Education Center, 248 S. 4th Street

FORESTRY BOARD

Three-Year Term

Five Member Board

NAME	APPTED	REAPPTED	EXP	OCCUPATION
Mike Heinz (E)	05-01-02	11-05-03	11-03 11-06	Owner – Trees R Us
David Gave	11-03-04		11-07	GM, Petco Retired Park Superintendent
Vacant			11-07	
Vacant			11-06	
Vacant			11-06	

Three of the five members shall be selected from the following categories: a professional arborist, a nursery person, a landscape designer, a pesticide applicator and a representative of the Colorado State Forest Service, with no more than one in any one category (E). The other two members may be lay persons (L).

Created: 1914 originally, membership changed in 1984

Meetings: First Friday, 8:00 a.m., at Parks Shop Facility, 1400 Gunnison Ave. (as of 10-5-94)

Contact: Mike Vendegna, City Forester

URBAN TRAILS COMMITTEE

Three Year Terms

Seven to Eleven Members

NAME	APPTED	REAPPTED	EXP	OCCUPATION
Paul Darr, Co-Chair	07-04	9-21-05	06-30-05 06-30-08	Technical Manager
David Cooper	7-19-06		6-30-09	Photography Teacher
Vacant	7-19-06		6-30-09	
Steve Bliss	7-19-06		6-30-09	St. Mary's Facility Eng.
Lydia Reynolds	07-04		06-30-07	Admin. Asst.
Joseph Moreng	7-19-06		06-30-07	Semi Retired
Vacant			06-30-08	
Timothy Fry Co-Chair	10-18-00	06-30-02 09-21-05	06-30-02 06-30-05 06-30-08	Business Owner
Denise McGinnis	07-04	09-21-05	06-30-05 06-30-08	Retired

Created: 6-15-94, first appointments made January, 1995

Appointed by Riverfront Commission with the concurrence of the City Council

Meetings: 2nd Tuesday of month at the Public Meeting Room in the old courthouse at 544 Road, 5:30 pm

Staff contact: Michele Rohrbach, 683-4333

RIDGES ARCHITECTURAL CONTROL COMMITTEE

Five Members

4 year terms

NAME	APPTED	REAPPTED	EXP	OCCUPATION
Vacant			06-30-07	
Ted Munkres		6-03	06-30-07	
Vacant	07-18-01		06-30-05	
Cynthia Adair			06-30-04	
Frank Rinaldi	07-18-01		06-30-05	
(alternate)				

Meetings: last Monday

Contact: Ted Munkres – 243-0929

WALKER FIELD, COLORADO, PUBLIC AIRPORT AUTHORITY

7 Member - Four-Year Terms

NAME	APPTED	REAPPTED	EXP	Occupation
Tom LaCroix Chairman (county)	4-4-05		4-4-09	Attorney
Doug Simons Vice- Chairman (at large)	01-18-05		01-09	Enstrom Candies - President
Dan Lacy (county)	4-07		1-11	
Frank Roger Little (city)	07-02-03		05-07	retired
Denny Granum (county)	05-15-06		01-08	General Contractor, Real Estate Developer, Pilot
John Stevens (city)	6-15-05		05-09	Stevens Economic Planning Concepts
Gregg Palmer (Council Rep)	05-07-03		05-07	

Three members are appointed by Mesa County Commissioners including one Commissioner. Three members are appointed by Grand Junction City Council including one Council Member. The seventh member is appointed by the other Board Members with the concurrence of the County Commissioners and City Council.

Created: 1971

Meetings: Third Tuesday, 5:15 p.m., Walker Field (workshops are held on the First Tuesday)

Staff Contact: Rex Tippetts, Airport Manager

RIVERFRONT COMMISSION

Three Year Terms

Eleven Member Board

NAME	APPTED	REAPPTED	EXP	Occupation
Marianne Tilden	07-07-04		07-07	Bray & Company
Ken Henry	07-19-06		07-07	Lending Manager/Fruita City Council
John Gormley, Co-Chair	08-07-02	08-17-05	07-05 07-08	Attorney
Bennett Boeschenstein	7-19-06		07-09	Retired
Lesley Kibel	08-17-05	7-19-06	07-09	St. Mary's Pavilion Imaging Mgr.
Tom Kenyon	7-19-06		07-09	Investor
David Soker	08-17-05		07-08	Stained Glass and Photography
Dennis DeVore, Co-Chair	08-06-03	7-19-06	07-09	ROW Manager CDOT
Kathy Herzog	08-17-05		07-08	V. Pres. & Asset Mgr. Alpine Trust & Asset Mgmt.
Dennis Pretti	07-07-04		07-07	Regional Purchasing Mgr – Dahl, Inc.
Deb McCoy	07-07-04		07-07	Owner of Filter Tech Systems

Eleven member board. Members jointly appointed by Grand Junction City Council, Fruita City Council, Palisade Town Board and the Mesa County Commissioners. (Term limits do not apply because board members are jointly appointed.)

Created: 1987

Meetings: Third Tuesday, 7:00 p.m. at the Public Meeting Room in the old courthouse at 544 Road.

Staff: Michele Rohrbach, phone/fax 683-4333

Office: 3rd Floor, Old County Courthouse, Monday through Thursday (9 am to 2 pm)

Mail: Box 2477, Grand Junction, CO 81502

**Attach W-3
Development Improvements Agreements
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
Subject		Development Improvements Agreement (DIA's)				
Meeting Date		May 14, 2007				
Date Prepared		May 8, 2007			File # N/A	
Author		John Shaver		City Attorney		
Presenter Name		Lisa Cox John Shaver Tim Moore		Planning Manager City Attorney Director, Public Works & Planning		
Report results back to Council		X	No		Yes	When
Citizen Presentation			Yes	X	No	Name
X	Workshop		Formal Agenda			Consent
						Individual Consideration

Summary: City Council has recently been evaluating various Code requirements and their impact on development. In addition, there have been recent discussions with community groups over the purpose of the Development Improvement Agreement (DIA's). In response, staff has prepared an overview of the DIA process and the purpose it serves relative to development in our community.

Attachments: Current DIA forms.

Background: Under the City Zoning and Development Code (ZDC) a DIA generally does the following:

- a) sets forth the list of required improvements and the projected cost of the same;
- b) sets forth the requirements to ensure completion of public and private improvements in concert with the requirements of the ZDC;
- c) sets forth the provisions for the indemnification, insurance, warranty and maintenance obligations for the newly completed project improvements; and
- d) sets forth the legal mechanism by which the City secures the completion of the required improvements if the developer defaults.

The requirement for a DIA is generally made for the protection of the citizen or end purchaser of developed property and is designed to ensure that all required public improvements are constructed to minimum City standards. The DIA also provides an assurance that tax dollars are not spent to complete required public improvements should the developer fail to perform in accordance with approved development plans.

The most common form of financial guarantee for a DIA is a letter of credit. Other permissible guarantees include cash, a subdivision improvement bond, a disbursement agreement and a plat hold. Occasionally other forms of guarantee are offered and accepted by the Director as allowed by Code. The financial guarantee is provided in the amount of 120% of the cost of required public improvements. The requirement for 120% financial guarantee was implemented with the adoption of the 2000 Zoning and Development Code to account for the impacts of inflation on construction costs.

Included herein below are the relevant sections of the Code, including commentary from the City Attorney.

2.19 DEVELOPMENT IMPROVEMENTS AGREEMENTS (DIAs)

A. DEVELOPMENT IMPROVEMENTS AGREEMENT AUTHORIZED

The Director may defer the requirement for the completion of required improvements if the Applicant enters into a Development Improvements Agreement (DIA) by which the Applicant agrees to complete all required public improvements in accordance with an agreed schedule. The Director may require the Applicant to complete and dedicate some required public improvements prior to approval of the Final Plat and to enter into a DIA for completion of the remainder of the required improvements. The City Attorney shall approve any DIA as to form.

Generally the DIA allow the developer to proceed with final development and preliminary marketing of a project while guaranteeing that basic public infrastructure will be completed to support the project and to protect the ultimate purchasers and users of the project.

B. AGREEMENT TO RUN WITH THE LAND

The Development Improvements Agreement shall provide that the requirements contained therein shall run with the land and bind all successors, heirs, and assignees of the Applicant. The DIA shall be recorded with the Mesa County Clerk and Recorder. All existing lien holders shall be required to subordinate their liens to the guarantees contained in the DIA.

This section creates a first and prior legal obligation against the land. The interests of the public are furthered because the obligations of the DIA should be clear to any successor in interest.

C. PERFORMANCE SECURITY.

1. Whenever the Director permits an Applicant to enter into a Development Improvements Agreement, the Applicant shall be required to provide sufficient security to ensure completion of the required public improvements. The security shall be in the form of a cash deposit made to the City or a letter of credit or disbursement agreement from an authorized financial institution, a subdivision bond or a completed, unrecorded plat. The letter of credit, disbursement agreement or subdivision bond shall be in a form approved by the City Attorney.

2. The guarantee shall be in an amount estimated by the Director of Public Works as reflecting 120 percent of the cost of the improvements in the approved construction plan and shall be sufficient to cover all promises and conditions contained in the DIA.
3. In addition to all other security, when the City participates in the cost of an improvement, the Applicant shall provide a performance bond from the contractor, with the City as a co-obligee.
4. The issuer of any guarantee shall be subject to the approval of the City in accordance with adopted policies.

These paragraphs pertain to the form and amount of the financial guarantee. While the amount of the financial guarantee could be higher or lower as determined by Council, the percentages and the forms of security are industry standards. In inflationary times it is highly probable that the guarantee will be less than the actual cost of construction.

D. MAINTENANCE BOND FOR DIA

1. The Applicant shall guarantee the improvements against defects in workmanship and materials for a period of one (1) year from the date of City acceptance of such improvements. The maintenance guarantee shall be secured by a letter of credit, cash escrow, maintenance bond or other form acceptable to the Director.
 - a. If the security is a letter of credit or cash escrow, then it shall be in an amount reflecting twenty percent (20%) of the cost of the completed improvements.
 - b. If the form of security is a maintenance bond, it must be in a form acceptable to the City Attorney, in the principal amount of twenty percent (20%) of the value of the project's public improvements, for a period of one (1) year from the date of final acceptance by the City of all improvements in the project, or as applicable, the phase or filing of a project for which improvements are constructed and accepted.
 - c. If repairs, replacement or modifications to the project's public improvements are made by the applicant(s) or are required to be made by the City during the one (1) year maintenance period, then the City, at its sole option and discretion, may require an extension of the security in an amount equal to the actual or estimated repair, replacement or modification costs plus twenty percent (20%). ADD
2. If the applicant has not warranted and guaranteed required improvements pursuant to a DIA, then applicant shall give the City security equal to at least fifty percent (50%) of the cost of the required improvements.

The maintenance bond was added a few years ago at the request of a local developer. The year warranty is the same as the City requires for its own projects. The percentages are customary.

E. OFFERS TO DEDICATE STREETS, ROADS, AND OTHER LANDS

1. Acceptance of Dedication. The City Council or its designees may accept, accept with conditions, or reject any offer to dedicate any land or facility. Any offer to dedicate made pursuant to or as a condition of a review or approval pursuant to this Code constitutes the owner(s) irrevocable warranty that such owner has the right, title and interest to convey to the City and that no hazardous or other regulated substance are present on, under or in the property.

2. Acceptance of Maintenance. Approval of a Subdivision does not mean the City will accept any road, street or public site for maintenance. The City shall not be obligated to maintain any land(s) unless it explicitly agrees to do so in writing.

These sections of the Code state the rules concerning dedication and maintenance. These are important because the City needs to be assured that there are no liabilities (other than those of ongoing operation and maintenance) attendant to a dedication of any facility.

F. TEMPORARY IMPROVEMENTS

The Developer shall construct and pay for all costs of temporary improvements required by the City to protect the public, neighborhood or another person. The applicant shall maintain said temporary improvements for the period specified.

G. COMPLETION OF IMPROVEMENTS

1. Construction of Required Improvements

- a. Before construction begins, the developer must be familiar with the submittal, construction, plans and inspection requirements of each utility or agency.
- b. After the City and/or other utility providers has inspected and approved all or a portion of the required improvements, the Developer may request, in writing, that the approved portion be accepted for maintenance by the appropriate agency. The City shall establish the Developer's limits of responsibility for the improvements. The City may condition its acceptance and may require additional guarantees and assurances for at least one year following acceptance.
- c. Even if the City does not accept all or a portion of the required improvements, or delays any acceptance, the City may require the Developer to correct such defects or deficiencies identified by the City, in which case, final acceptance may be extended for one additional year.

2. Release of Improvements Agreement and Guarantee

- a. The Developer shall submit a written request for a release from the Development Improvements Agreement for the portion which has been accepted for maintenance by the appropriate agency. This request shall be accompanied by proof of acceptance for maintenance and proof that there are no outstanding judgments or liens against the property.
- b. The City Council, or its authorized representative, shall review the request. If the requirements of the DIA concerning that portion requested for release have been complied with, the appropriate document of release shall be recorded with the Mesa County Clerk and Recorder's Office.
- c. Release of the DIA does not constitute a Certificate of Completion and Release of Responsibility.

3. Certificate of Completion and Release of Responsibility. Upon expiration of the limits of responsibility established in this Code, the Developer may request a Certificate of Completion and Release of Responsibility from the appropriate agency.

The most important point about DIA's is that through the contract the City seeks to balance the rights of landowners/developers with the rights of eventual owners, including the City. The foregoing paragraphs make clear that:

- a) Improvements must be constructed as required by the Code;
- b) The construction must be inspected and found to be to standard;
- c) That improvements must be warranted for a year; and
- d) That the developer is obligated to correct defects or deficiencies in construction.

H. EXTENSION OF DEVELOPMENT IMPROVEMENTS AGREEMENT AND SECURITY

1. If the Applicant is unable to complete all required improvements contained in an executed Development Improvements Agreement within the time stated therein, he shall provide written notice of same to the Director at least thirty (30) calendar days prior to the deadline of the milestones he will be unable to meet. The Applicant shall make a formal written request for an extension of the DIA and security and provide a revised development schedule, which shall be reviewed by the Director. The Director shall approve, approve with conditions or deny the request for an extension. Based on the Director's decision the existing DIA may be amended, a new DIA drawn up and executed, or the Director may exercise any default provisions contained in the approved DIA. Any amendments or new agreements shall be recorded in the same manner as the original DIA.

2. If the DIA is to be extended or a new DIA is to be executed, the Applicant shall provide sufficient security which may be the same as or greater than the original security, up to 120 percent (120%), as was required with the original guarantee. No amendment or replacement DIA shall be executed, recorded or effective until security acceptable to the Director is provided.

DIA's must be formally extended in order to the City to assure that adequate security is provided.

Attachments

Development Improvements Agreement (DIA)
Maintenance Guarantee

DEVELOPMENT IMPROVEMENTS AGREEMENT

1. **Parties:** The parties to this Development Improvements Agreement (“Agreement”) are _____, (“Developer”) and the **City of Grand Junction**, Colorado (“City”).

For valuable consideration, the receipt and adequacy of which is acknowledged, the Parties agree as follows:

2. **Effective Date:** The Effective Date of the Agreement shall be the date that it is signed by the Public Works & Planning Director, which shall be no sooner than recordation of the final plat or final plan approval whichever first occurs.

RECITALS

The Developer seeks permission to develop property, described on Exhibit A attached and incorporated by this reference (“the Property” or “Property”). The Property, known as _____ has been reviewed and approved under Planning file # _____ (“Development” or “the Development”).

The City seeks to protect the health, safety and general welfare of the community by requiring the completion of various improvements to the Property and limiting the harmful effects of substandard development.

A further purpose of this Agreement is to protect the City from the cost of completing necessary improvements itself; this Agreement is not executed for the benefit of materialmen, laborers or others providing work, services or material to the Developer and/or the Property or for the benefit of the owner(s), purchaser(s) or user(s) of the Property.

The mutual promises, covenants and obligations contained in this Agreement are authorized by state law, the Colorado Constitution and City’s land development ordinances and regulations.

DEVELOPER’S OBLIGATION

3. **Improvements:** The Developer shall design, construct and install, at its own expense, those on-site and off-site improvements listed on Exhibit B attached and incorporated by this reference (“Improvements” or “the Improvements”).

3a. On and after the Effective Date of this Agreement the Developer agrees to pay the City for its Administration and Inspection of the Development. The hourly rate for those services is \$45.00/hour. Administration and Inspection includes but is not limited to the time expended by the City’s planner, engineer, construction inspector and attorney in directing, advising, correcting and enforcing by means other than litigation, this agreement and/or the approved development plan. Making disbursements and calling/collecting Guarantees are Administration and Inspection services and shall be charged at \$45.00/hour. See, paragraph 19 concerning attorneys’/ litigation fees.

3b. The scope of this project is such that the City may have to engage independent consultants(s) to adequately provide inspection services; Developer agrees to pay such costs, in addition to all others for which Developer is responsible hereunder.

3c. The Developer's obligation to complete the Improvements is and shall be independent of any obligations of the City contained herein.

4. **Security:** To secure the performance of its obligations under this Agreement the Developer shall supply a guarantee. The Developer is required to post security in an amount of \$ _____ (120% of the amount for the Improvements) in a form and with terms acceptable to the City ("Guarantee"). The Guarantee shall be in the form of a cash deposit made to the City, a letter of credit or a disbursement agreement in a form and with content approved by the City Attorney. The Guarantee specific to this Agreement is attached as Exhibit C and is incorporated by this reference as if fully set forth.

Select one: Cash _____ Letter of Credit (LOC) _____ Disbursement Agreement _____

5. **Standards:** The Developer shall construct the Improvements according to the City's standards and specifications.

6. **Warranty:** The Developer shall warrant the Improvements for one year following Acceptance by the City. "Warrant" or "Warranty" as used herein means the Developer shall take such steps and incur such costs as may be needed so that the Improvements or any portion or phase thereof as repaired and/or replaced, shall comply with the Development's construction plans and/or site plan, City standards and specifications at the end of the warranty period. The Developer shall warrant each repaired and/or replaced Improvement or any portion or phase thereof for one year following Acceptance of such repair and/or replacement.

6a. Upon Acceptance the Developer shall provide a Maintenance Guarantee in an amount of \$ _____ (Line G2, Exhibit B, City Security).

6b. The Maintenance Guarantee shall be secured by a letter of credit, cash escrow or other form acceptable to the City.

7. **Commencement, Completion and Abandonment Periods:** The Developer shall commence work on the Improvements within 30 days from the Effective Date of this Agreement; that date is known as the "Commencement Date."

7a. The Developer shall complete the Improvements by the end of the twelfth month from the Effective Date of this Agreement; that date is known as the "Completion Date."

7b. The Developer shall not cease construction for any period of more than 60 consecutive days. If construction is ceased for 60 or more consecutive days the Director may deem the Development abandoned ("the Abandonment Period").

7c. The Commencement date and the Completion Date are as follows:

Commencement Date: _____

Completion Date: _____

8. Compliance with Law: The Developer shall comply with all applicable federal, state and local laws, ordinances and regulations when fulfilling its obligations under their Agreement. When necessary to protect the public health, safety or welfare, the Developer shall be subject to laws, ordinances and regulations that become effective after the Effective Date.

9. Notice of Defect: The Developer by and through his/her/its engineer shall provide timely written notice to the issuer of the Guarantee and the Director when the Developer and/or his/her/its engineer has knowledge, that an Improvement or any part or portion of any Improvement either does not conform to City standards or is otherwise defective.

9a. The Developer shall correct all non-conforming construction and/or defects within thirty (30) days from the issuance of the notice by his/her/its engineer of a/the defect.

10. Acceptance of Improvements: The City shall not accept and/or approve any or all of the Improvements until the Developer presents a document or documents for the benefit of the City showing that the Developer owns the Improvements in fee simple, or as accepted by the City Attorney, and that there are no liens, encumbrances or other restrictions on the Improvements other than those that have been accepted by the City Attorney.

10a. Approval and/or acceptance of any Improvement(s) does not constitute a waiver by the City of any right(s) that it may have on account of any defect in or failure of the Improvement that is detected or which occurs after approval and/or acceptance.

10b. Acceptance by the City shall only occur when the City Engineer, sends a writing to such effect ("Acceptance").

11. Reduction of Security: Upon Acceptance of any Improvement(s) the amount which the City is entitled to draw on the Guarantee shall be reduced by an amount of \$_____ (Line G1, Exhibit B, Total Improvement Costs).

11a. At the written request of the Developer, the City shall execute a certificate verifying Acceptance of the Improvement and thereafter waiving its right to draw on the Guarantee to the extent of such amount. A Developer in default under this Agreement has no right to such certification.

12. Use of Proceeds: The City shall use funds deposited with it, drawn or guaranteed pursuant to this Agreement only for the purpose of completing the Improvements or correcting defects in or failure of the Improvements or paying Administration and Inspection fees.

13. Events of Default: The following conditions, occurrences or actions shall constitute a default by the Developer:

13a. Developer's failure to complete each portion of the Improvements on or before the Completion Date;

13b. Developer's failure to demonstrate reasonable intent to correct defective construction of any Improvements within the applicable warranty period;

13c. Developer's insolvency, the appointment of a receiver for the Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer. In such event the City may immediately declare a default without prior notification to the Developer;

13d. Notification to the City, by any lender with a lien on the Property, of a default by Developer on any obligation to such lender. In such event, the City may immediately declare a default without prior notification to the Developer.

13e. With regard to the Property or any portion thereof: initiation of any foreclosure action regarding any lien or encumbrance; or initiation of mechanics lien(s) procedure(s); or assignment or conveyance of the Property in lieu of foreclosure. In such event the City may immediately declare a default without prior notification to the Developer.

13f. Notification to the City from the bank issuing the Guarantee that it will not renew the Guarantee at a time when security is still required hereunder and no substitute collateral acceptable to the City has been provided by the Developer.

13g. Except as provided, the City may not declare a default until written notice has been sent to the Developer at the address shown in the development file. Notice is and shall be deemed effective two calendar days after mailing thereof by first class United States mail, postage prepaid.

14. Measure of Damages: The measure of damages for breach of this Agreement by the Developer shall be the reasonable cost of satisfactorily completing the Improvements, plus reasonable expenses. Expenses may include but are not limited to contracting costs, collection costs and the value of planning, engineering, legal and administrative staff time devoted to the collection/completion of the Improvements. For Improvements upon which construction has not begun, the estimated costs of the Improvements as shown on Exhibit B shall be *prima facie* evidence of the minimum cost of completion; however, the maximum amount of the Developer's liability shall not be established by that amount or the amount of the Guarantee.

15. City's Rights Upon Default: When any event of default occurs, the City may draw on the Guarantee or proceed to collect any other security to the extent of the face amount of the Guarantee less eighty percent (80%) of the estimated cost (as shown on Exhibit B) of all Improvements for which the City has given its Acceptance and no warranty work is reasonably required. The City may also exercise its rights to disbursement of loan proceeds or other funds under the City improvements disbursement agreement.

15a. The City shall have the right to complete Improvements itself or it may contract with a third party for completion.

15b. The Developer grants to the City, its successors, assigns, agents, contractors and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, reconstructing, maintaining, inspecting and repairing the Improvements.

15c. The City may assign the proceeds of the Guarantee or other funds or assets that it may receive in accordance with this Agreement to a subsequent developer or lender that has acquired the Property by purchase, foreclosure or otherwise.

15d. That developer or lender shall then have the same rights of completion as the City if and only if the subsequent developer or lender agrees in writing to complete or correct the Improvements and provides to the City reasonable security for that obligation.

15e. These remedies are cumulative in nature and are in addition to any other remedies the City has at law or in equity.

16. Indemnification: The Developer expressly agrees to indemnify and hold the City, its officers, employees, agents and assigns ("City") harmless from and against all claims, costs and liabilities of every kind and nature, for injury or damage received or sustained by any person or entity in connection with or on account of the performance or non-performance of work at the Property and/or the Improvements and/or the Development that is being done pursuant to this Agreement.

16a. The Developer further agrees to aid and defend the City in the event that the City and/or the Improvements is named as a defendant in an action concerning the performance of work pursuant to this Agreement except for a suit wherein the Developer states claim(s) against the City.

16b. The Developer is not an agent, partner, joint venturer or employee of the City.

17. No Waiver: No waiver of any provision of this Agreement by the City shall be deemed or constitute a waiver of any other provision nor shall it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both the City and the Developer; nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The City's failure to exercise any right under this Agreement shall not constitute the approval of any wrongful or other act by the Developer or the acceptance of any Improvement.

18. Amendment or Modification: The parties to this Agreement may amend or modify this Agreement only by written instrument executed on behalf of the City by the City Manager or his designee and by the Developer or his/her/its authorized officer. Such amendment or modification shall be properly notarized before it may be deemed effective.

19. Attorney's Fees: Should either party be required to resort to litigation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, shall be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. The City shall be entitled to claim the value of its in-house attorneys at

the rate of \$125.00 per hour. If relief is awarded to both parties the attorney's fees may be equitably divided between the parties by the decision maker.

20. Vested Rights: This Agreement does not guarantee, represent or certify that the Developer is entitled to any other approval(s) required by the City, before the Developer is entitled to commence development beyond the scope of this Agreement or to transfer ownership of the Property being developed.

21. Integration: This Agreement, together with the exhibits and attachments thereto constitutes the entire Agreement between the parties. No statement(s), promise(s) or inducements(s) that is/are not contained in this Agreement shall be binding on the parties.

22. Third Party Rights: No person or entity who or which is not a party to this Agreement shall have any right of action under or be a beneficiary of this Agreement.

23. Time: For the purpose of computing the Abandonment Period and Commencement and Dates, such times in which war, civil disasters or acts of God occurs or exist shall not be included if such prevents the Developer or City from performing its obligations under the Agreement. The Developer must notify the City in writing if/when it asserts impossibility of performance under this paragraph. The City may reject the Developer's assertion, if it finds, in writing that the condition(s) that the Developer asserts do not exist.

24. Severability: If any part, term or provision of this Agreement is held by a court of competent jurisdiction to be illegal or otherwise unenforceable, such illegality or unenforceability shall not affect the validity of any other part, term or provision. The rights of the parties shall be construed as if the part, term or provision was never part of the Agreement.

25. Benefits: The benefits of this Agreement to the Developer are personal and may not be assigned without the express written approval of the City. Such approval may not be unreasonably withheld but any unapproved assignment is void.

25a. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and also shall be binding on the heirs, successors and assigns of the Developer and shall be a covenant(s) running with the Property.

25b. There is no prohibition on the right of the City to assign its rights under this Agreement.

25c. Upon written request from the Developer the City shall expressly release the original Developer's Guarantee and/or contract obligations if it accepts new security from any developer or lender who obtains the Property, however, no other act of the City shall constitute a release of the original Developer from his liability under this Agreement.

25d. When the City has issued its Acceptance regarding the Improvements, the City agrees to state the same in writing, with appropriate acknowledgments.

25e. The City shall sign a release only after all warranty periods, as extended by litigation, repair or alteration work, have expired.

26. **Notice:** Any notice required or permitted by this Agreement shall be deemed effective two calendar days after deposit with the United States Postal Service, first class, postage prepaid and addressed as follows:

If to Developer: _____ Name -
Developer/Company _____ Address (Street and
Mailing) _____
_____ City, State & Zip
Code _____
(_____) Telephone and Fax
Numbers _____
(_____) _____ E-mail

Cc:

If to City: Office of the City Attorney
250 North 5th Street
Grand Junction, CO 81501

Cc: Public Works & Planning Department
250 North 5th Street
Grand Junction, CO 81501

27. **Recordation:** Developer shall pay the costs to record a memorandum of this Agreement (Exhibit D) in the records of the Mesa County Clerk and Recorder's Office. The Developer may, at his/her/its option record the entire agreement.

28. **Immunity:** Nothing contained in this Agreement constitutes a waiver of the City's sovereign or other immunity under any applicable law.

29. **Personal Jurisdiction and Venue:** Personal jurisdiction and venue for any action commenced by either party to this Agreement whether arising out of or relating to the Agreement, the Guarantee, the Maintenance Guarantee or any action based arising out of or under this Agreement shall be deemed to be proper only if such action is commenced in Mesa County, Colorado.

29a. The Developer expressly waives his/her/its right to bring such action in or to remove such action to any other court whether state or federal.

30. **Liability before Acceptance:** The City shall have no responsibility or liability with respect to any street or other Improvement(s), notwithstanding the use of the same by the public, unless the street or other Improvement shall have received Acceptance by the City.

30a. If the City allows a street to be constructed in stages, the Developer of the first one-half street opened for traffic shall construct the adjacent curb, gutter and sidewalk in the standard location and shall construct the required width of pavement from the edge of gutter on the side of the street nearest the property to enable an initial two-way traffic operation without on-street parking.

30b. Developer shall also construct and pay for end-transitions, intersection paving, drainage facilities and adjustments to existing utilities necessary to open the street to traffic.

30c. The City shall not issue its written Acceptance with regard to any Improvement(s) including any street, storm drainage facility, sewer, water facility or other required Improvement(s), until the Developer:

(i) furnishes to the City Engineer as-built drawings in reproducible form, blue line stamped and sealed by a professional engineer and in computer disk form and copies of results of all construction control tests required by City specification;

(ii) provides written evidence to the City Engineer under signature of a qualified expert that the earth, soils, lands and surfaces upon in and under which the Improvement(s) have been constructed or which are necessary for the Improvements are free from toxic, hazardous and other regulated substances or materials;

(iii) provides written evidence to the City Attorney that the title to lands underlying the Improvements are free and clear from all liens and encumbrances, except those items and encumbrances which may be approved in writing by the City Attorney; and
(iv) provides written evidence, certified by the Developer's engineer, that the work was systematically inspected and tested and that the materials and the compaction of the materials that are required to be compacted, were in conformance with City-approved plans and specifications.

By:

Developer

Date

Name (printed)

Corporate Attest:

Name

Date

City of Grand Junction
250 North Fifth Street
Grand Junction, CO 81501

Public Works & Planning Dept.

Date

6/13/2003

MAINTENANCE GUARANTEE

1. **Parties:** The parties to this Maintenance Guarantee (“the Guarantee” or “Guarantee”) are _____ (“the Developer”) and the City of Grand Junction, Colorado (“the City” or “City”). Collectively the Developer and the City may be referred to as the Parties.

FOR valuable consideration, the receipt and adequacy of which is acknowledged, the Parties agree as follows:

2. **Effective Date:** The Effective Date of the Guarantee will be the date that it is signed and accepted by the City.

The Developer has constructed, installed and is required to warrant and maintain certain improvements (“Improvements” or “the Improvements”) which were made necessary by virtue of development on property within the City. The Property, known as _____ has been reviewed and approved under Community Development file # _____ and as necessary or required to construe this guarantee, that file(s) is incorporated by this reference.

The City seeks to protect the health, safety and general welfare of the community by requiring that the Improvements, once constructed, be maintained. The purpose of this guarantee is to protect the City from having to repair the Improvements at its cost. The Agreement is not executed for the benefit of materialmen, laborers or others providing work, services or material to the Developer and/or the Property or for the benefit of the owners, purchasers or users of the Property. The mutual promises, covenants and obligations contained in this guarantee are authorized by law, the Colorado Constitution, the Charter and the City’s ordinances.

3. **Improvements:** The Developer or its successor(s) or assign(s) shall maintain and guarantee the Improvements, at his/her/its own expense, against defects in workmanship and materials for a period of one year from the date of City acceptance of the Improvements. The Developer’s obligation is and will be independent of any obligations of the City.

4. **Security:** To secure the performance of its obligations the Developer is required to post security in an amount of \$ _____ (Line G2, Exhibit B, City Security).

4a. The Developer has posted security to guarantee the Improvements in an amount, form and with terms acceptable to the City.

4b. In addition to that security all warranties and/or guarantees (those incident to construction or as provided by the contractor and/or manufacturer of installed equipment) are hereby assigned to the City.

4c. The Developer shall to the extent necessary or required by the City take whatever action is necessary or required to assign all warranties and/or guarantees (those incident to construction or as provided by the contractor and/or manufacturer of installed equipment) to the City. A copy of those warranties or a memorandum of the same is attached as Exhibit A.

4d. The Developer for itself, its successors and assigns agrees that if the Improvements are not maintained to City standards that the City shall notify the Developer in writing of the defect(s) in accordance with paragraph 8 hereof.

5. **Standards:** The Developer shall maintain the Improvements according to the standards and specifications required by the City or as otherwise established by the City Engineer.

6. **Warranty:** The Developer hereby warrants that the Improvements, each and every one of them, will be maintained in accordance with the Standards in paragraph 5 for the period of this guarantee.

7. **Compliance with Law:** The Developer shall comply with all applicable federal, state and local laws, ordinances and regulations in effect at the time of final approval when fulfilling its obligations under this guarantee. When necessary to protect the public health, safety or welfare, the Developer shall be subject to laws, ordinances and regulations that become effective after acceptance of the Improvements.

8. **Notice of Defect/Default:** The City shall provide timely notice to the Developer whenever routine inspection reveals that an Improvement and/or maintenance of the same does not conform to City standards and any specifications approved or required in or by the development or that an Improvement(s) is otherwise defective.

8a. As provided herein the City shall provide written notice to the Developer at the address stated in paragraph 22. Notice is and shall be deemed effective two calendar days after mailing thereof by first class United States mail, postage prepaid.

8b. The Developer will have twelve (12) calendar days from the date of the notice to correct the defect.

8c. The City may grant reasonable extensions in writing to the time for correction of defect(s), however, it is not obligated to do so nor is it obligated to provide any notice of a defect(s) if it becomes aware of the defect(s) in or during an emergency. Furthermore, the City is not obligated to inspect the Improvements but may do so as it would any other improvement.

9. **Acceptance:** Prior to acceptance of any Improvement(s), the Developer shall demonstrate in writing to the satisfaction of the City Attorney that it owns the Improvements in fee simple or that there are no liens, encumbrances or other restrictions other than those that have been accepted by the City Attorney on the

Improvements. Approval and/or acceptance of any Improvements does not constitute a waiver by the City of any rights it may have on account of any defect in or failure of the Improvement or maintenance of the same that is detected or which occurs after approval and/or acceptance. All warranties and/or guarantees shall be for a period of no less than 12 months from the date of acceptance of the Improvements.

10. Funds: Funds drawn, guaranteed or collected by the City under this agreement shall be used for the purpose of correcting defects in and/or repairing or replacing failure(s) of the Improvement(s).

11. Defect/Default Events: The following conditions, occurrences or actions will constitute a defect and/or default:

11a. Developer's failure to maintain each and every one of the Improvements in conformance with this guarantee and/or as required by code, law, rule, ordinance or regulation;

11b. Developer's failure to correct defective construction of any Improvement within the applicable guarantee period;

11c. Developer's failure to maintain security in a form and amount required/provided by this guarantee.

11d. As provided herein the City shall provide written notice to the Developer at the address on file with the development application. Notice is and shall be deemed effective two calendar days after mailing thereof by first class United States mail, postage prepaid.

12. Measure of Cost/Expenses: The measure of costs and or expenses chargeable by the City under this guarantee will be the reasonable cost of satisfactorily repairing and/or replacing the Improvements plus reasonable City administrative expenses (in the amount of 20% of the repair, replacement and/or warranty work) all of which may exceed the amount of the security provided for in paragraph 4. The amount of the security provided for in paragraph 4 does not set, limit, establish or provide the Developer's maximum financial obligation.

12a. City administrative expenses for which the Developer is obligated to pay include but are not limited to personnel costs, including benefits, overtime, callback, standby and other extraordinary compensation, materials, equipment, third-party contracting costs, collection costs and the value of engineering, legal and administrative staff time devoted to the repair and/or replacement of the Improvements and/or enforcement of this guarantee and all initial warranty(ies) or guarantee(s) assigned to the City by the Developer.

13. City's Rights: When any defect or default occurs, the City may after notice and the Developer's failure and/or refusal to repair or replace the Improvements, proceed to collect the amount of the cost or expense incidental or necessary to affect the repair or replacement of the Improvements. The City will have the right to reconstruct, rebuild or otherwise maintain Improvements itself or it may contract with a third party for

completion and the Developer grants to the City, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, reconstructing, maintaining and repairing such Improvements. This remedy is cumulative in nature and is in addition to any other remedy the City has at law or in equity.

14. Indemnification: The Developer expressly agrees to indemnify and hold the City, its officers, employees, agents and assigns harmless from and against all claims, costs and liabilities of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance or non-performance of work at the Property pursuant to this Agreement. The Developer further agrees to aid and defend the City in the event that the City is named as a defendant in an action concerning the performance or non-performance of work pursuant to this guarantee. The Developer further agrees to aid and defend the City in the event that the City is named as a defendant in an action concerning the performance of work pursuant to this guarantee except where such suit is brought by the Developer against the City. The Developer is, however, not an agent or employee of the City.

15. No Waiver: No waiver of any provision of this Agreement by the City will be deemed to or constitute a waiver of any other provision, nor will it be deemed to or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both the City and the Developer; nor will the waiver of any defect or default under this guarantee be deemed a waiver of any subsequent defect(s) or default(s) of the same type. The City's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any defect(s), defaults(s) or Improvement(s).

16. Amendment or Modification: The Parties may amend or modify the Agreement only by written instrument executed on behalf of the City by the Public Works and Utilities Director or his designee and by the Developer or his authorized officer. Such amendment or modification shall be properly notarized before it may be deemed effective.

17. Attorney's Fees: Should either party be required to resort to litigation to enforce the terms of this guarantee, the prevailing party, plaintiff or defendant, will be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If relief is awarded to both parties, the attorney's fees may be equitably divided between the parties by the decision-maker. The value of the City's in-house legal counsel is agreed to be \$125.00 per hour.

18. Integration: This guarantee, together with the exhibits and attachments thereto constitutes the entire agreement between the Parties and no statement(s), promise(s) or inducement(s) that is/are not contained in this agreement will be binding on the parties.

19. Third Party Rights: No person or entity who or which is not a party to this agreement will have any right of action under this agreement.

20. **Severability:** If any part, term or provision of this guarantee is held by a court or courts of competent jurisdiction to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision and the right of the parties will be construed as if the part, term or provision was never part of the agreement.

21. **Benefits:** The benefits of this agreement to the Developer are personal and may not be assigned without the express written approval of the City. Such approval may not be unreasonably withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this agreement are personal obligations of the Developer and also will be binding on the heirs, successors and assigns of the Developer and shall be a covenant(s) running with

the Property. There is no prohibition on the City to assign its rights under this agreement. The City will expressly release the original Developer's guarantee or obligations if it accepts new security from any Developer or lender who obtains the Property; however, no other act of the City will constitute a release of the original Developer from his liability under this agreement.

22. **Notice:** Any notice required or permitted by this Agreement will be deemed effective two calendar days after deposit with the United States Postal Service, first class, postage prepaid and addressed as follows:

If to Developer: _____ Name -Developer/Company
_____ Address (Street and Mailing)

_____ City, State & Zip Code
(_____) _____ Telephone and Fax Numbers
(_____) _____
_____ E-mail

If to City: Office of the City Attorney
250 North 5th Street
Grand Junction, CO 81501

Cc: Public Works and Planning Department
250 North 5th Street
Grand Junction, CO 81501

23. **Recordation:** Developer will pay for all costs to record a memorandum of this guarantee in the Clerk and Recorder's Office of Mesa County, Colorado.

24. **Immunity:** Nothing contained in this agreement constitutes a waiver of the City's sovereign or other immunity under any applicable law.

25. **Personal Jurisdiction and Venue:** Personal jurisdiction and venue for any action commenced by either party to this agreement whether arising out of or relating to the agreement, will be deemed to be proper only if such action is commenced in Mesa County, Colorado. The Developer expressly waives his right to bring such action in or to remove such action to any other court whether state or federal.

By:

Developer Date

Name (printed): _____

Title (position): _____

Attest:

Secretary Date

City of Grand Junction

Project Planner Date

Dept. of Public Works and Planning Date

GUARANTEE2003

6/13/2003

Attach W-4

**Grand Junction Regional Communication Center
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
Subject		Grand Junction Regional Communication Center Equipment Replacement, Remodel and Modular Placement				
Meeting Date		05-14-07				
Date Prepared		05-10-07			File #	
Author		Troy Smith		Deputy Police Chief		
Presenter Name		Troy Smith		Deputy Police Chief		
Report results back to Council		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	When	
Citizen Presentation		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Name	
<input checked="" type="checkbox"/>	Workshop		Formal Agenda		<input type="checkbox"/>	Consent
						Individual Consideration

Summary:

The Grand Junction Regional Communications Center (GJRCC), which was initially formed in 1979 and formalized through an intergovernmental agreement in 1989, provides public safety communication and dispatching services to eighteen police, fire and emergency medical service providers within our county and assists more than ten other public agencies on an as needed basis. The GJRCC is managed by and housed in the Grand Junction Police Department.

The GJRCC has developed a comprehensive plan to sustain its ability to continue to provide critical public safety communications services to the community and to its user agencies for about the next five years. Significant strategic planning has been undertaken with a collaborative team that was authorized by City Manager Dave Varley and led by Deputy Chief Troy Smith. This team consists of key City staff from each of the City's Departments and reports its recommendations to Police Chief Bill Gardner. This team has been charged with and is focused on two key issues 1) Planning for and implementing solutions for the immediate space needs and other infrastructure challenges at the police department and 2) planning for a new public safety facility.

As a result of this process, a series of recommendations have been made relative to the communications center, which consist of;

- Remodel the communications center to add space to the data room and the operations floor to accommodate new technological advances and anticipated future growth in both technology and personnel
- Replacement of the uninterrupted power source (previously approved by council)
- Replacement of the back up power system
- Relocate the City's IS infrastructure for the Police Department into the Communications Center's data room
- Add 3 additional dispatch consoles to the center
- Create a space for training new Telecommunicators (located in a modular)
- Relocate support personnel to offices within the modular

All of these recommendations were critically reviewed by the Emergency Telephone Authority Board, which governs the communications center and were fully authorized during their board meeting on April 3, 2007. The Board also approved the use of E911 funds for this project

Budget:

The City of Grand Junction's share of this project is about 15% of the total project costs. The City's portion of those costs and the expenditure of the E911 funds are contained within the Police Department's 2007 supplemental appropriation.

Action Requested/Recommendation:

No request for formal action tonight. The presentation is in support of the supplemental appropriations request, which the City Council will see on Wednesday, May 16th.

Attachments:

Communications remodel plan
Site plan for 2 additional modulars
Site plan 600 block of Ute Avenue

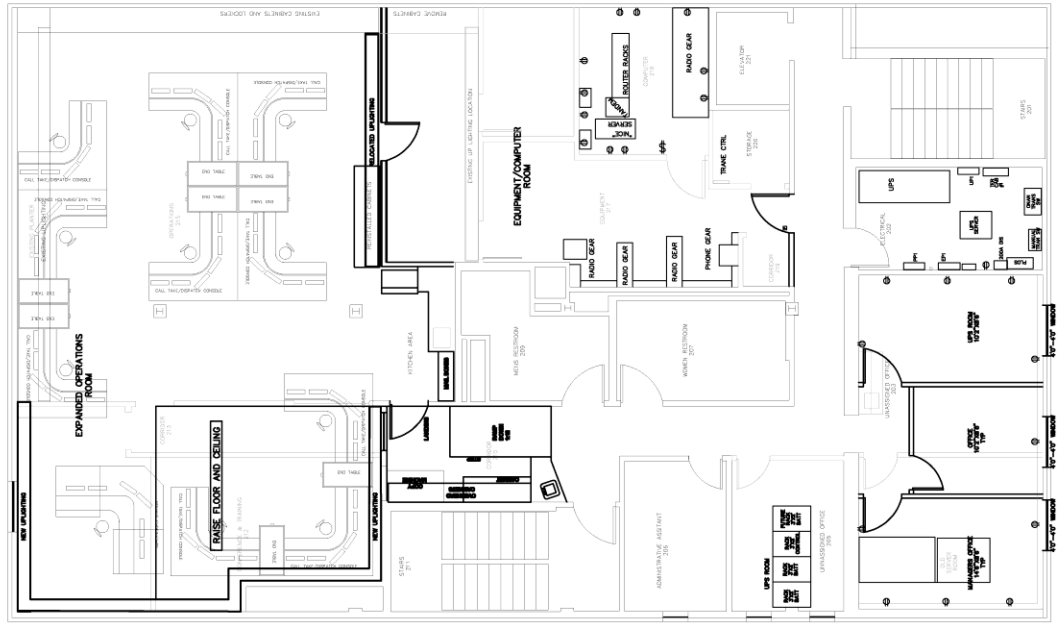
Background Information:

This project and the associated costs are being recommended to the council after careful analysis and planning. The project team and the Emergency Telephone Authority Board are aware of the desire to consider construction of a new public safety facility. This project, in the professional opinion of the project team and the Emergency Telephone Authority Board, must be completed to sustain critical public safety communications services, irrespective of the timing of a new public safety center. It is anticipated that the process of designing, planning, financing and constructing a new public safety center will take at least 4 years.

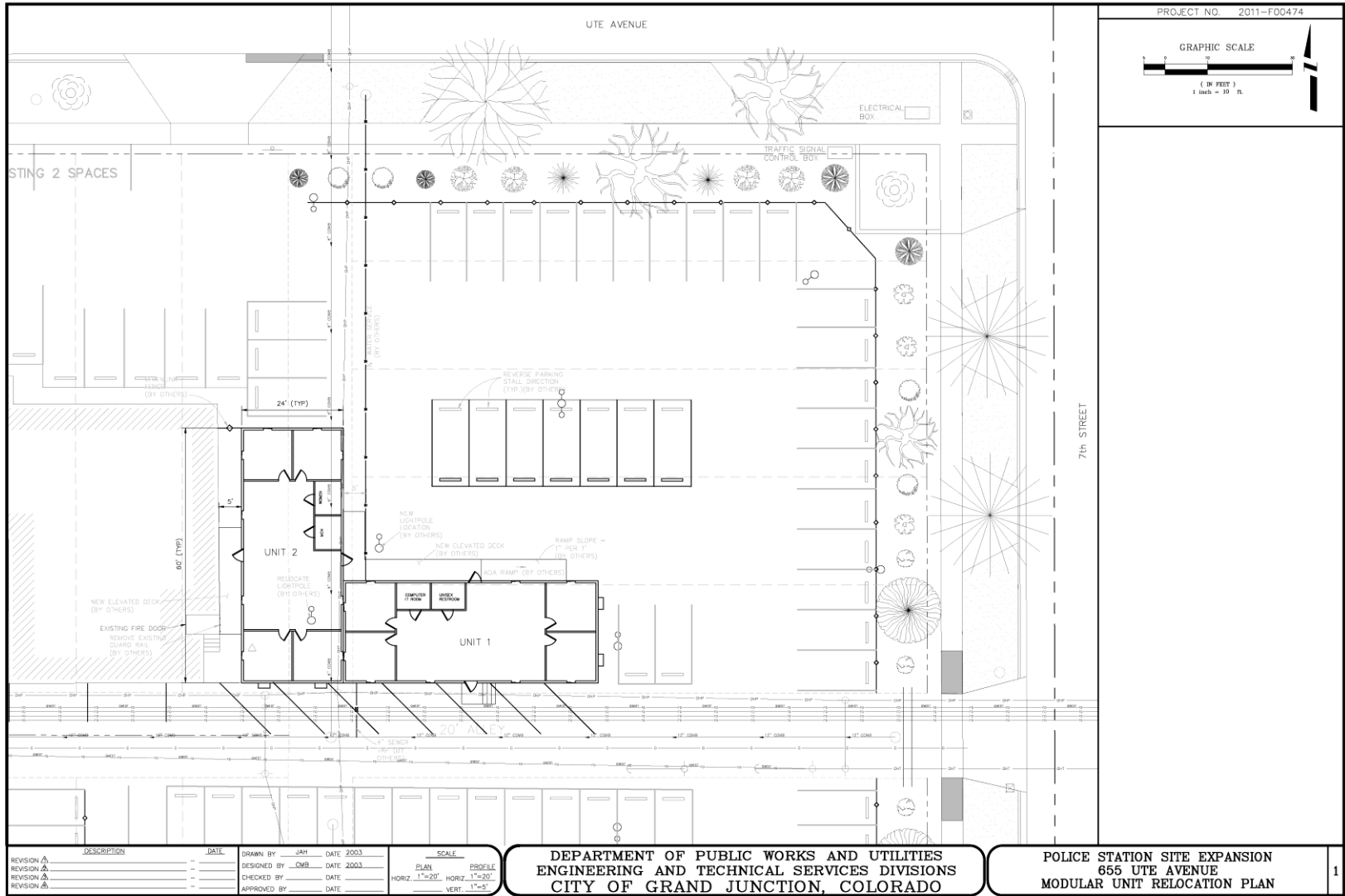
In order to complete the replacement of the uninterrupted power source, the back up power system and the wiring upgrades required, the GJRCC will have to shut down all of its infrastructure for a period of time. Significant planning has been undertaken to minimize disruption of critical services to the public and the user agencies, in addition to the development of disaster plans in the event those services cannot be restored for a period of time. A comprehensive emergency management table top exercise has been developed and will be tested by regional public safety agencies, prior to the conversion.

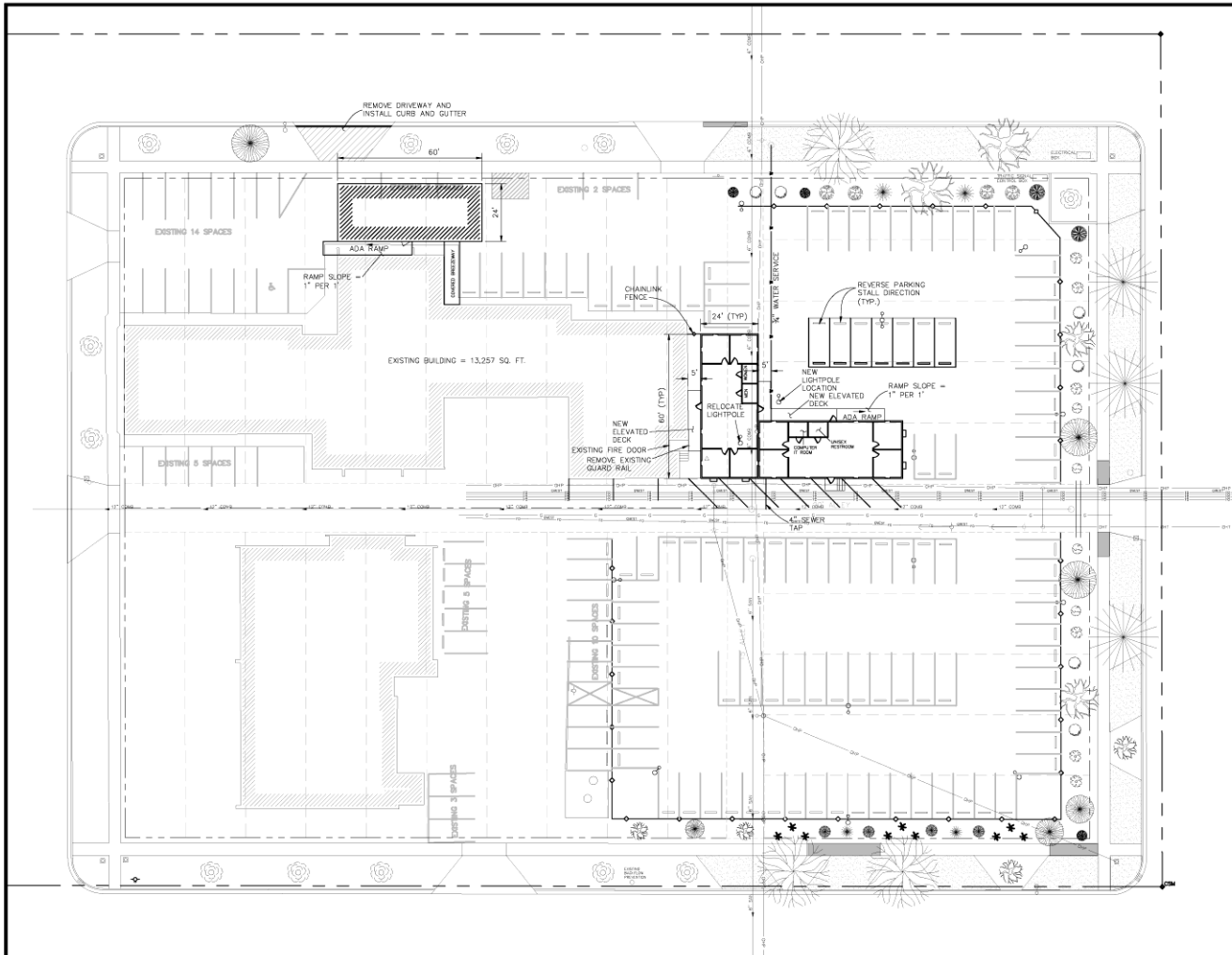
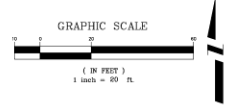
Two additional modulars will be placed at the police department for space expansion. One will be used as described above for the communications center and the other will be used to relieve space issues and over crowding in the operations area of the police department. Both units are scheduled to be delivered the first week in June and will be placed in the east parking lot near the police building.

EXISTING SOFT ONE
 EXISTING REAR ONE
 NEW REAR ONE
 NEW FRONT ONE



1/4"=1'-0"





REVISION	DESCRIPTION	DATE	DRAWN BY	DATE
			JAH	2003
			CMB	2003

SCALE	
PLAN	1" = 20'
PROFILE	1" = 5'
HORIZ.	1" = 20'
VERT.	1" = 5'

DEPARTMENT OF PUBLIC WORKS AND UTILITIES
 ENGINEERING AND TECHNICAL SERVICES DIVISIONS
 CITY OF GRAND JUNCTION, COLORADO

POLICE STATION SITE EXPANSION
 655 UTE AVENUE

