

## **ORDINANCE NO. 3588**

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF \$3,420,000 HOSPITAL REVENUE REFUNDING BOND (COMMUNITY HOSPITAL PROJECT) SERIES 2004 OF THE CITY OF GRAND JUNCTION, COLORADO FOR THE PURPOSE OF REFUNDING ALL OF THE OUTSTANDING CITY OF GRAND JUNCTION, COLORADO HOSPITAL REVENUE REFUNDING AND IMPROVEMENT BONDS (COMMUNITY HOSPITAL CORPORATION PROJECT) SERIES 1993; APPROVING AND AUTHORIZING EXECUTION OF A FINANCING AGREEMENT AND ESCROW AGREEMENT WITH RESPECT TO THE BOND; MAKING FINDINGS AND DETERMINATIONS WITH RESPECT TO THE REFUNDING PROJECT AND THE BOND; AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS; AND REPEALING ALL ACTION HERETOFORE TAKEN IN CONFLICT HEREWITH.

WHEREAS, the City of Grand Junction, Colorado (the "City") is a municipal corporation duly organized and existing under the City's home rule charter (the "Charter") adopted pursuant to Article XX of the Constitution of the State of Colorado (the "State"); and

WHEREAS, the County and Municipality Development Revenue Bond Act, constituting Article 3 of Title 29, Colorado Revised Statutes, as amended (the "Act"), authorizes cities and counties in the State to issue revenue bonds to finance one or more projects, including any land, buildings or other improvements, and all real and personal properties, whether or not in existence, which shall be suitable or used in connection with a hospital or health care facility; and

WHEREAS, the City is further authorized by the Act to issue its revenue bonds for the purposes of defraying the costs of financing or refinancing any such project, including all incidental expenses incurred in issuing such bonds, and to secure the payment of such bonds as provided in the Act; and

WHEREAS, representatives of Colorado West HealthCare System (formerly known as Lincoln Park Osteopathic Hospital Association), d.b.a Community Hospital (the "Corporation") have requested that the City issue its hospital revenue refunding bond pursuant to terms of the Act to refund all of the currently outstanding City of Grand Junction, Colorado Hospital Revenue Refunding and Improvement Bonds (Community Hospital Corporation Project) Series 1993 (the "Refunded Bonds" and the "Refunding Project") the proceeds of which Refunded Bonds

financed and refinanced improvements to the Corporation's hospital facilities located within the boundaries of the City; and

WHEREAS, the City has considered the request of the Corporation and has concluded that the Refunding Project will assist the Corporation in providing more adequate healthcare facilities, promoting the public health, welfare, safety, convenience and prosperity, and that the City should issue its hospital revenue refunding bond under the Act to finance a portion of the cost of the Refunding Project, subject to the conditions set forth herein; and

WHEREAS, the City will issue, sell and deliver its City of Grand Junction, Colorado Hospital Revenue Refunding Bond (Community Hospital Project) Series 2004 (the "Bond"), in an aggregate principal amount not to exceed \$3,420,000 and loan the proceeds thereof to the Corporation, pursuant to the terms of a Financing Agreement dated as of January 1, 2004 (the "Financing Agreement") among the City, the Corporation and Alpine Bank (the "Purchaser") to pay a portion of the cost of financing the Refunding Project; and

WHEREAS, the City, the Corporation and U.S. Bank National Association will enter into an Escrow Agreement, dated as of January 1, 2004 (the "Escrow Agreement") pursuant to which the proceeds of the Bond will be deposited to effect the Refunding Project; and

WHEREAS, the Bond shall be purchased by the Purchaser pursuant to the terms of the Financing Agreement; and

WHEREAS, the City is authorized by the Supplemental Public Securities Act, Article 57 of Title 11 of Colorado Revised Statutes, as amended (the "Public Securities Act"), to delegate to any of its members, chief executive officer, or chief financial officer the authority to sign a contract for the purchase of securities or to accept a binding bid for securities and, in addition, may delegate the following determinations to such member or officer without any requirement that the issuing authority approve such determinations: (a) the rate of interest on securities; (b) the conditions on which and the prices at which the applicable securities may be redeemed before maturity; (c) the existence and amount of any capitalized interest or reserve funds; (d) the price at which the securities will be sold; (e) the principal amount and denominations of the securities; (f) the amount of principal maturing in any particular year; and (g) the dates on which principal and interest shall be paid; and

WHEREAS, the City hereby determines that it is in the City's best interest to delegate to its Finance Director (the "Finance Director") certain of the specific powers enumerated in the Public Securities Act as more specifically provided in this Ordinance; and

WHEREAS, there have been presented to the City Council at this meeting the following documents: (a) the proposed form of the Financing Agreement; and (b) the proposed form of the Escrow Agreement; and

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

Section 1. **Legal Authorization.** The City is a municipal corporation duly organized and existing under the City's Charter adopted pursuant to Article XX of the Constitution of the State.

Section 2. **Findings.** The City Council has heretofore determined, and does hereby determine, based upon the representations of the Corporation, as follows:

(a) The healthcare facilities being refinanced are an eligible "project," as defined in the Act.

(b) The issuance of the Bond will effectuate the public purposes of the City and carry out the purposes of the Act by, among other things, providing hospital facilities within the City.

(c) The Bond is a special, limited obligations of the City payable solely out of the income, revenues and receipts specifically pledged pursuant to the Financing Agreement. The Bond, the premium, if any, and the interest thereon shall never constitute the debt or indebtedness of the City within the meaning of any provision or limitation of the State Constitution, State statutes or the Charter, and shall not constitute nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing power and shall not constitute a "multiple fiscal year direct or indirect debt or other financial obligation" of the City under Article X, Section 20 of the Colorado Constitution. Neither the State of Colorado nor any political subdivision thereof shall be obligated to pay the principal of, premium, if any, or interest on the Bond or other costs incident thereto. The Bond does not constitute a debt, loan, credit or pledge of the faith and credit or taxing power of the State, the City or any political subdivision thereof.

Section 3. **Authorization of Issuance of Bond.** To defray the cost of the Refunding Project (including incidental expenses incurred in issuing the Bond), there is hereby authorized and created a series of revenue refunding bonds designated “City of Grand Junction, Colorado, Hospital Revenue Refunding Bond (Community Hospital Project) Series 2004” in an aggregate principal amount of \$3,420,000. Subject to the determination of the Finance Director, the issuance of the Bond shall be in such principal amount, bearing such date and interest rate and such Bond shall mature as set forth in the Financing Agreement. The Bond shall be payable, shall be subject to redemption prior to maturity and shall be in substantially the form as provided in the Financing Agreement. Furthermore, the Bond shall be payable at such place, shall carry such registration privileges, shall be executed, and shall contain such terms and conditions, as set forth in the Financing Agreement. The maximum net effective interest rate on the Bond shall not exceed 4.60% per annum unless a Determination of Taxability (as defined in the Financing Agreement) shall occur, in which event the maximum net effective interest rate on the Bond shall not exceed 6.25%. Section 11-57-204 of the Public Securities Act provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act. The City hereby elects to apply all of the Supplemental Act to the Bond.

Section 4. **Sale of Bond.** The placement and purchase of the Bond pursuant to the terms of the Financing Agreement be and the same are in all respects hereby approved, authorized and confirmed, and the President of City Council is hereby authorized and directed to execute the Bond and the City Clerk is hereby authorized and directed to affix the seal of the City and to attest the Bond, and each is hereby authorized to deliver the Bond for and on behalf of the City to the Purchaser pursuant to the Financing Agreement. The Bond shall be sold to the Purchaser for the purchase price as set forth in the Financing Agreement (subject to the limitations set forth herein).

Section 5. **Delegation.** Pursuant to the terms of the Public Securities Act, the City Finance Director is hereby delegated the authority to establish: (i) the interest rate of the Bond and the payment dates therefore, provided that the net effective interest rate for the Bond shall not exceed 4.60% per annum unless a Determination of Taxability shall occur, in which event the maximum net effective interest rate on the Bond shall not exceed 6.25%.; (ii) the prior redemption provisions for the Bond, provided, any redemption premium thereon shall not exceed

3% of the principal amount to be redeemed; (iii) the original issue discount or premium thereon shall not exceed 1% of the aggregate principal amount of the Bond; and (iv) the date on which the Bond shall mature, provided that, the final maturity date for any Bond shall not be later than February 15, 2014.

Section 6. **Approval and Authorization of Documents.** The Financing Agreement, and the Escrow Agreement be and the same are in all respects hereby approved, authorized and confirmed, and the President of City Council is hereby authorized and directed to execute and the City Clerk is hereby authorized and directed to affix the seal of the City and to attest the Financing Agreement and the Escrow Agreement in substantially the forms and content as presented to the City on this date, subject to the approval of bond counsel to the City, but with such changes, modifications, additions and deletions therein as shall to them seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all changes, modifications, additions and deletions from the forms thereof as before this date.

Section 7. **All Actions Heretofore Taken.** All actions (not inconsistent with the provisions of this Ordinance) heretofore taken by the City Council and the officers of the City directed toward the issuance and sale of the Bond therefore are hereby ratified, approved and confirmed.

Section 8. **Compliance with the Act.** The following determinations and findings are hereby made in accordance with Sections 29-3-113, 29-3-114 and 29-3-120 of the Act:

(a) The maximum amount necessary in each year to pay the principal of and the interest on the Bond (based on the maximum net effective interest rates set forth herein, assuming that interest is paid monthly, and assuming no redemptions other than mandatory sinking fund redemptions prior to maturity) shall not exceed:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest</u>	<u>Total</u>
2004	\$231,270	\$192,844	\$424,113
2005	268,326	194,343	462,669
2006	285,832	176,837	462,669
2007	304,480	158,189	462,669
2008	323,930	138,739	462,669
2009	345,478	117,191	462,669
2010	368,018	94,651	462,669
2011	392,028	70,642	462,669
2012	417,452	45,217	462,669
2013	444,839	17,830	462,669
2014	38,350	207	38,557

(b) In the Financing Agreement, the Corporation has covenanted to maintain, or cause to be maintained, the Corporation's facilities and to carry, or cause to be carried, all proper insurance with respect thereto.

(c) The revenues and other amounts payable under the Financing Agreement are sufficient to pay, in addition to all other requirements of the Financing Agreement and this Ordinance, all sums referred to in paragraphs (a) and (b) of this Section, and all taxes or payments in lieu of taxes levied upon the Corporation's facilities refinanced with the Bond.

Section 9. **Investments.** Proceeds from the sale of the Bond and the revenues from the Corporation's facilities used to repay the registered owner of the Bond shall be invested and reinvested in such securities and other investments specified in, and otherwise in accordance with, the Financing Agreement, the Escrow Agreement and Section 29-3-109 of the Act.

Section 10. **Authority to Execute and Deliver Additional Documents.** The officers, employees and agents of the City shall take all action in conformity with the Act and the Charter necessary or reasonably required to effectuate the issuance of the Bond and shall take all action necessary or desirable in conformity with the Act, the Public Securities Act and the Charter to finance the portion of the costs of the Refunding Project to be financed with proceeds of the Bond and for carrying out, giving effect to and consummating the transactions contemplated by this Ordinance, the Financing Agreement and the Escrow Agreement, including without limitation the execution, delivery and filing of any documents, statements or reports with the

United States Internal Revenue Service or with the Secretary of the United States Treasury or his delegate necessary to maintain the exclusion of interest on the Bond from gross income for federal income tax purposes, the execution of any letter of representation or similar document required of any securities depository, and the execution and delivery of additional security documents and any closing documents to be delivered in connection with the sale and delivery of the Bond.

Section 11. **Bond is Limited Obligation.** The Bond shall be a special, limited obligation of the City payable solely from the receipts and revenues of the City under the Financing Agreement that are specifically pledged therefor under the Financing Agreement; the Bond shall never constitute a debt or indebtedness of the City, the State or any county, municipality or political subdivision of the State within the meaning of any provision or limitation of the Constitution or statutes of the State or the Charter or of any political subdivision of the State; and the Bond shall never constitute nor give rise to any pecuniary liability of, or a charge against the general credit or taxing powers of, the City, the State or any county, municipality or political subdivision of the State. The Bond shall not constitute a “multiple fiscal year direct or indirect debt or other financial obligation” of the City under Article X, Section 20 of the Colorado Constitution.

Section 12. **No Pecuniary Liability.** Nothing contained in this Ordinance or in the Bond, the Financing Agreement or the Escrow Agreement or any other instrument shall give rise to a pecuniary liability of, or a charge upon the general credit or taxing powers of, the City, the State or any county, municipality or political subdivision of the State. The breach by any party of any agreement contained in this Ordinance, the Bond, the Financing Agreement, the Escrow Agreement or any other instrument shall not impose any pecuniary liability upon, or any charge upon the general credit or taxing powers of, the City, the State or any county, municipality or political subdivision of the State, none of which has the power to pay out of its general fund, or otherwise contribute, any part of the cost of financing the Refunding Project, or power to operate the Corporation’s facilities as a business or in any manner.

Section 13. **No Condemnation by City.** The City shall not condemn any land or other property in connection with the Refunding Project.

Section 14. **Supplemental Ordinances.** The City may, subject to the terms and conditions of the Financing Agreement, pass and execute ordinances supplemental to this Ordinance which shall not be inconsistent with the terms and provisions hereof.

Section 15. **Limitation of Rights.** With the exception of any rights herein expressly conferred, nothing expressed or mentioned in or to be implied from the Ordinance or the Bond is intended or shall be construed to give to any person, other than the City, the Corporation or the Purchaser and the registered owner of the Bond, any legal or equitable right, remedy or claim under or with respect to this Ordinance or any covenants, conditions and provisions herein contained; this Ordinance and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the City, the Corporation, the Purchaser and the registered owner of the Bond as herein provided.

Section 16. **Pledge of Revenues.** The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Bond as provided herein and in the Financing Agreement shall be governed by Section 11-57-208 of the Public Securities Act and this Ordinance. The pledged revenues for the payment of the Bond, as received by or otherwise credited to the City, shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge on the pledged revenues shall have priority over any or all other obligations and liabilities of the City. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the City irrespective of whether such persons have notice of such liens.

Section 17. **Immunity of Officers.** Pursuant to Section 11-57-209 of the Public Securities Act, if a member of the Council, or any officer or agent of the City acts in good faith, no civil recourse shall be available against such council member, officer, or agent for payment of the principal of or interest on the Bond. No recourse for the payment of any part of the principal of, premium, if any, or interest on the Bond for the satisfaction of any liability arising from, founded upon or existing by reason of the issue, purchase or ownership of the Bond shall be had against any official, officer, council member or agent of the City or the State, all such liability to be expressly released and waived as a condition of and as a part of the consideration for the issue, sale and purchase of the Bond.



Section 18. **Designation as Qualified Tax Exempt Obligation.** For purposes of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended, the Bond is deemed designated a “qualified tax-exempt obligation.”

Section 19. **Limitations on Actions.** In accordance with the Act, no action shall be brought questioning the legality of any contract, financing agreement, mortgage, trust indenture, proceeding relating to the Bond, the Refunded Bonds or the Refunding Project on and after thirty days from the effective date of this Ordinance.

Section 20. **Counterparts.** This Ordinance may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 21. **Captions.** The captions or headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

Section 22. **Validity of Bond.** Each Bond shall contain a recital that such Bond is issued pursuant to the Act and the Public Securities Act, and such recital shall be conclusive evidence of its validity and of the regularity of its issuance.

Section 23. **Irrepealability.** After the Bond is issued, this Ordinance shall be and remain irrepealable until the Bond and the interest thereon shall have been fully paid, canceled and discharged.

Section 24. **Severability.** If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 25. **Repealer.** All bylaws, orders, resolutions and ordinances, or parts hereof, inconsistent herewith and with the documents hereby approved, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance, or part thereof.

Section 26. **Disposition of Ordinance.** This Ordinance, as adopted by the City Council, shall be numbered and recorded by the City Clerk in the official records of the City.

The adoption and publication shall be authenticated by the signatures of the President of the City Council and City Clerk, and by the certificate of publication.

Section 27. **Effective Date.** This Ordinance shall be in full force and effect 30 days after publication following final passage.

INTRODUCED, PASSED ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN PAMPHLET FORM this 19th day of November, 2003.

CITY OF GRAND  
JUNCTION, COLORADO

\_\_\_\_\_  
President of the City Council

Attest:

\_\_\_\_\_  
City Clerk

INTRODUCED, PASSED ON SECOND READING, APPROVED AND ORDERED PUBLISHED IN PAMPHLET FORM this 3<sup>rd</sup> day of December, 2003.

CITY OF GRAND  
JUNCTION, COLORADO

\_\_\_\_\_  
President of the City Council

Attest:

\_\_\_\_\_  
City Clerk

STATE OF COLORADO            )  
   )  
 COUNTY OF MESA                ) SS.  
   )  
 CITY OF GRAND JUNCTION    )

I, Stephanie Tuin, the City Clerk of the City of Grand Junction, Colorado (the “City”) and Clerk to the City Council of the City (the “Council”), do hereby certify that:

The foregoing pages are a true, correct and complete copy of an ordinance (the “Ordinance”) which was introduced, passed on first reading and ordered published in pamphlet form by the Council at a regular meeting thereof held on November 19, 2003 and was duly adopted and ordered published in pamphlet form by the Council at a regular meeting thereof held on December 3, 2003 which Ordinance has not been revoked, rescinded or repealed and is in full force and effect on the date hereof.

The Ordinance was duly moved and seconded and the Ordinance was passed on first reading at the meeting of November 19, 2003, by an affirmative vote of a majority of the members of the Council as follows:

<u>Councilmember</u>	<u>Voting “Aye”</u>	<u>Voting “Nay”</u>	<u>Absent</u>	<u>Abstaining</u>
Cindy Enos-Martinez	X			
Bruce Hill	X			
Dennis Kirtland	X			
Jim Spehar	X			
Gregg Palmer	X			
William McCurry	X			
Harry Butler	X			

The Ordinance was duly moved and seconded and the Ordinance was finally passed on second reading at the meeting of December 3, 2003, by an affirmative vote of a majority of the members of the Council as follows:

<u>Councilmember</u>	<u>Voting “Aye”</u>	<u>Voting “Nay”</u>	<u>Absent</u>	<u>Abstaining</u>
Cindy Enos-Martinez	X			
Bruce Hill	X			

Dennis Kirtland	X			
Jim Spehar	X			
Gregg Palmer	X			
William McCurry	X			
Harry Butler	X			

The members of the Council were present at such meetings and voted on the passage of such Ordinance as set forth above.

The Ordinance was approved and authenticated by the signature of the President of the Council, sealed with the City seal, attested by the City Clerk and recorded in the minutes of the Council.

There are no bylaws, rules or regulations of the Council which might prohibit the adoption of said Ordinance.

Notices of the meetings of November 19, 2003 and December 3, 2003 in the forms attached hereto as Exhibit A were posted at City Hall in accordance with law.

The Ordinance was published in pamphlet form in The Daily Sentinel, a daily newspaper of general circulation in the City, on November 21, 2003 and December 5, 2003 as required by the City Charter. True and correct copies of the affidavits of publication are attached hereto as Exhibit B.

WITNESS my hand and the seal of the City affixed this 5th day of December, 2003.

\_\_\_\_\_  
City Clerk and Clerk to the  
Council

(SEAL)

EXHIBIT A  
(Notices of Meetings of November 19, 2003 and December 3, 2003)

**GRAND JUNCTION CITY COUNCIL  
CITY HALL AUDITORIUM, 250 NORTH 5<sup>TH</sup> STREET  
AGENDA**

**WEDNESDAY, NOVEMBER 19, 2003, 7:30 P.M.**

**CALL TO ORDER**

Pledge of Allegiance  
Invocation - Rocky Shrable, Sonrise Church of God

**PRESENTATION OF CERTIFICATES OF APPOINTMENT**

FORESTRY BOARD

GRAND JUNCTION HOUSING AUTHORITY

PLANNING COMMISSION BOARD OF APPEALS

**PROCLAMATIONS / RECOGNITIONS**

PROCLAIMING NOVEMBER 19, 2003 AS "COPD DAY"

**SCHEDULED CITIZEN COMMENTS**

**\*\*\* CONSENT CALENDAR \*\*\***

1. **Minutes of Previous Meetings** **Attach 1**  
*Action: Approve the Summary of the November 3, 2003 Workshop, Minutes of the November 5, 2003 Regular Meeting and Minutes of the November 12, 2003 Special Meeting*

2. **Setting a Hearing on the 2004 Annual Appropriation Ordinance** **Attach 2**

The total appropriation for all thirty-four accounting funds budgeted by the City of Grand Junction (including the Ridges Metropolitan District, Grand Junction West Water and Sanitation District, and the Downtown Development Authority) for the fiscal year beginning January 1, 2004 is \$115,484,715. Although not a planned expenditure, an additional \$2,500,000 is appropriated as a emergency reserve in the General Fund pursuant to Article X, Section 20 of the Colorado Constitution.

Proposed Annual Appropriation Ordinance Appropriating Certain Sums of Money to Defray the Necessary Expenses and Liabilities of the City of Grand Junction, Colorado, the Ridges Metropolitan District, and the Grand Junction West Water and Sanitation District for the Year Beginning January 1, 2004 and Ending December 31, 2004

Action: Introduction of Proposed Ordinance and Set a Hearing for December 3, 2003

Staff presentation: Ron Lappi, Administrative Services Director

3. **Setting a Hearing on the Bond Ordinance for Community Hospital** **Attach 3**

This is an ordinance authorizing the issuance of \$3,420,000 of hospital revenue refunding bonds on behalf of Community Hospital.

Proposed Ordinance Authorizing the Issuance and Sale of \$3,420,000 Hospital Revenue Refunding Bond (Community Hospital Project) Series 2004 of the City of Grand Junction, Colorado for the Purpose of Refunding all of the Outstanding City of Grand Junction, Colorado Hospital Revenue Refunding and Improvement Bonds (Community Hospital Corporation Project) Series 1993; Approving and Authorizing Execution of a Financing Agreement and Escrow Agreement with Respect to the Bond; Making Findings and Determinations with Respect to the Refunding Project and the Bond; Authorizing the Execution and Delivery of Related Documents; and Repealing all Action Heretofore Taken in Conflict Herewith

Action: Introduction of Proposed Ordinance and Set a Hearing for December 3, 2003

Staff presentation: Ron Lappi, Administrative Services Director

4. **Setting a Hearing on Amending the Barking Dog Ordinance** **Attach 4**

Changes are made to the elements for the prosecution of an owner who has failed to prevent a dog from disturbing the peace of another, warning requirements have been eliminated, and penalties have been increased for a first and second offense for violating any section of Article III of Chapter 6 of the Code of Ordinances.

Proposed Ordinance Repealing and Reenacting Section 6-61 of the Code of Ordinances ("Code") Concerning an Owner's Failure to Prevent a Dog From Disturbing the Peace and Quiet of Another, Repealing and Reenacting Section 6-68 of the Code Establishing the Penalties for Violating any Article of Section 6 of



Chapter 6 of the Code, and Repealing Certain Ordinances in Conflict with the Amendments

*Action: Introduction of Proposed Ordinance and Set a Hearing for December 3, 2003*

Staff presentation: Jamie B. Kreiling, City Staff Attorney  
John P. Shaver, Assistant City Attorney

5. **City Participation in the I-70B Corridor Optimization Plan** **Attach 5**

This study is a collaborative effort between CDOT and our local agencies to establish conceptual ideas relating to the I-70B corridor.

*Action: Authorizing the City Manager to Execute a Contract to Participate in the Corridor Optimization Study for I-70B and Approve the Use of \$75,000 from Contingency.*

Staff presentation: Mark Relph, Public Works and Utilities Director

**\*\*\* END OF CONSENT CALENDAR \*\*\***

---

**\*\*\* ITEMS NEEDING INDIVIDUAL CONSIDERATION \*\*\***

6. **Construction Contracts** (Items a - c may be awarded under one motion)

a. **Redlands Fire Station #5 Utility Improvements** **Attach 6**

Bids were received and opened on November 4, 2003. M.A. Concrete Construction submitted the low bid in the amount of \$204,847.52. The project is a joint project with Church on the Rock that will extend an 8 inch sanitary sewer main and an 8 inch Ute Water main to Church on the Rock and Redlands Fire Station #5.

*Action: Authorize City Manager to Execute a Construction Contract for the Redlands Fire Station #5 Utility Improvements with M.A. Concrete Construction in the Amount of \$204,847.52*

Staff presentation: Mark Relph, Public Works and Utilities Director

b. **Redlands Fire Station #5 Construction Contract** **Attach 7**

A request for qualifications process was used to select FCI Constructors, Inc. of Grand Junction as the Construction Manager/General Contractor for Redlands

Fire Station #5. Eight proposals were submitted during February 2003. Three firms were short listed for interviews. FCI Constructors was selected over Shaw Construction of Grand Junction and TSP of Denver.

*Action: Authorize the City Manager to Execute a GMP (Guaranteed Maximum Price) Contract for the Redlands Fire Station #5 with FCI Constructors, Inc. in the Amount of \$1,446,345.51*

Staff presentation: Mark Relph, Public Works and Utilities Director

**c. 2003 Waterline Replacement Project Change Order #1 Attach 8**

Approve a change order to the 2003 Waterline Replacement Contract with MA Concrete Construction, Inc. to add the replacement of the 12" water line in 9<sup>th</sup> Street from Main Street to Grand Avenue in the amount of \$95,429.50 This work was originally scheduled to be done in 2004 but a change in the alignment of the storm sewer pipe at 9<sup>th</sup> Street necessitates the construction of the water line this year.

*Action: Authorize City Manager to Execute a Contract Change Order with M.A. Construction Inc., in the Amount of \$95,429.50 for the 2003 Waterline Replacement Project*

Staff presentation: Mark Relph, Public Works and Utilities Director

**7. Public Hearing - Authorizing the Issuance of the City of Grand Junction, Downtown Development Authority Subordinate Tax Increment Revenue Bonds in the Amount of \$3,000,000 Attach 9**

The ordinance authorizes the issuance of \$3,000,000 in subordinate Tax Increment Bonds for improvements in the Downtown Plan of Development area.

Ordinance No. 3585 – An Ordinance Authorizing the Issuance of the City of Grand Junction, Colorado, Downtown Development Authority Tax Increment Revenue Bonds, Series 2003; Pledging the Tax Increment Revenues of the City for the Payment of the Bonds; Providing for the Payment and Discharge of the City's Outstanding Tax Increment Revenue Bonds and Subordinate Tax Increment Revenue Bonds

*®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3585*

Staff presentation: Ron Lappi, Administrative Services Director

**8. Police Department Edward Byrne Memorial Grant Program Attach 10**

The Colorado Department of Public Safety through the Division of Criminal Justice has opened the 2004 Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program. The Grand Junction Police Department would like to apply for funding of the purchase of in-car video systems for all patrol cars in the fleet along with equipment to enhance video for evidentiary purposes.

Action: *Authorize the Application for Byrne Grant Funding*

Staff presentation: Greg Morrison, Chief of Police

9. **Public Hearing - Create Alley Improvement District 2004** **Attach 11**

Successful petitions have been submitted requesting an Alley Improvement District be created to reconstruct the following six alleys:

- East/West Alley from 14<sup>th</sup> to 15<sup>th</sup>, between Elm Avenue and Texas Avenue
- East/West Alley, from 2<sup>nd</sup> to 3<sup>rd</sup>, between Chipeta Avenue and Ouray Avenue
- East/West Alley from 8<sup>th</sup> to Cannell, between Mesa Avenue and Hall Avenue
- “T” shaped Alley from 13<sup>th</sup> to 15<sup>th</sup>, between Kennedy Avenue and Elm Avenue
- East/West Alley from 2<sup>nd</sup> to 3<sup>rd</sup>, between Teller Avenue and Belford Avenue
- “T” shaped Alley from 7<sup>th</sup> to Cannell, between Kennedy Avenue and Elm Avenue

Resolution No. 108-03 – A Resolution Creating and Establishing Alley Improvement District No. ST-04 within the Corporate Limits of the City of Grand Junction, Colorado, Authorizing the Reconstruction of Certain Alley, Adopting Details, Plans and Specifications for the Paving Thereon and Providing for Payment Thereof

Action: *Hold a Public Hearing and Consider Passage of Resolution No. 108-03*

Staff presentation: Mark Relph, Public Works and Utilities Director

10. **Public Hearing - Vacating a 15' Alley Right-of-Way Located 722 Belford Avenue** [File # VR-2003-132] **Attach 12**

The petitioner, FMC Properties, LLC, wishes to vacate an existing 15' north/south alley right-of-way located northeast of the intersection of N. 7<sup>th</sup> Street and Belford Avenue in anticipation of future commercial office development. The only utilities that are located in the alley right-of-way are a sanitary sewer line which is to be abandoned and an overhead utility line which is to be relocated. The existing eight (8) lots owned by the petitioner will be consolidated into one (1) 0.59 acre lot through a Simple Subdivision Plat upon the approval of the alley vacation. The Planning Commission recommended approval at its October 28<sup>th</sup>, 2003 meeting. The petitioners request approval of the Vacation Ordinance.

Ordinance No. 3586 – An Ordinance Vacating a 15' Wide Alley Right-of-way Located Northeast of the Intersection of North 7<sup>th</sup> Street and Belford Avenue Known as 722 Belford Avenue

®Action: *Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3586*

Staff presentation: Scott D. Peterson, Associate Planner

11. **Public Hearing - Gowhari Growth Plan Amendment Located at 563 & 573 20 ½ Road and 2026 S. Broadway** [File #GPA-2003-183] **Attach 13**

Request to amend the Growth Plan, changing the Future Land Use designation from “Rural” to “Residential Low” for three properties located at 2026 S. Broadway, 563 20 ½ Rd and 573 20 ½ Rd. Planning Commission recommends approval.

**4.** Resolution No. 109-03 – A Resolution Amending the City of Grand Junction Growth Plan Future Land Use Map to Re-designate 24.6 acres of the Gowhari Property Located at 2026 South Broadway, 563 20 ½ Road and 573 20 ½ Road from Rural, 5 to 35 acres per dwelling unit, to Residential Low, ½ -2 acres per dwelling unit

®Action: *Adopt Resolution No. 109-03*

Staff presentation: David Thornton, Principal Planner

12. **Public Hearing - Grand Bud Growth Plan Amendment Located at the NW Corner of 28 ½ Road and Highway 50** [File #GPA-2003-184] **Attach 14**

Request to amend the Growth Plan, changing the Future Land Use designation from Residential Medium (4-8 units per acre) to Commercial on a portion of the property located at the NW corner of 28 ½ Road and Highway 50. Staff and Planning Commission recommend denial.

Resolution No. 110-03 – A Resolution Amending the City of Grand Junction Growth Plan Future Land Use Map to Re-designate the Grand Bud Property, approximately 10 acres at the Northwest corner of 28 ½ Road and Highway 50, from Residential Medium (4 to 8 units per acre) to Commercial

®Action: *Adopt Resolution No. 110-03*

Staff presentation: Kathy Portner, Planning Manager

13. **NON-SCHEDULED CITIZENS & VISITORS**
14. **OTHER BUSINESS**
15. **EXECUTIVE SESSION** FOR DISCUSSION OF PERSONNEL MATTERS UNDER C.R.S. 24-6-402(4)(f)(I) RELATIVE TO CITY COUNCIL EMPLOYEES
16. **ADJOURNMENT**

**GRAND JUNCTION CITY COUNCIL  
CITY HALL AUDITORIUM, 250 NORTH 5<sup>TH</sup> STREET  
AGENDA**

**WEDNESDAY, DECEMBER 3, 2003, 7:30 P.M.**

**CALL TO ORDER**

Pledge of Allegiance

Invocation - Pastor Zeke Leija, Zion Assembly of God Church

**PRESENTATION OF CERTIFICATES OF APPOINTMENT**

FORESTRY BOARD

**PROCLAMATIONS**

PROCLAIMING DECEMBER 15 AS "BILL OF RIGHTS DAY" IN THE CITY OF GRAND JUNCTION

**SCHEDULED CITIZENS COMMENTS**

**FINAL ELECTION RESULTS**

PRESENTATION OF FINAL CERTIFICATE OF VOTES CAST FOR NOVEMBER, 2003 ELECTION

\* \* \* **CONSENT CALENDAR** \* \* \*®

1. **Minutes of Previous Meetings**

**Attach 1**

*Action: Approve the Summary of the November 17, 2003 Noon Workshop, November 17, 2003 Workshop and the Minutes of the November 19, 2003 Regular Meeting*

2. **Setting a Hearing on Zoning the Washington Annexation Located at 287 Coulson Drive** [File # ANX-2003-200]

**Attach 2**

The Washington Annexation is comprised of one parcel of land of 1.317 acres and includes Unawep Avenue, Coulson Drive and Capitol Lane rights-of-way. The petitioner is requesting a zone of Residential Single Family with a density not to exceed four units per acre (RSF-4), which conforms to the Growth Plan Future

Land Use Map. Planning Commission recommended approval at its November 25, 2003 meeting.

Proposed Ordinance Zoning the Washington Annexation to Residential Single Family with a Density not to Exceed Four Units Per Acres (RSF-4) Located at 287 Coulson Drive

Action: *Introduction of Proposed Ordinance and Set a Hearing for December 17, 2003*

Staff presentation: Ronnie Edwards, Associate Planner

3. **Vacation of a Portion of a 7' Utility Easement Located 2110 Barberry Avenue** [File # VE-2002-248] **Attach 3**

The petitioner wishes to vacate a portion of a 7' Utility Easement (3' x 15.5' or 46.5 sq. ft.) located along the east property line of Lot 10, Block 4, Spring Valley, Filing Two, in order to accommodate the relocation of a detached patio cover in the back and side yard. The Planning Commission recommended approval at its November 25, 2003 meeting.

Resolution No. 110-03 - A Resolution Vacating a Portion of a 7' Wide Utility Easement Lying Along the East Property Line of Lot 10, Block 4, Spring Valley, Filing Two Known As: 2110 Barberry Avenue

Action: *Adopt Resolution No. 110-03*

Staff presentation: Scott D. Peterson, Associate Planner

4. **Sole Source Purchase of Rain Bird Maxicom Controllers for Irrigation Systems** **Attach 4**

Sole Source purchase of Rain Bird Maxicom Controllers for 2004. The Parks Department currently has several parks with individual automated site based irrigation systems. These systems will be converted to the centralized Maxicom software program that is currently in operation at the Lincoln Park central irrigation control system. The Rain Bird Maxicom brand is the only compatible controller and Grand Junction Pipe and Supply is the only authorized Rain Bird distributor for this area.

Action: *Authorize the Purchasing Department Senior Buyer to Issue Purchase Orders to Grand Junction Pipe and Supply in the Estimated Amounts of \$47,800.00 Contingent on Final 04 Budget Approval for Rain Bird Maxicom Controllers*

Staff presentation: Don Hobbs, Assistant Parks Director

\* \* \* END OF CONSENT CALENDAR \* \* \*

---

\* \* \* ITEMS NEEDING INDIVIDUAL CONSIDERATION \* \* \*

5.     **Utility Rate Changes for 2004** **Attach 5**

Proposal to change utility rates for Wastewater and Water Services Effective January 1, 2004. 68% of City water customers will see a decrease in their water rates and sewer rates are increasing by 5%. Irrigation charges for the Ridges will not change for 2004 and trash rates will not change for 2004.

Resolution No. 111-03 – A Resolution to Adopt Utility Rates for Wastewater and Water Services Effective January 1, 2004

®Action: *Adopt Resolution No. 111-03*

Staff presentation: Greg Trainor, Utilities Manager

6.     **2004 – 2005 Fees & Charges Policy for the Parks and Recreation Department** **Attach 6**

The Parks & Recreation Advisory Board is recommending that the City Council pass a resolution adopting the 2004 & 2005 Parks & Recreation Fees & Charges Policy. Additionally, it is also recommended that the City Council adopt the 2004-2005 Fees & Charges Policy for Two Rivers Convention Center and the Avalon Theatre.

Resolution No. 112-03 – A Resolution Establishing the 2004 – 2005 Fees and Charges Policy for the Grand Junction Parks and Recreation Department

®Action: *Adopt Resolution No. 112-03*

Staff presentation: Joe Stevens, Parks and Recreation Director

7.     **Levying Property Taxes for the Year 2003 for Collection in the Year 2004** **Attach 7**

The resolutions set the mill levies of the City of Grand Junction (City), Ridges Metropolitan District #1, Grand Junction West Water and Sanitation District (GJWWSD), and the Downtown Development Authority (DDA). The City and DDA mill levies are for operations, the others are for debt service only. The City is also establishing a temporary credit mill levy for the General Fund for the purpose of refunding revenue collected in 2002 in excess of the limitations set



forth in the Tabor Amendment, Article X, Section 20 of the Colorado Constitution. The temporary credit is pursuant to CRS 39-5-121- (SB 93-255). The City will levy a temporary credit of 0.630 mills for the purpose of refunding \$320,273.

- a. Resolution No. 113-03 – A Resolution Levying Taxes for the Year 2003 in the City of Grand Junction, Colorado
- b. Resolution No. 114-03 – A Resolution Levying Temporary Credit Taxes for the Year 2003 in the City of Grand Junction, Colorado
- c. Resolution No. 115-03 – A Resolution Levying Taxes for the Year 2003 in the City of Grand Junction, Colorado, Downtown Development Authority
- d. Resolution No. 116-03 – A Resolution Levying Taxes for the Year 2003 in the Ridges Metropolitan District a Part of the City of Grand Junction, Colorado
- e. Resolution No. 117-03 – A Resolution Levying Taxes for the Year 2003 the Grand Junction West Water and Sanitation District a Part of the City of Grand Junction, Colorado

®Action: *Adopt Resolutions No. 113-03, 114-03, 115-03, 116-03 and 117-03*

Staff presentation: Ron Lappi, Administrative Services and Finance Director

8. **Public Hearing - 2004 Annual Appropriation** **Attach 8**

The total appropriation for all thirty-four accounting funds budgeted by the City of Grand Junction (including the Ridges Metropolitan District, Grand Junction West Water and Sanitation District, and the Downtown Development Authority) for the fiscal year beginning January 1, 2004 is \$115,484,715. Although not a planned expenditure, an additional \$2,500,000 is appropriated as an emergency reserve in the General Fund pursuant to Article X, Section 20 of the Colorado Constitution.

a. **Appropriation Ordinance**

Ordinance No. 3587 - An Ordinance Appropriating Certain Sums of Money to Defray the Necessary Expenses and Liabilities of the City of Grand Junction, Colorado, the Ridges Metropolitan District, and the Grand Junction West Water and Sanitation District for the Year Beginning January 1, 2004 and Ending December 31, 2004

®Action: *Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3587*

**b. Budget Resolution**

Resolution No. 118-03 - A Resolution Adopting the Budget for the Purpose of Defraying the Expenses and Liabilities for the Fiscal Years Ending December 31, 2004 and 2005

®Action: *Adopt Resolution No. 118-03*

Staff presentation: Ron Lappi, Administrative Services and Finance Director

9. **Designating Property Tax Revenue for Neighborhood Improvements**

**Attach 9**

A resolution for the City Council consideration that declares the Council's intent to annually commit the growth in property taxes to support neighborhood capital improvements and operating costs of neighborhoods beginning in 2006.

Resolution No. 119-03 - A Resolution Declaring the Intent of the City Council of the City of Grand Junction to Designate a Portion of the Annual Property Tax Revenue of the City for Capital Improvements and Operational Costs of Neighborhood Improvements Beginning with Biennial Budget for 2006 and 2007

®Action: *Adopt Resolution No. 119-03*

Staff presentation: Kelly Arnold, City Manager  
Ron Lappi, Administrative Services and Finance Director

10. **Public Hearing - Bond Ordinance for Community Hospital**

**Attach 10**

This is an ordinance authorizing the issuance of \$3,420,000 of hospital revenue refunding bonds on behalf of Community Hospital.

Ordinance No. 3588 - An Ordinance Authorizing the Issuance and Sale of \$3,420,000 Hospital Revenue Refunding Bond (Community Hospital Project) Series 2004 of the City of Grand Junction, Colorado for the Purpose of Refunding all of the Outstanding City of Grand Junction, Colorado Hospital Revenue Refunding and Improvement Bonds (Community Hospital Corporation Project) Series 1993; Approving and Authorizing Execution of a Financing Agreement and Escrow Agreement with Respect to the Bond; Making Findings and Determinations with Respect to the Refunding Project and the Bond; Authorizing the Execution and Delivery of Related Documents; and Repealing all Action Heretofore Taken in Conflict Herewith

®Action: *Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3588*

Staff presentation: Ron Lappi, Administrative Services and Finance Director

11. **Public Hearing – Amending the Barking Dog Ordinance** **Attach 11**

Changes are made to the elements for the prosecution of an owner who has failed to prevent a dog from disturbing the peace of another, warning requirements have been eliminated, and penalties have been increased for a first and second offense for violating any section of Article III of Chapter 6 of the Code of Ordinances.

Ordinance No. 3589 - An Ordinance Repealing and Reenacting Section 6-61 of the Code of Ordinances (“Code”) Concerning an Owner’s Failure to Prevent a Dog From Disturbing the Peace and Quiet of Another, Repealing and Reenacting Section 6-68 of the Code Establishing the Penalties for Violating any Article of Section 6 of Chapter 6 of the Code, and Repealing Certain Ordinances in Conflict with the Amendments

*®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3589*

Staff presentation: Jamie B. Kreiling, City Staff Attorney  
John P. Shaver, Assistant City Attorney

12. **NON-SCHEDULED CITIZENS & VISITORS**

13. **OTHER BUSINESS**

14. **EXECUTIVE SESSION** **Attach 12**

- a. FOR DISCUSSION OF PERSONNEL MATTERS UNDER C.R.S. 24-6-402(4)(f)(I) RELATIVE TO CITY COUNCIL EMPLOYEES.
- b. TO CONFER WITH AND RECEIVE LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING STRATEGIES ABOUT AND OUR POSITIONS RELATIVE TO THE STORM WATER MASTER PLAN UNDER SECTION 402 (4)(b) OF THE OPEN MEETINGS LAW.

15. **ADJOURNMENT**



State PROOF OF PUBLICATION

NOTICE OF ADOPTION OF ORDINANCE NO. 3588 AN ORDINANCE OF THE CITY OF GRAND JUNCTION TO BE PUBLISHED IN PAMPHLET FORM NOTICE IS HEREBY GIVEN: That on the 5th day of December, 2003, at 7:30 p.m. in the City Hall Auditorium, 250 N. 5th Street, Grand Junction, Colorado, the City Council of the City of Grand Junction held a public hearing, after proper notice, to consider the final passage of an Ordinance, the title of which is: ORDINANCE NO. 3588 AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF \$3,420,000 HOSPITAL REVENUE REFUNDING BOND (COMMUNITY HOSPITAL PROJECT) SERIES 2004 OF THE CITY OF GRAND JUNCTION, COLORADO FOR THE PURPOSE OF REFUNDING ALL OF THE OUTSTANDING CITY OF GRAND JUNCTION, COLORADO HOSPITAL REVENUE REFUNDING AND IMPROVEMENT BONDS (COMMUNITY HOSPITAL CORPORATION PROJECT) SERIES 1993; APPROVING AND AUTHORIZING EXECUTION OF A FINANCING AGREEMENT AND ESCROW AGREEMENT WITH RESPECT TO THE BOND; MAKING FINDINGS AND DETERMINATIONS WITH RESPECT TO THE REFUNDING PROJECT AND THE BOND; AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS; AND REPEALING ALL ACTION HERETOFORE TAKEN IN CONFLICT HEREWITH. Copies of the adopted Ordinance are available for public inspection in the office of the City Clerk, 250 N. 5th Street, Grand Junction, CO between 7:30 a.m. and 5:30 p.m., Monday through Friday. /s/ Stephanie Tuin, MMC City Clerk Published December 5, 2003

STATE OF COLORADO

County of Mesa ) ss.

Karen Sabra

Being duly sworn, says that I am Legal Secretary of The Daily Sentinel a daily newspaper, published and duly printed in Grand Junction, Colorado in said County and State; that said newspaper has a general circulation in said County and has been continuously and uninterruptedly published therein, during a period of at least fifty-two consecutive weeks next prior to the first publication of the annexed notice; that said newspaper is a newspaper within the meaning of the act of the general Assembly of the State of Colorado, entitled "An Act to regulate the printing of legal notices and advertisements," and amendments thereto; that the notice of which the annexed is a printed copy taken from said newspaper, was published in said newspaper, and in the regular and entire issue of every number thereof, once a day for 1 successive day; that said notice was so published in said newspaper proper and not in any supplement thereof, and that first publication of said notice as aforesaid, was on the 05<sup>th</sup> day of December, 2003, and the last, on the 05<sup>th</sup> day of December, 2003.

Subscribed and sworn to before me, this 5<sup>th</sup> day of December, 2003

My Commission Expires 11/08/2005