

RESOLUTION NO. 70 - 93

A RESOLUTION OF THE CITY OF GRAND JUNCTION RELATING TO THE ISSUANCE OF THE CITY OF GRAND JUNCTION, COLORADO, INDUSTRIAL DEVELOPMENT REVENUE REFUNDING BONDS SERIES 1993 (DAYTON-HUDSON CORPORATION PROJECT); APPROVING AND AUTHORIZING THE EXECUTION BY THE CITY OF AN INDENTURE OF TRUST, LOAN AGREEMENT, SUCH BONDS AND CLOSING DOCUMENTS IN CONNECTION THEREWITH; APPROVING THE FORM OF THE PRELIMINARY OFFERING MEMORANDUM AND AUTHORIZING THE USE OF A FINAL OFFERING MEMORANDUM RELATING TO SUCH BONDS; AUTHORIZING AND DIRECTING THE CITY STAFF TO TAKE CERTAIN ACTIONS AND MAKING DETERMINATIONS AND FINDINGS AS TO OTHER MATTERS RELATED TO SUCH FINANCING; AND RECORDING THE RESULTS OF THE PUBLIC HEARING HELD THEREON.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO, as follows:

Section 1. Recitals.

1.01. The City of Grand Junction, Colorado (the "City") is a legally and regularly created, established, organized and existing municipal corporation and political subdivision under the laws of the State of Colorado.

1.02. The legislature of the State of Colorado, in the County and Municipality Development Revenue Bond Act, Title 29, Article 3, Colorado Revised Statutes, as amended (the "Act") has found and declared it to be a public purpose for municipalities to promote industry and develop trade or other economic activity by inducing profit or non-profit corporations, federal governmental offices, hospitals, and agricultural, manufacturing, industrial, commercial, or business enterprises to locate, expand, or remain in this State, to mitigate the serious threat of extensive unemployment in parts of this State, to secure and maintain a balanced and stable economy in all parts of this State, and to further the use of its agricultural products or natural resources.

1.03. In furtherance of the foregoing purposes, the legislature has authorized municipalities to issue revenue bonds under the Act for the purpose of defraying the cost of financing, acquiring, improving, and equipping any "project" including any land, building, or other improvement and all real or personal properties, whether or not in existence, suitable or used for or in connection with commercial enterprises,

including, without limitation, enterprises engaged in storing, warehousing, distributing, selling or transporting any products of agriculture, industry, commerce, manufacturing or business; to enter into a "financing agreement" with the user of the project for the purpose of providing revenues to pay the bonds so authorized; and to secure the payment of such bonds as provided in the Act.

1.04. Pursuant to the Act, the City has previously issued its Industrial Development Revenue Bonds (Dayton-Hudson Corporation Project) Series 1980 (the "1980 Bonds") in the aggregate principal amount of \$5,500,000 to finance the acquisition, improvement and equipping by Dayton-Hudson Company, a Minnesota corporation (the "Company"), of certain real and personal properties used as a retail facility and related facilities (the "Project").

1.05. Pursuant to the City's ordinance adopted on October 6, 1993 and the pursuant to the authority of the Act, the City has authorized the issuance of its Industrial Development Revenue Refunding Bonds, Series 1993 (Dayton-Hudson Company Project), in an amount equal to \$5,500,000 (the "Bonds"), to provide moneys to the Company to defray a portion of the cost of refunding the 1980 Bonds on November 1, 1993 (the "Refunding Project"). To effect the Refunding Project, the City will enter into a Loan Agreement dated as of October 15, 1993 (the "Loan Agreement") with the Company, pursuant to which the Company will agree to pay the City amounts sufficient to pay when due the principal of, premium, if any, and interest on the Bonds.

1.06. There has been presented to the City Council of the City (the "Council") (a) the proposed form of the Loan Agreement, (b) the proposed form of the Indenture of Trust dated as of October 15, 1993 (the "Indenture") between the City and First Trust National Association, and (c) the proposed form of Preliminary Offering Memorandum dated October 21, 1993 (the "Preliminary Offering Memorandum") relating to the Bonds.

1.07. In conjunction with the approval of this resolution the Council has held a public hearing, notice of which was given by publication and radio announcement, as part of the public approval requirement of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Tax Code").

Section 2. Approvals and Authorizations.

2.01. All action (not inconsistent with the provisions of this resolution) heretofore taken by the Council and the officers, employees, and agents of the City directed toward the financing of the cost of the Refunding Project and the issuance and sale of the Bonds therefor be, and the same is hereby, ratified, approved and confirmed.

2.02. The form, terms and provisions of the Bonds, substantially in the

form contained in the Indenture with such changes therein as are approved by the City Attorney, who is hereby authorized to approve the Bonds; and the Mayor of the City is hereby authorized and directed to execute the Bonds and the City Clerk is hereby authorized and directed to affix the seal of the City to the Bonds and to attest the Bonds. The signatures of the Mayor and the City Clerk on the Bonds and the seal of the City on the Bonds shall be affixed by facsimile and shall conclusively demonstrate the City's approval of the final terms of the Bonds.

2.03. The forms, terms and provisions of the Indenture and the Loan Agreement, substantially in the forms presented to the Council with such changes therein as are approved by the City Attorney, who is hereby authorized to approve the forms of the Indenture and the Loan Agreement; and the Mayor of the City is hereby authorized and directed to execute the Loan Agreement and the Indenture and the City Clerk is hereby authorized and directed to affix the seal of the City to and to attest the Indenture and the Loan Agreement such signature to be conclusive evidence of the City's approval of the final terms of such documents.

2.04. The Mayor and City Clerk and the officers, employees and agents of the City shall take all action necessary or reasonably required by the Loan Agreement and the Indenture to effectuate their provisions and shall take all action necessary or desirable in conformity with the Act to finance the cost of the Refunding Project and for carrying out the transactions contemplated by this resolution, including without limitation the execution and delivery of any closing documents to be delivered in connection with the sale and delivery of the Bonds.

2.05. The City hereby consents to the use of the Preliminary Offering Memorandum in connection with the offering of the Bonds. The City hereby authorizes the use and distribution by the Company and Norwest Bank Minnesota as private placement agent of a final Offering Memorandum, substantially in the form of the Preliminary Offering Memorandum, in connection with the offering of the Bonds.

2.06. After reasonable public notice, a public hearing was held on this date, at the City Council chambers at City Hall, 250 North Fifth Street, Grand Junction, and public comments on the proposed issuance of the Bonds were solicited. At the public hearing the following comments were received:

None.

2.07. For the purpose of qualifying the interest on the Bonds for exclusion from gross income under the Tax Code pursuant to the provisions of Section 147(f) thereof, the Council and the Mayor hereby approve the issuance of the Bonds in the principal amount of \$5,500,000 and the financing of the Project.

Section 3. Special Obligations.

In all events, it is understood, that the cost of financing the Refunding Project, including incidental issuing expenses, will only be paid out of the proceeds of the Bonds or other moneys provided by the Company and none of the Bonds will be a general obligation of the City, nor shall any of the Bonds, including interest thereon, constitute the debt or indebtedness of the City within the meaning of the Constitution or statutes of the State of Colorado or the City's home rule charter, nor shall anything contained in this resolution or in the Bonds, the Loan Agreement or the Indenture, or any other instrument give rise to a pecuniary liability of the City, any "multiple fiscal year direct or indirect debt or other financial obligation whatsoever", or a charge upon the general credit or taxing powers of the City, nor shall the breach of any agreement contained in this resolution, the Bonds, or the Loan Agreement or the Indenture impose any pecuniary liability on the City or a charge upon the general credit or taxing powers of the City, the City having no power to pay out of its general fund, or otherwise contribute any part of the costs of financing the Refunding Project, nor power to operate the Project as a business or in any manner, nor shall the City condemn any land or other property for the Project nor contribute any land or other property to the Project. Nothing contained in this resolution or the Loan Agreement or the Indenture shall give rise to any personal or pecuniary liability of any elected official, officer, director, employee, agent or attorney of the City.

ADOPTED this 20th day of October, 1993.

President of the Council

Attest:

City Clerk

Upon motion by Councilman Bill Bessinger, seconded by Councilman Ron Maupin and carried by roll call vote, the Resolution was passed and adopted as read.