

Grand Junction, Colorado

December 16, 1981

The City Council of the City of Grand Junction, Colorado, convened in regular session the 16th day of December, 1981, at 7:30 p.m. in the Council Chambers at City Hall. Those present were Council members Betsy Clark, Frank Dunn, Robert Holmes, Karl Johnson, Gary Lucero, and President of the Council Louis Brach. Also present were City Manager Jim Wysocki, City Attorney Gerald Ashby, and City Clerk Neva Lockhart.

The President of the Council called the meeting to order and led in the Pledge of Allegiance.

INVOCATION

Reverend Bud Fraser, First Baptist Church.

MINUTES

Upon motion by Councilman Dunn, seconded by Councilwoman Clark and carried, the Minutes of the regular meetings November 18 and December 2, 1981, were approved as written.

LIQUOR LICENSE RENEWALS

Upon motion by Councilman Johnson, seconded by Councilman Dunn and carried with Councilman HOLMES voting NO, the applications by the following businesses to renew their tavern liquor licenses were approved:

The Brass Rail, 476 28 Road (Tavern)
La Barra Famosa del Charro, 227 Rood Avenue (Tavern)

HEARING - PROPOSED ORDINANCE - REZONE FROM B-2 TO P AND P TO B-2 THE NE CORNER OF FIRST STREET AND ORCHARD AVENUE

President of the Council Louis Brach disqualified himself from the hearing, discussion, and voting on the rezone from B-2 to P and P to B-2 for property located on the northeast corner of First Street and Orchard Avenue as he has an interest in the property involved, and turned the Chair over to President Pro Tempore Frank Dunn.

A hearing was held after proper notice on the petition by Louis Brach to change from neighborhood convenience business uses to parking and from parking to neighborhood convenience business uses on approximately 1.7 acres located on the northeast corner of First Street and Orchard Avenue. There were no opponents, letters or counterpetitions.

The following entitled proposed ordinance was read: AN ORDINANCE AMENDING THE ZONING MAP, A PART OF CHAPTER 32 OF THE CODE OF

ORDINANCES OF THE CITY OF GRAND JUNCTION, BY CHANGING THE ZONING OF CERTAIN LANDS WITHIN THE CITY. Upon motion by Councilman Holmes, seconded by Councilman Johnson and carried, the proposed ordinance was passed for publication.

President of the Council Louis Brach returned and assumed the Chair.

HEARING - APPLICATION FOR MALT, VINOUS AND SPIRITUOUS LIQUOR SPECIAL EVENTS PERMIT BY GRAND JUNCTION AREA CENTENNIAL COMPANY ON JANUARY 23, 1982, FROM 6:00 P.M. TO 2:00 A.M. AT TWO RIVERS PLAZA - FIRST PERMIT

A hearing was held after proper posting of property on the application by the Grand Junction Area Centennial Company for malt, vinous and spirituous liquor special events permit on January 23, 1982, from 6:00 p.m. to 2:00 a.m. at Two Rivers Plaza for the annual Polish party. There were no opponents, letters, or counterpetitions.

Upon motion by Councilman Dunn, seconded by Councilman Johnson and carried with Councilman HOLMES voting NO, the application was approved.

HEARING - APPLICATION FOR MALT, VINOUS AND SPIRITUOUS LIQUOR SPECIAL EVENTS PERMIT BY GRAND JUNCTION DOWNTOWN ASSOCIATION, INC., ON JANUARY 21, 1982, FROM 6:30 P.M. TO 2:00 A.M. AT TWO RIVERS PLAZA - HORTICULTURAL CONVENTION - FIRST PERMIT

A hearing was held after proper posting of property on the application by the Grand Junction Downtown Association, Inc., for a malt, vinous and spirituous liquor special events permit on January 21, 1982, from 6:30 p.m. to 2:00 a.m. at Two Rivers Plaza for the Horticultural Convention. Gloria Ferns was present on behalf of the petitioner. There were no opponents, letters, or counterpetitions.

Upon motion by Councilman Johnson, seconded by Councilwoman Clark and carried with Councilman HOLMES voting NO, the application was approved.

HEARING ON THE DDA PLAN OF DEVELOPMENT INCLUDING THE DESIGNATION OF TAX INCREMENT AND COMMERCIAL RENOVATION DISTRICTS - RESOLUTION ADOPTING THE DDA PLAN OF DEVELOPMENT

A hearing was held after proper notice on the Downtown Development Authority Plan of Development including the designation of tax increment and commercial renovation districts. Skip Grkovic, Executive Director of the Downtown Development Authority, and Joseph A. Skinner, general counsel for the DDA, were present and presented testimony for the Plan of Development including the designation of tax increment and commercial renovation districts. Gloria Ferns, Promotions Director for the Downtown Association, presented a Resolution adopted by the Grand Junction Downtown

Association supporting the Plan of Development. The letter from the Grand Junction Planning Commission was accepted for the record.

Opponents: James Brodell, 712 N. 7th Street. Mr. Brodell filed a study he had completed regarding the tax assessments.

Betty Hubbard, 1428 Colorado Avenue, stated that it is the consensus of some of the downtown owners and others that if the parking meters were pulled the downtown would remain a viable area.

There were no other opponents, letters, or counterpetitions. The hearing was closed.

The following Resolution was read:

RESOLUTION

A RESOLUTION APPROVING A PLAN OF DEVELOPMENT FOR GRAND JUNCTION, COLORADO, DOWNTOWN DEVELOPMENT AUTHORITY.

WHEREAS, Grand Junction, Colorado, Downtown Development Authority (the Authority) has studied conditions within the central business district of the City of Grand Junction (the City); and

WHEREAS, said study has resulted in the preparation of a Downtown Development Strategy; and

WHEREAS, the Authority is authorized to plan and propose public facilities and other improvements to public and private property of all kinds which will aid and improve the downtown development area; and

WHEREAS, Johnson, Johnson & Roy, Inc., authors of the Downtown Development Strategy reported therein that blight exists within the downtown development area; and

WHEREAS, the plan of development attached hereto as Exhibit A (the Plan of Development) was presented to the Board of Directors of the Authority for its consideration; and

WHEREAS, Mesa County Valley School District No. 51, within which the entire plan of development area (the Plan of Development Area) designated in the Plan of Development lies, was permitted to participate in an advisory capacity with respect to the inclusion in the Plan of Development of the provision for the utilization of tax increment financing; and

WHEREAS, the Authority held a public meeting on the Plan of Development on November 13, 1981, which meeting was preceded by a notice of the meeting published in The Daily Sentinel on November 11, 1981; and

WHEREAS, the Authority adopted the Plan of Development by resolution on December 2, 1981; and

WHEREAS, the Plan of Development was presented to the City Council (the City Council) on December 2, 1981, at which time the City Council referred the Plan of Development to the City Planning Commission for its review and recommendations; and

WHEREAS, the Planning Commission has made written its recommendations to the City Council concerning the Plan of Development, which recommendations are attached hereto at page 18; and

WHEREAS, a notice of a public hearing before the City Council was given by publication once by one publication during the week immediately preceding the hearing in The Daily Sentinel, a newspaper having a general circulation in the City, on December 16, 1981; and

WHEREAS, a public hearing was held before the City Council on December 16, 1981, wherein comments were taken from those in attendance concerning the Plan of Development; and

WHEREAS, the City Council has been adequately informed in this matter because of public input prior to the completion of the Plan of Development, the public hearing on the Plan of Development, the evidence presented in the Downtown Development Strategy and the Plan of Development, a review of the Grand Junction Downtown Development Plan Information Base, and the personal knowledge of the members of the City Council,

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

Section 1. The City Council hereby finds and determines as follows:

A) There is a presence of a substantial number of deteriorated or deteriorating structures within the Authority as shown by:

1) Of the buildings within the Authority, approximately 85% are 30 or more years old, and although generally sound, they will require various amounts of renovation to meet present fire and building codes;

2) There are presently older buildings that are vacant, and therefore deteriorating from lack of use, located at the southeast corner of Fifth and Main, the northwest corner of Fourth and Main, the southeast corner of Third and Main and the middle of the block between Second and Third on Main; and

3) Approximately 18.8% of the retail space available is vacant, even though demand is high in areas outside the central business districts;

B) There is a predominance of defective or inadequate street layout as shown by:

1) The lack of adequate long-term parking because of time limits on meters; and

2) The existence of one-way streets on Rood and Colorado and Fourth and Fifth, which cause drivers to travel from four to six blocks out of their way to reach desired destinations because of the effect of the one-way streets combined with the effect of restricted turning intersections on Main Street; and

3) An under-utilization of parking areas to the south of Main Street while the parking areas to the north of Main Street are over-utilized;

C) There exists faulty lot layout in relation to size, adequacy, accessibility or usefulness as shown by:

1) The lot and block layout in the downtown area developed at an early date and resulted in long, narrow lots with the average lot being 25 feet by 125 feet; a size not compatible with modern architectural approaches;

2) Although west of Seventh Street significant pieces of land have been aggregated for potential development, many potential development sites are still held by a number of individual owners, including trusts and estates, and are subdivided by alleys and streets making it difficult to consolidate the needed land for redevelopment;

3) Of land within the Authority, between one-third and one-half is publicly owned and used for streets, alleys or public buildings, and, therefore, not available for private use and redevelopment;

D) There exists deterioration of site or other improvements as shown by:

1) Sidewalk repairs are necessary within the area.

2) There are deteriorating under drains in the Shopping Park along Main Street from Third to Fifth Streets;

3) Foundation work on some of the older buildings has deteriorated in the past or is presently in a deteriorated condition, thereby making these buildings more susceptible to damage;

E) Unsanitary or unsafe conditions exist as shown by:

1) Combined sanitary and storm sewers in the downtown area have the potential to back up into the drains of property owners after extreme rains, thereby creating an unsanitary condition;

2) Older buildings are located near railroad property which encourages transients to seek shelter in or around such older buildings;

3) There is a need to improve and upgrade utilities and sewers in the downtown area before any major redevelopment, for the present system would not be adequate under increased use;

4) The alleys in the downtown area are still major delivery and service routes; however, heavy pedestrian traffic has been encouraged by the use of walkthroughs at the U.S. Bank Building and on the north side of the 600 block of Main Street, and by the placement of parking areas across an alley from business establishments. Many businesses have encouraged the use of back doors as the most direct entrance from a parking area to their establishment. However, the alley surfaces are not adapted to pedestrian travel; there are no crosswalks, the lighting at night is inadequate, and during business hours, there is a flow of both delivery trucks and trash collection trucks which pose a potential threat to pedestrians.

5) The presence of older buildings and their ornate building facades encourage pigeons to nest in and around these buildings causing unsanitary conditions to exist around such nesting sites.

6) The alleys are used for utilities upon poles, and this factor, combined with the lack of adequate lighting at night, can encourage burglars to gain access to building roofs by climbing these utility poles.

F) There exist conditions which endanger life or property by fire or other causes as shown by:

1) The use of second stories of buildings as storage areas; and

2) The density of buildings of an older nature along Main Street which increases the opportunity for fire spreading from one building to another because of the lack of adequate fire walls in the design of older buildings.

3) There are no north/south water mains on Second, Third and Fourth, and the east/west mains on Grand, White and Rood are no larger than 6 inches, thereby providing limited supplies for fire protection.

Section 2. The City Council hereby finds and determines that there is a deterioration of property values or structures within the Authority as shown by:

A) A decrease in sales tax revenue in the central downtown area along both sides of Main Street from \$408,088 in 1979 to \$384,140 in 1980, and \$304,338 in 1981 (in the first eight months of the year); and

B) A decrease in the total assessed valuation of the Authority of 9.02% within the last year despite approximately a 6% increase in the size of the Authority because of recent inclusions.

Section 3. Based upon the foregoing, the City Council hereby finds and determines that there exists blight in the Authority within the meaning of Section 31-25-802(1.5), Colorado Revised Statutes 1973, as amended, and that there is a need to take corrective measures in order to halt or prevent the growth of blighted areas within the Plan of Development Area and the commercial renovation districts designated in the Plan of Development.

Section 4. The City Council hereby finds and determines that the approval of the Plan of Development will serve a public use; will promote the health, safety, prosperity, security, and general welfare of the inhabitants of the City and of its central business district; will halt or prevent the deterioration of property values or structures within said central business district; will halt or prevent the growth of blighted areas within said district; and will assist the City and the Authority in the development and redevelopment of said district and in the overall planning to restore or provide for the continuance of the health thereof; and will be of special benefit to the property within the boundaries of the Authority.

Section 5. The Plan of Development is hereby approved by the City Council, and the Authority is hereby authorized to undertake development projects as described in the Plan of Development.

Section 6. The City Council hereby finds and determines that the Plan of Development will afford maximum opportunity, consistent with the sound needs and plans of the City as a whole, for the development or redevelopment of the Plan of Development Area and the commercial renovation districts designated therein by the Authority and by private enterprise.

Section 7. In accordance with the Plan of Development, there is hereby designated the Plan of Development Area (the boundaries of which are described with particularity on page 9 of the Plan of Development), in connection with which tax increment financing shall be utilized as provided in Section 31-25-807, Colorado Revised Statutes 1973, as amended, for the purposes specified in the Plan of Development.

Section 8. There is hereby created a separate special fund of the City designated as the "Tax Increment Fund" into which shall be deposited the ad valorem and municipal sales tax increment funds described in Section 31-25-807, Colorado Revised Statutes 1973, as amended, derived from and attributable to development and redevelopment within the Plan of Development Area. Said funds shall be held, invested, reinvested and applied as permitted by law. For the purpose of ascertaining the amount of funds to be deposited in the Tax Increment Fund as provided by law, the County Assessor is hereby requested to certify to the City Council on or

before December 31, 1981, the valuation for assessment of the Plan of Development Area as of the effective date of this Resolution. For the same purpose, the City Finance Director is hereby directed to certify to the City Council on or before April 1, 1982, the amount of municipal sales taxes collected within the Plan of Development Area for the period from December 1, 1980, to November 30, 1981.

Section 9. Those parcels described on page 12 of the Plan of Development are a part of a development or redevelopment area designated by the City Council pursuant to Section 39-5-105, Colorado Revised Statutes 1973, as amended, and commercial buildings or structures on such parcels are therefore entitled to the benefits granted under said statute.

Section 10. No public servant of the City who is authorized to take part in any manner in preparing, presenting, or approving the Plan of Development or any contract contemplated thereby has a potential interest in the Plan of Development or any such contract which has not been disclosed in accordance with the requirements of Section 18-8-308, Colorado Revised Statutes 1973, as amended, and no such public servant has received any pecuniary benefit from the Plan of Development or any such contract.

Section 11. If any provision of this Resolution is judicially adjudged invalid or unenforceable, such judgment shall not affect the remaining provisions hereof, it being the intention of the City Council that the provisions hereof are severable.

Section 12. This Resolution shall be effective immediately upon its adoption and approval.

ADOPTED and APPROVED this 16th day of December, 1981.

CITY OF GRAND JUNCTION, COLORADO

By:

President of the Council

Attest:

City Clerk

EXHIBIT "A"

DDA Plan of Development in Downtown Development Authority File

Upon motion by Councilman Holmes, seconded by Councilman Dunn and carried by roll call vote, the Resolution was passed and adopted as read.

RESOLUTION OF INDUCEMENT FOR ISSUANCE OF \$6,000,000 IRBs FOR DAYS INN - TABLED

Mr. Wenford Hood of Days Inn of American presented a proposal for a Days Inn Motel/Restaurant in Grand Junction, preferably in the downtown area. He stated that sites in the downtown area are under consideration and negotiation but that nothing would be definite for 30 to 60 days. He requested, however, that Council approve the inducement resolution for the \$6,000,000 IRB issue. Mary Groves, 950 Seventeenth Street, Denver, bond counsel for Days Inn of America, appeared on their behalf.

The following Resolution was read:

RESOLUTION

WHEREAS, City of Grand Junction, Colorado (the "Issuer"), a body politic and corporate and a political subdivision of the State of Colorado, is authorized and empowered by the provisions of the County and Municipality Development Revenue Bond Act, Colorado Revised Statutes §29-3-101 et. seq., as amended (the "Act"), to finance a project, as that term is defined in the Act, and to issue its industrial development revenue bonds for the purpose of paying the cost of financing a project; and

WHEREAS, Days Inns of America, Inc. (the "Corporation") has requested the Issuer to issue and sell to the order of the Corporation, subject to the unqualified approving opinion of Kutak Rock & Huie ("Bond Counsel"), its industrial development revenue bonds pursuant to provisions of the Act for the purpose of financing a commercial and business facility constituting a project, as that term is defined in the Act (the "Project"), for the Corporation; and

WHEREAS, the Issuer wishes to declare its intention to authorize an issue of its industrial development revenue bonds for the purpose of paying the cost of financing the Project, when so requested by the Corporation, upon such terms and conditions as may then be agreed upon by the Issuer and the Corporation.

NOW, THEREFORE, be it resolved by the City Council of the Issuer that it does hereby declare its intention to authorize the issuance and sale of industrial development revenue bonds of the Issuer to the order of the Corporation, subject to the unqualified approving opinion of Bond Counsel, under and in accordance with the Act, in an amount necessary to pay the cost of the Project as described in Attachment A, presently estimated to be \$6,000,000, and upon such terms and conditions as may be mutually agreed upon by the Issuer and the Corporation, the issuance and sale of such bonds to be authorized by resolution of the Issuer at a meeting to be held for such purpose. Such bonds and the interest coupons, if any, appurtenant thereto shall never constitute the debt or indebtedness of the Issuer within the meaning of any provision or limitation of the Colorado Constitution or statutes, and shall not

constitute nor give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing power.

PASSED and APPROVED this _____ day of _____, 19____.

CITY OF GRAND JUNCTION, COLORADO

President of the Council

City Clerk

ATTACHMENT A

1. The Project will be located on a 3-acre site to be located within the incorporated boundaries of Issuer.

2. The Project will generally consist of an approximately 68,500 square foot 150-unit Days Inn Motel and 43-seat Daybreak restaurant and related and subordinate equipment and facilities.

Upon motion by Councilman Johnson, seconded by Councilwoman Clark and carried by unanimous vote, the petition by Days Inn of America for adoption of the Inducement Resolution for issuance of \$6,000,000 IRBs was tabled until there is more definitive information as to where this motel is going to be located and how it fits into the overall development plan.

Councilman Holmes, in voting to table the Resolution, asked that upon resubmission this matter be dealt with according to the criteria presently prevailing.

RESOLUTION OF INDUCEMENT FOR ISSUANCE OF \$1,500,000 IRBs FOR THE LANDMARK MOTEL, 1212 NORTH AVENUE - APPROVED

Mr. John Caldwell, CPA in Grand Junction, resident of the lower Valley, and one of the principals of the proposed Landmark Motel, appeared before Council to present the request for the issuance of \$1,500,000 IRBs.

The following Resolution was read:

RESOLUTION

RESOLUTION OF INDUCEMENT ADOPTED CONCERNING INDUSTRIAL REVENUE BONDS FOR THE LANDMARK MOTEL

RESOLUTION RELATING TO THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS; GIVING PRELIMINARY APPROVAL TO A PROJECT UNDER THE COUNTY AND MUNICIPALITY DEVELOPMENT REVENUE BOND ACT AND THE ISSUANCE OF REVENUE BONDS TO DEFRAY THE COSTS THEREOF AND

AUTHORIZING THE PREPARATION OF NECESSARY DOCUMENTS

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

Section 1. Recitals.

1.01. The legislature of the State of Colorado, in the County and Municipality Development Revenue Bond Act, Title 29, Article 3, Colorado Revised Statutes 1973, 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 part of this State, and to further the use of its agricultural products or natural resources.

1.02. 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 improvements 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, commercial, manufacturing or business; the legislature has authorized municipalities to enter into a "financial 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.

1.03. Pursuant to the authority of the Act, it has been proposed that the City issue its revenue bonds in an amount sufficient to defray the cost of financing, acquiring, improving, and equipping certain real and personal properties in the City of Grand Junction to be used by Landmark Associates, a Colorado Partnership (the "Developer"), as a motel (the "Project"), and that the City enter into a financing agreement with the Developer, pursuant to which the Developer will agree to pay the City amounts sufficient to pay when due the principal of, premium, if any, and interest on the revenue bonds and to cause the Project to be constructed. The Project is estimated to cost \$1,500,000 and will be located at 1212 North Avenue.

1.04. The existence of the Project would promote the sound economic growth of the State of Colorado and the City of Grand Junction, would provide increased opportunities for employment for residents of the City and surrounding area and would further the public purposes set forth in Section 1.01 hereof. The Project is located within the City limits of the City.

1.05. The City has been advised that conventional, commercial financing to pay the capital cost of the Project is available only on a limited basis and at such high costs of borrowing that the economic feasibility of operating the Project would be significantly reduced, but with the aid of municipal financing, and its resulting low borrowing costs, the Project is economically more feasible.

1.06. The City has been advised that revenue bonds of the City could be issued and sold upon favorable rates and terms to finance the Project.

1.07. The Project constitutes a "project" as defined in Section 29-3-103(10) of the Act.

Section 2. Approvals and Authorizations.

2.01. On the basis of the information given the City to date, it appears that it is in the best interest of the City for the City to issue its industrial development revenue bonds under the provisions of the Act to finance the costs of the Project.

2.02. The Project is hereby given preliminary approval by the City and the issuance of revenue bonds for such purpose, in an amount sufficiently to pay project costs but not to exceed \$1,500,000, is hereby approved, subject to further approval by this Council of the necessary legal documents.

2.03. Prior to or simultaneously with the issuance of the bonds, the City will enter into a financing agreement with the Developer with respect to the Project. The financing agreement shall provide for payment by the Developer to the City of such revenues as will be sufficient to pay the principal of, premium, if any, and interest on the revenue bonds, and to build up and maintain any reserves reasonably deemed advisable by this Council in connection therewith.

2.04. The President of the Council, City Clerk, City Attorney and other officers, employees and agents of the City are hereby authorized to initiate and assist in the preparation of such documents as may be appropriate to the Project.

2.05. The City finds, intends and declares that this resolution shall constitute its binding commitment to issue its industrial development revenue bonds, subject to the terms hereof, and that the adoption of this resolution is and constitutes the taking of official affirmative action by the City toward the issuance of the industrial development revenue bonds.

Section 3. Special Obligations.

In all events, it is understood, however, that the principal of and interest on the revenue bonds issued to finance the Project

shall be payable solely out of the revenues derived from the financing of the Project. The bonds and interest coupons, if any, appurtenant thereto shall never constitute the debt or indebtedness of the City within the meaning of any provision or limitation of the State Constitution, statutes, or home rule charter, and shall not constitute nor give rise to a pecuniary liability of the City or charge against its general credit or taxing powers. Such limitation shall be plainly stated on the face of each bond.

PASSED and ADOPTED this 16th day of December, 1981.

President of the Council

Attest:

City Council

Upon motion by Councilwoman Clark, seconded by Councilman Johnson and carried by roll call vote with Council members HOLMES and DUNN voting NO, the Resolution was passed and adopted as read for the Landmark Motel at 1212 North Avenue.

RESOLUTION CONCERNING CITY'S PARTICIPATION IN INSURANCE POOL

The following Resolution was read:

RESOLUTION

WHEREAS, the City Council of the City of Grand Junction has reviewed a contract to cooperate with other municipalities to form a self-insurance pool, a copy of which contract is attached hereto as Exhibit "A" and incorporated into this Resolution; and

WHEREAS, the City Council of the City of Grand Junction finds that the City is lawfully authorized to self-insure and to participate in a self-insurance pool as set forth in Exhibit "A", and that such participation would be in the best interests of the City of Grand Junction;

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

1. That the City Manager is authorized to sign the contract, incorporated herein and attached hereto as Exhibit "A", on behalf of the City of Grand Junction.

2. That the contract shall take effect on the date set forth in the contract or on the date the Colorado Commissioner of Insurance issues the certificate of authority for the self-insurance pool,

whichever date is later.

PASSED and ADOPTED this 16th day of December, 1981.

President of the Council

Attest:

City Clerk

EXHIBIT "A"

BY LAWS
COLORADO INTERGOVERNMENTAL RISK SHARING AGENCY

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BY-LAWS
COLORADO INTERGOVERNMENTAL RISK SHARING AGENCY

ARTICLE I. Definitions.

As used in this agreement, the following terms shall have the meaning hereinafter set out:

MEMBERS - The municipalities which enter into this intergovernmental agreement.

AGENCY - The Colorado Intergovernmental Risk Sharing Agency

established pursuant to the Constitution and the Statutes of this State by this intergovernmental agreement.

JOINT RISK MANAGEMENT POOL - A fund of public monies established by the Colorado Intergovernmental Risk Sharing Agency to self-insure certain risks jointly within a defined scope and to purchase catastrophe, excess and/or aggregate stop loss insurance when deemed prudent.

RISK MANAGEMENT - A program of identification of exposures to accidental loss, reduction or limitation of losses to municipal properties and from injuries to persons or property caused by the operations of municipalities, and prudent funding of these risks. Where claims arise employees and officers of the AGENCY will process such claims, investigate their validity, settle or defend against such claims within the financial limits of the risk management agreement, tabulate such claims, costs and losses and carry out other assigned duties.

SELF-INSURANCE - The decision by a unit of municipal government not to purchase insurance coverage for risks below certain limits; to seek all immunities provided by Colorado law for a non-insured unit of local government; to rely upon its financial capabilities to pay any losses which occur for which it is liable; and to purchase some insurance to protect against catastrophic or aggregate losses.

JOINT SELF INSURANCE - A self-insurance program in which units of local government agree to contribute annual and where required supplementary payments to support a risk management program and a joint risk management pool.

CATASTROPHE EXCESS INSURANCE - Insurance purchased by the AGENCY from an insurance company approved by the Insurance Commission of the State of Colorado to underwrite such coverage in Colorado providing certain coverage for losses over a prudent amount up to a preset maximum amount of coverage.

AGGREGATE STOP LOSS INSURANCE - Insurance purchased by the AGENCY from an insurance company approved by the Insurance Commission to underwrite such coverage in Colorado providing certain coverage up to a contracted amount for otherwise uninsured losses to be borne by the Joint Risk Sharing Pool, which in any one year aggregate to a pre-set maximum amount of coverage.

POLICY YEAR: January 1 to December 31.

FISCAL YEAR: January 1 to December 31.

ARTICLE II. Creation of Agency.

The Colorado Intergovernmental Risk Sharing Agency, a separate and independent governmental organization, is hereby formed by intergovernmental agreement by member municipalities pursuant to

the provisions of C.R.S. 1973, 24-10-115.5, as amended, and C.R.S. 1973, 29-1-201 et. seq., as amended.

ARTICLE III. Purpose.

The purposes of the AGENCY are to provide a joint self insurance pool and to assist MEMBERS to prevent and reduce losses and injuries to municipal property and to persons or property which might result in claims being made against MEMBERS of this AGENCY, or their employees or officers.

It is the intent of the MEMBERS of this AGENCY to create an entity in perpetuity which will administer a joint risk management pool and use funds contributed by the MEMBERS to defend and indemnify, in accordance with these By-Laws, any MEMBER of the AGENCY against stated liability or loss, to the limit of the financial resources of the AGENCY. It is also the intent of the MEMBERS to have the AGENCY insure continuing stability and availability of needed coverages at reasonable costs. All income and assets of the AGENCY shall be at all times dedicated to the inclusive benefit of its members. These By-Laws shall constitute the substance of the intergovernmental contract among the MEMBERS.

ARTICLE IV. Non-Waiver of Governmental or Other Immunity.

All funds contained within the Risk Management Pool are funds plus earned interest derived from its MEMBERS which are municipal governments within the State of Colorado. It is the intent of the MEMBERS in entering into this agreement that they do not and are not waiving any immunity provided to the MEMBERS or their public employees by the Colorado Governmental Immunity Act, C.R.S. 1973, 24-10-101 et. seq., as amended, or by other law.

ARTICLE V. Agency Powers and Duties.

The powers of the AGENCY to perform and accomplish the purposes set forth above shall, within the budgetary limits and procedures set forth in these By-Laws, be the following:

- (a) To employ agents, employees and independent contractors.
- (b) To purchase, sell, incumber and lease real property and to purchase, sell, or lease equipment, machinery, and personal property.
- (c) To invest funds as allowed by Colorado statutes.
- (d) To carry out educational and other programs relating to risk management.
- (e) To create, collect funds for, and administer a risk management pool.
- (f) To purchase excess insurance, and/or stop loss insurance to

supplement the risk management pool.

(g) To establish reasonable and necessary loss reduction and prevention procedures to be followed by the MEMBERS.

(h) To provide risk management and claim adjustment services including the defense and settlement of claims.

(i) To carry out such other activities as are necessarily implied or required to carry out the purposes of the AGENCY specified in Article III or the specific powers enumerated in this Article.

(j) To sue and be sued.

(k) To enter into contracts.

(l) To reimburse Directors for reasonable and approved expenses, including expenses incurred in attending Board meetings.

(m) To purchase fidelity bonds for all officers, directors, and employees of the AGENCY.

ARTICLE VI. Participation.

The membership of the AGENCY shall be limited to those municipal governments who are members of the Colorado Municipal League who properly enter into and adopt this intergovernmental agreement and By-Laws. New MEMBERS shall be admitted only by a two-thirds (2/3) vote of the MEMBERS present at a meeting, subject to the payment of such sums and under such conditions as the MEMBERS shall in each case or from time-to-time establish.

ARTICLE VII. Commencement of Agency and Term.

All initial MEMBERS of the AGENCY and any new MEMBERS admitted thereafter unless expelled pursuant to the expulsion provisions of Article XVIII, shall remain MEMBERS of the AGENCY for a period of at least one (1) year. In the event that by December 18, 1981, there has been deposited within or committed to the Risk Management Pool as a first year's payment the sum of at least \$750,000, the AGENCY shall begin its operations on January 1, 1982. If \$750,000 has not been received or committed by December 18, 1981, then the AGENCY shall begin its operations thirty (30) days after the date when at least that amount has been deposited or committed for provided that the initial rate or rates are as aforesaid. A municipality which has not deposited or committed funds by the date of the initial commencement may join the AGENCY during the first sixty (60) days of operation.

ARTICLE VIII. MEMBERS Powers and Meetings.

(1) The MEMBERS at a meeting thereof shall have the power to:

(a) Elect a Board of Directors by a majority vote of the MEMBERS

present at the annual meeting.

(b) Amend the By-Laws by a 2/3 majority vote of the MEMBERS present at a meeting.

(c) Admit and expel members by a 2/3 majority of the MEMBERS present at a meeting.

(d) Adjust the coverages which the AGENCY provides by a 2/3 majority vote of the MEMBERS present at a meeting. (The initial coverages are included as Attachment B.)

(e) Remove a Director of the Board of Directors by a 2/3 majority vote of the members present at a meeting.

(2) Meetings of the MEMBERS shall be held as follows:

(a) MEMBERS shall meet quarterly at a time and place to be set by the Board of Directors, with notice mailed to each member at least 15 days in advance.

(b) Special meetings may be called by the Directors or by a petition of 1/3 of the MEMBERS. Notice of special meetings shall be mailed to each MEMBER at least 15 days in advance.

(c) The Chairman of the Board of Directors will preside at the meetings.

(d) Fifty percent of the MEMBERS shall constitute a quorum to do business.

(e) No absentee or proxy voting shall be allowed.

(f) Each MEMBER shall be entitled to one vote on all issues.

ARTICLE IX. Obligation of Members.

The obligations of MEMBERS of the AGENCY shall be as follows:

(1) To pay promptly all annual and supplementary contributions or other payments to the AGENCY at such times and in such amounts as shall be established by the Board of Directors and MEMBERS pursuant to these by-Laws. Any delinquent payments shall be paid with interest which shall be equivalent to the prime interest rate of the Central Bank of Denver on the date of delinquency. Payments will be considered delinquent forty-five (45) days following the due date.

(2) To designate a voting representative and alternate for the MEMBERS meetings. A MEMBER'S voting representative must be an employee or officer of the MEMBER Municipality, but may be changed from time to time.

(3) To allow the AGENCY reasonable access to all facilities of the

MEMBER and all records including but not limited to financial records as required for the administration of the Agency.

(4) To allow attorneys designated by the AGENCY to represent the MEMBER in the investigation, settlement and litigation of any claim against the MEMBER within the scope of loss protection furnished by the AGENCY.

(5) To cooperate fully with the AGENCY'S attorneys, claims adjusters and any other agent, employee, or officer of the Agency in activities relating to the purposes and powers of the AGENCY.

(6) To follow the loss reduction and prevention procedures established by the AGENCY.

(7) To report to the AGENCY as promptly as possible all incidents or occurrences which could reasonably be expected to result in the AGENCY being required to consider a claim against the Municipality, its agent, officer, or employees, or for casualty losses to municipal property within the scope of coverages undertaken by the AGENCY.

(8) To adopt a risk management statement.

(9) To maintain an active safety committee or administrator.

(10) To report to the AGENCY as soon as reasonably possible the addition of new programs and facilities or the significant reduction or expansion of existing programs and facilities or other acts which will cause material changes in the MEMBERS accidental loss.

(11) To provide the AGENCY periodically, as requested, with information on the value of buildings and contents and other real and personal properties.

(12) To participate in coverage of losses and to pay contributions in the manner set forth by the MEMBERS.

ARTICLE X. Contributions.

It is the intention of the pool to levy contributions to the members as established by the pool Board of Directors. Further, after sufficient data and experience, the Board may adjust contributions charged to members to reflect increased risk resulting from a refusal to participate or willful violation of safety or loss prevention programs. Conversely, contributions may be reduced, for members that faithfully participate in loss prevention and safety programs.

ARTICLE XI. Board of Directors.

The Board of Directors will be composed of five (5) DIRECTORS. Directors will be elected from among the MEMBERS representatives.

There will be:

- (1) One director from a MEMBER under 20,000 population.
- (2) One director from a MEMBER of 20,000 to 40,000 population.
- (3) Two directors from MEMBERS above 40,000 population. (These Directors will be from different MEMBERS.)
- (4) One director at large.

Every two years population will be determined by the census figures reported by the U.S. Bureau of Census.

ARTICLE XII. Election of Directors.

The election of directors will be made by the MEMBERS as a whole by a simple majority vote at the annual meeting to be scheduled in December of each year.

ARTICLE XIII. Terms of Directors.

Terms of directors will be two year staggered terms with the "at large" Director and one of the "over 40,000" Directors elected for an initial two year term. The remaining Directors shall be elected for an initial one year term, with two year staggered terms thereafter.

ARTICLE XIV. Powers and Duties of the Board of Directors.

- (1) To elect a chairman, vice-chairman, secretary/treasurer, and other officers as appropriate.
- (2) To recommend criteria for new MEMBERS.
- (3) To establish contributions by the MEMBERS.
- (4) To recommend coverages to the MEMBERS.
- (5) To select insurance brokers.
- (6) To set the dates, places and provide an agenda for Board of Directors and MEMBERS meetings.
- (7) To fill vacancies in the Board by majority vote of the remaining Directors for the unexpired term.
- (8) To exercise all powers of the AGENCY except powers reserved to the MEMBERS.
- (9) To prepare, adopt and report the agency budget to the MEMBERS.
- (10) To hire and discharge personnel.

- (11) To make reports to the MEMBERS at the quarterly meeting.
- (12) To provide for claims and loss control procedures.
- (13) To provide for the investment and disbursement of funds.
- (14) To establish rules governing its own conduct and procedure not inconsistent with those By-Laws.
- (15) To provide to MEMBERS annually: a) an audit of the financial affairs of the AGENCY to be made by a certified public accountant at the end of each fiscal year in accordance with generally accepted auditing principals and state law. b) an annual report of operations.
- (16) To form committees (i.e. claims committee) and provide other services as needed by the AGENCY.
- (17) To do all acts necessary and proper for the operation of the AGENCY and implementation of these By-Laws subject to the limits of the By-Laws.
- (18) Dissolve the AGENCY and disburse its assets by a 2/3 vote of the entire membership provided that a notice of intent to dissolve the AGENCY shall be given to the Insurance Commissioner ninety (90) days prior to the effective date. No such plan to dissolve the AGENCY shall be effective until approved by the Insurance Commissioner.

ARTICLE XV. Meetings of the Board of Directors.

- (1) The Board may set a time and place for regular meetings which may be held without further notice.
- (2) Special meetings may be called by the Chairman or three Directors by mailing written notice at least 10 days in advance to all Directors or by unanimously executed waiver of notice.
- (3) Three (3) Directors shall constitute a quorum to do business. All acts of the Board of Directors shall require a majority vote of the Directors present.

ARTICLE XVI. Liability of Board of Directors of Officers.

The MEMBERS of the Board of Directors or officers of the AGENCY should use ordinary care and reasonable diligence in the exercise of their power, and in the performance of their duties hereunder; they shall not be liable for any mistake of judgment or other action made, taken or omitted by them in good faith; nor for any action taken or omitted by any agent, employee or independent contractor selected with reasonable care. No Director shall be liable for any action taken or omitted by any other Director. No Director shall be required to give a bond or other security to guarantee the faithful performance of his duties hereunder

although the AGENCY shall provide such bonds. The Risk Management Pool shall be used to defend and indemnify any Director or officer for actions taken by the Board or performed by the Director in good faith within the scope of his authority for the AGENCY. The AGENCY may purchase insurance providing similar coverage for such Directors and Officers.

ARTICLE XVII. Withdrawal from Membership.

Any MEMBER may withdraw from the AGENCY after the MEMBERS initial one (1) year term at the end of any policy year by giving at least ninety (90) days notice in writing to the board of its desire to withdraw. The MEMBER shall not be entitled to any reimbursement of contributions, dividends or credits that are to be paid or that shall become payable in the future, and shall continue to be obligated to make any payment for which such obligation arose prior to such withdrawal.

ARTICLE XVIII. Expulsion of Members.

By a two-thirds (2/3) major vote of the MEMBERS present at a meeting, any MEMBER may be expelled. Such expulsion, which shall take effect sixty (60) days after such meeting, may be carried out for one or more of the following reasons:

- (a) Failure to make any payments due to the AGENCY.
- (b) Failure to undertake or continue loss reduction and prevention procedures adopted by the AGENCY.
- (c) Failure to allow the AGENCY reasonable access to all facilities and records of the MEMBER necessary for proper administration of the AGENCY.
- (d) Failure to fully cooperate with the AGENCY'S attorneys, claims adjusters or other agent, employee, or officer of the AGENCY.
- (e) Failure to carry out any obligation of a MEMBER which impairs the ability of the AGENCY to carry out its purpose or powers.

No MEMBER may be expelled except after notice from the Board of Directors of the alleged failure along with a reasonable opportunity of not less than thirty (30) days to cure the alleged failure. The MEMBER may request a hearing before the MEMBERS before any final decision, which shall be held within fifteen (15) days after the expiration of the time to cure has passed. The Board shall present the case for expulsion to the MEMBERS. The MEMBER affected may present its case. A decision by the Membership to expel a MEMBER after notice and hearing and failure to cure the alleged defect shall be final and take effect sixty (60) days after the decision to expel is approved by the MEMBERS. After expulsion, the former MEMBER shall be liable for any unpaid contributions or other charges pro rata to the effective date of expulsion.

ARTICLE XIX. Contractual Obligation.

This document shall constitute an intergovernmental contract among those units of local government which become MEMBERS of the AGENCY. The terms of this contract may be enforced in court by the AGENCY itself or by any of its MEMBERS. The consideration for the duties herewith imposed upon the MEMBERS to take certain actions and to refrain from certain other actions shall be based upon the mutual promises and agreements of the MEMBERS set forth herein. These By-Laws when properly approved by the proper authority of the MEMBER shall be the intergovernmental contract. A certified copy of the ordinance, resolution or other document of approval for each MEMBER accompanied by an attorney's certification of proper authority and adoption, shall be attached to the original By-Laws on file with the AGENCY. Provided, however, that except to the extent of the limited financial contributions to the AGENCY agreed to herein or such additional obligations as may come about through amendments to these By-Laws no MEMBER agrees or contracts herein to be held responsible for any claims in tort or contract made against any other MEMBER. The contracting parties intend in the creation of the AGENCY to establish an organization for joint risk management only within the scope herein set out and have not herein created as between MEMBER and MEMBER any relationship of surety, indemnification or responsibility for the debts of or claims against any other MEMBER.

ARTICLE XX. Severability.

In the event that any article, provision, clause or other part of these By-Laws should be held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not effect the validity or enforceability with respect to other articles, provisions, clauses, applications or occurrences, and these By-Laws are expressly declared to be severable.

DATED: _____, 19____.

ACCEPTED

City Manager

City Clerk

Finance Director John Tasker said that this proposal is a three-year agreement, but the by-laws provide that if the premium payment is not made, the City is automatically dismissed from the pool. If the City chooses to get out within one-half year, there are no refunds. Mr. Tasker stated that if the City gets into it, it would ride it out. The amount of premiums the City has would

pay, for example, if the loss experience eats up the total amount of money in the pool, insurance premiums have already been purchased to cover the upper limits. So theoretically, the City, if it accepts it is covered up until 1984. At that point, if the City wishes to get out, then it would go out to bid with the insurance. Before the pool comes into effect, there must be three-quarters of a million dollars. Mr. Tasker said that hopefully this will be known by the 28th, 29th, or 30th of January. If that does not happen, or it looks like this will not get off the ground, the Resolution really means nothing, and the City would go back to its present agent who has given the City a quote.

He indicated that risk-management should be an in-house effort with guidelines established by the pool. Other municipalities who have voted to join the pool are: Aspen, Brighton, Cherry Hills Village, Durango, Glendale, LaJunta, Olathe, Ridgeway, Salida, Thornton, Westminster, Wheat Ridge, Breckenridge, Grand Junction, Delta and Arvada. The following communities have yet to make a final decision: Boulder, Commerce City, Northglen, Longmont, and Englewood. Mr. Tasker stated that it appears there will be eighteen cities participate, although some have not yet voted to join the pool.

It was moved by Councilman Johnson and seconded by Councilman Holmes that the Resolution be passed and adopted as read. There was an indication that someone in the audience wished to speak. The City Attorney and the President stated that the hearing has already been held. Roll was called upon the motion with all Council members voting AYE. The President declared the motion carried and the Resolution was duly passed and adopted.

The President declared a five-minute recess. Upon reconvening all members of Council were present.

RESOLUTION CONCERNING THE PLAN OF THE LEGISLATIVE REAPPORTIONMENT COMMITTEE - APPROVED

The following Resolution was read:

RESOLUTION

CONCERNING THE ESTABLISHMENT OF LEGISLATIVE DISTRICTS FOR THE COLORADO HOUSE OF REPRESENTATIVES.

WHEREAS, the City Council of the City of Grand Junction has previously expressed its concern that the Reapportionment Committee of the State Legislature was to recommend that the City of Grand Junction be divided in the creation of the new House seats for Districts 54 and 55; and

WHEREAS, after consideration of that position and meetings with the Committee and its representatives currently in the State Legislature, the Council is of the opinion that the best interests of the citizens of Grand Junction would be served by the division

as proposed by the Committee, providing a voice of the City in two legislative districts, even though a minority voice in both;

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

That the Legislative Reapportionment Committee be advised that the City of Grand Junction now supports the plan of the Committee which will place portions of the City within House District 54 and House District 55.

PASSED and ADOPTED this 16th day of December, 1981.

President of the Council

Attest:

City Clerk

Upon motion by Councilwoman Clark, seconded by Councilman Lucero and carried by roll call vote with Councilman HOLMES voting NO, the Resolution was passed and adopted as read.

EMERGENCY ORDINANCE NO. 2030 - AMENDING CHAPTER 24, CODE OF ORDINANCES, SALES AND USE TAX, SECTION 55 AND 63

The following entitled proposed ordinance was read: AN ORDINANCE AMENDING THE CITY OF GRAND JUNCTION SALES AND USE TAX ORDINANCE AND DECLARING AN EMERGENCY. Upon motion by Councilman Dunn, seconded by Councilman Johnson and carried by roll call vote, the Ordinance was passed and adopted as an emergency ordinance, numbered 2030, and ordered published.

AGREEMENT FOR SEWER SERVICES BETWEEN THE BLUFFS, LTD., AND ALLEN/NESS

Upon motion by Councilwoman Clark, seconded by Councilman Johnson and carried, the Agreement for Sewer Services between The Bluffs, Ltd., and Allen/Ness was approved and the City Manager was authorized to sign said Agreement.

MEETING

Meeting Monday morning to review and amend guidelines for IRBs.

INSURANCE POOL

Mr. Harold Barnett, Valley Agency, stated that he was not aware of any formal public hearings regarding the City's intent to join the Colorado Intergovernmental Risk Sharing Insurance Pool. He stated

that he should have been given the opportunity to speak as a citizen and taxpayer regarding the matter at the time that it was under discussion. He felt that as common courtesy he should have been given the opportunity to be heard. Mr. Ashby responded that Mr. Barnett did not come to this meeting as an ordinary citizen. He noted that the City Council heard Mr. Barnett's comments regarding this matter on two separate occasions. Mr. Barnett appreciated that but noted there had been new developments that he thought were pertinent.

RECREATION BOARD

Councilwoman Clark reported that the Recreation Board is ending current programs but that new ones will be implemented in January. A new program is for preschool children and their parents. She also noted the Women's National Softball Tournament in Grand Junction next August.

DDA

Councilman Johnson noted the encouraging prospect of some redevelopment of the old Montgomery Ward building. In addition to that, the Margery Building is scheduled for renovation on the outside by restoring it to its original character which will hopefully attract a new tenant. He reported that there are now 117 active members of the Downtown organization.

GRAND JUNCTION DOWNTOWN ASSOCIATION

Councilman Dunn reported on a recent meeting of the Grand Junction Downtown Association. He noted that 85 of the qualified members are very active in events.

FREEDOM

Councilman Holmes contrasted the City's freedom in conducting meetings such as this one versus events occurring in Poland and its loss of freedom.

PRESIDENT'S REPORT

President of the Council Louis Brach reported his attendance at the following events:

December 2 - All day in Rifle at a COG Meeting
December 4 - County Meeting
December 7 - County RPC Meeting
December 8 - Fire Pension Board Meeting at City Hall
December 9 - Airport Board Meeting
December 10 - Insurance Meeting at City Hall Discussed City Busing Program
December 11 - United Way Meeting
December 15 - Met Cliff Barnett, new Director of the Bureau of Reclamation and briefly discussed Dominguez Dam.

LEGISLATION

Councilwoman Clark met with Dr. John Tomlinson at Mesa College and they suggest getting with the various Boards in Mesa County to discuss legislation that will affect Western Colorado.

ADJOURNMENT

The President adjourned the meeting.

Neva B. Lockhart

Neva B. Lockhart, CMC
City Clerk