

ORDINANCE NO. 648

AN ORDINANCE AUTHORIZING THE CITY OF GRAND JUNCTION, COLORADO TO REFUND THE BONDS OF SPECIAL IMPROVEMENT DISTRICTS HERETOFORE CREATED IN SAID CITY, PRESCRIBING THE FORM OF REFUNDING BONDS, PROVIDING FOR THE PAYMENT OF THE SAME AND THE INTEREST THEREON, AND DECLARING AN EMERGENCY

WHEREAS, The City of Grand Junction, Colorado, has heretofore created improvement districts in said City, has caused public improvements to be constructed therein and has issued its bonds for the purpose of paying the costs and expenses of such improvements; and

WHEREAS, the names and numbers of such improvement districts, the maturity dates of said bonds, and the principal amounts thereof which will be outstanding on May 1, 1941, are as follows:

District No. and Name	Maturity	Amt. of bonds Outstanding
Special Sanitary Sewer No. 2	11/1/43	800.00
Special Sanitary Sewer No. 3	9/1/49	3,000.00
Sanitary Sewer No. 8	12/1/50	7,500.00
Combined Sewer No. 6	7/1/51	7,500.00
Combined Sewer No. 7	3/1/52	2,500.00
Combined Sewer No. 8	9/1/52	5,000.00
Artificial Lighting Dist. No. 1	12/1/50	2,500.00
Artificial Lighting Dist. No. 2	1/1/51	2,500.00
Curb and Gutter No. 1	4/1/43	700.00
Curb and Gutter No. 2	9/1/46	5,000.00

Alley Paving No. 2	9/1/41	2,000.00
<u>Paving District</u>		
No. 21	7/1/41	7,000.00
No. 23	9/1/41	2,500.00
No. 25	8/1/47	2,500.00
No. 26	8/1/47	6,000.00
No. 27	8/1/47	5,500.00
No. 28	11/1/47	3,500.00
No. 29	11/1/47	9,500.00
No. 30	11/1/47	7,500.00
No. 31	4/1/48	7,000.00
No. 32	5/1/48	4,500.00
No. 33	6/1/48	6,500.00
No. 34	7/1/48	11,500.00
No. 35	10/1/48	6,000.00
No. 36	11/1/48	13,500.00
No. 37	12/1/48	13,000.00
No. 38	2/1/49	7,500.00
No. 39	3/1/49	4,000.00

No. 40	4/1/49	17,000.00
No. 41	1/15/50	7,500.00
No. 42	1/15/50	21,500.00
No. 43	5/1/50	15,000.00
No. 44	2/1/51	17,500.00
No. 45	11/1/51	21,500.00
No. 46	5/1/52	18,500.00

and

WHEREAS, All of said bonds bear interest at the rate of 6% per annum, except as follows:

Sanitary Sewers No. 2 . . . . . 5 1/2%  
Paving District No. 36 . . . . . 5 1/2%  
Paving District No. 46 . . . . . 4 1/2%

and

WHEREAS, The City will have to the credit of the respective districts sufficient funds for the payment of bonds of Alley Paving No. 2, and Paving Districts No. 21 and No. 23, which bonds mature in the year 1941; and

WHEREAS, After the payment of said bonds maturing in the year 1941, there will remain \$263,500. of said improvement district bonds outstanding and unpaid; and

WHEREAS, All of said outstanding bonds are subject to call and redemption; and

WHEREAS, Although the cost of constructing such improvements was assessed against property in the several districts, such improvements were public improvements benefiting the City at large, and to pay the cost of which the City might have levied a tax from year to year on all taxable property in the City; and

WHEREAS, Due to economic conditions prevailing for many years the owners of certain properties assessed with the cost of said improvements have been unable to pay their assessments, thereby

causing deficits in said improvement district funds and an imminent default in the payment of interest on and principal of bonds of many of the improvement districts in said City; and

WHEREAS, A default in the payment of said improvement bonds, or any of them, would seriously impair the credit and reputation of said City, and would cause privation and hardship to the owners of said bonds; and

WHEREAS, The City Council considers that the City is morally obligated, as a matter of good faith, to exercise every lawful power to prevent deficits and defaults, and as rapidly as possible to place its obligations in good standing; and

WHEREAS, The City has the opportunity to refund its outstanding special improvement district bonds at greatly reduced interest rates, thus effecting substantial savings, postponing the maturity of its special improvement district obligations, preventing defaults and making it possible to restore delinquent properties to the tax rolls; and

WHEREAS, Under Section 6, Article XX of the Constitution of the State of Colorado, the City of Grand Junction has the power to refund and liquidate its municipal obligations, including bonds of improvement districts, and has the power to levy and collect special assessments for local improvements; and

WHEREAS, At the regular municipal election held in said City on the 8th day of April, 1941, a majority of the qualified electors of the City voting on the proposition, approved People's Ordinance No. 27 of said City, which Ordinance authorizes the City Council to levy an annual ad valorem tax on all of the taxable property in the City, not exceeding in any one year one mill on the valuation thereof, for the purpose of paying for the construction of public improvements in said City and of making up deficits in special improvement district funds; and

WHEREAS, the City Council deems it imperative to refund said bonds for the reasons hereinbefore set forth;

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

Section 1. For the purpose of refunding the bonds of the foregoing improvement districts, which will be outstanding and unpaid on May 1, 1941, the City shall execute and deliver a single issue of bonds in the principal amount of \$263,500 to be designated "Improvement Refunding Bonds", dated May 1, 1941, bearing interest at the rates specified herein, payable semi-annually on the first days of May and November in each year, to be evidenced by coupons attached to said bonds, and consisting of 263 bonds in the denomination of One Thousand Dollars (\$1,000.00) each, numbered from 1 to 263, inclusive, and one bond in the denomination of Five Hundred Dollars (\$500.00), numbered 264. The

rates of interest on said bonds shall be as follows:

Bonds numbered 1 to 59, inclusive, shall bear interest at the rate of 2 1/2%: bonds numbered 60 to 206, inclusive, shall bear interest at the rate of 3%, and bonds numbered 207 to 264, inclusive, shall bear interest at the rate of 3 1/4 per cent;

Bonds numbered 1 to 211, inclusive, shall bear additional interest for eighteen months only, at the following rates: Bonds numbered 1 to 59, inclusive, shall bear 3%; bonds numbered 60 to 119, inclusive, shall bear 2 1/2%, and bonds numbered 120 to 211 inclusive, shall bear 2%. Such additional interest to be evidenced by three semi-annual interest coupons, numbered 1 A, 2 A and 3 A.

The amount evidenced by coupons numbered 1 A, 2 A and 3 A, to be attached to the bonds as specified above, represents the costs and expenses of financing this refunding operation. Said coupons numbered 1 A, 2 A, and 3 A, shall be printed on a separate sheet of coupons; they may be detached from the bonds to which they are appurtenant, and said numbered coupons shall be paid at their respective maturity dates even though the bonds to which they are appurtenant may be called for payment for paid prior to the maturity dates of said coupons.

Section 2. Said bonds shall be due and payable on the first day of May, 1956, but shall be subject to call and payment, at par and accrued interest, in regular numerical order, any time before maturity on the publication of a notice in the official newspaper of the City, and upon written notice to Boettcher and Company of Denver, Colorado. At the expiration of 30 days from the publication and mailing of such notice, interest on the bonds so called shall cease, except such interest as may be evidenced by said coupons Nos. 1 A, 2 A, or 3 A, provided, however, that prior to the 1st day of November 1942 no Refunding Improvement Bond authorized by this Ordinance shall be refunded or paid by means of another refunding operation. The principal of and interest on said bonds shall be payable in lawful money of the United States of America, at the office of the City Treasurer in Grand Junction, Colorado. Said bonds shall be signed by the President of the City Council, the City Treasurer, and sealed with the seal of the City, attested by the City Clerk. The coupons attached to said bonds shall bear the facsimile signature of the City Treasurer. The City Treasurer shall register said bonds in a book to be kept by him in his office for that purpose.

Section 3. Said Refunding Improvement Bonds and the interest thereon shall be payable in regular numerical order out of a fund hereby created and designated "Refunding Improvement Bond Fund" which shall contain: (a) The receipts from paid and unpaid assessments levied against property in said improvement districts, the bonds of which are to be refunded as herein provided, (b) paid and unpaid interest and penalties on said assessments, (c) the proceeds derived and to be derived from the sale of tax certificates and property now and hereafter held by the City for

delinquent assessments in said Districts, and (d) the proceeds of all taxes levied pursuant to said People's Ordinance No. 27. In no event shall the total amount of refunding bonds issued hereunder exceed the total of the principal of unpaid bonds to be refunded.

Section 4. Said Refunding Improvement Bonds, and the coupons to be attached thereto, shall be in substantially the following form:

UNITED STATES OF AMERICA

State of Colorado

County of Mesa

CITY OF GRAND JUNCTION

REFUNDING IMPROVEMENT BOND

No. \_\_\_\_\_

\$1,000

\$500

The City of Grand Junction, in the County of Mesa and State of Colorado, for value received, hereby promises to pay to the bearer hereof, out of the special fund hereinafter designated, but not otherwise, the sum of

ONE THOUSAND DOLLARS

FIVE HUNDRED DOLLARS

in lawful money of the United States of America, on the first day of May, A. D. 1956, and to pay interest thereon according to the interest coupons hereto attached, on the first day of May and the first day of November in each year, both principal and interest being payable at the office of the City Treasurer, in Grand Junction, Colorado, upon presentation and surrender of the annexed coupons and this bond as they severally become due.

The bonds of this issue are subject to call and redemption in their regular numerical order any time prior to maturity at par and accrued interest, after publication of notice in the official newspaper of the City. At the expiration of 30 days from the publication of such notice, interest on the bond or bonds so called shall cease.

This bond is one of a series issued for the purpose of refunding a like amount of valid outstanding improvement district bonds of said City, in full conformity with the Constitution and laws of the State of Colorado, the Charter of said City, and an ordinance of said City adopted prior to the issuance hereof.

The principal of and interest on this bond are payable solely out of a special fund designated "Refunding Improvement Bond Fund," which shall contain: (a) the receipts from all paid and unpaid assessments levied against property in improvement districts in said City, the bonds of which have been refunded by bonds of this issue, (b) paid and unpaid interest and penalties on said assessments, (c) proceeds derived and to be derived by the City from the sale of tax certificates and property now and hereafter held by the City for delinquent assessments in said Districts, and (d) the proceeds of all taxes levied pursuant to People's Ordinance No. 27 of said City, all as is more fully shown in Ordinance No. 648, of said City, authorizing this issue of bonds.

It is hereby certified, recited and warranted that for the payment of this bond and the interest thereon, said City has created and will maintain said fund and will deposit therein amounts collected and to be collected from said assessments, interest and penalties, and the proceeds to be derived from the sale of said tax certificates and delinquent property held under tax deeds, and to be derived from said tax levies, and out of said Fund and as an irrevocable and prior charge thereon, will pay this bond and the interest accruing hereon, in the manner and at the times provided by said Ordinance under which this bond is issued. For a description of said fund and the nature and extent of the security afforded thereby for the payment of this bond, principal and interest, reference is made to said Ordinances.

It is further certified, recited and warranted that all requirements of law and all conditions precedent have been fully complied with by the proper officers of said City in the issuance of this bond and that this bond does not exceed any constitutional, statutory, Charter or other limitation, and for the punctual payment of this bond and the interest hereon, said City pledges all of its lawful corporate powers.

IN TESTIMONY WHEREOF, the City of Grand Junction, Colorado, has caused this bond to be signed by the President of its City Council and its Treasurer, sealed with the seal of said City, attested by the City Clerk, and the coupons attached hereto to be executed with the facsimile signature of said Treasurer, as of the first day of May, A. D. 1941.

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

\_\_\_\_\_  
City Treasurer

(SEAL)

ATTEST:

City Clerk

(Form of Coupon)

No. \_\_\_\_\_

\$ \_\_\_\_\_

On the first day of May, November, A. D. 19\_\_\_\_\_, \*(unless the bond herein specified has been called for prior redemption), the City of Grand Junction, in the County of Mesa and State of Colorado, will pay to bearer

\_\_\_\_\_ DOLLARS

in lawful money of the United States of America, at the office of the City Treasurer, in Grand Junction, Colorado, out of the "Refunding Improvement Bond Fund", but not otherwise, being six months' interest on its Refunding Improvement Bond dated May 1, 1941, bearing

No.

/s/ (Facsimile Signature)

                      
City Treasurer

\*(Omit from "A" coupons)

Section 5. Refunding Improvement Bonds Nos. 1 to 184, inclusive, shall be sold to Boettcher and Company of Denver, Colorado at par and accrued interest, and the proceeds of said sale shall be used only in the payment of a like principal amount of said outstanding improvement district. Bonds Nos. 185 to 264, inclusive, of said issue, may be exchanged at par for a like principal amount of said outstanding improvement district bonds. All outstanding improvement district bonds which are exchanged for Refunding Improvement Bonds, shall be cancelled and held by the City Treasurer as evidence of the original indebtedness, until the said Refunding Improvement Bonds and the interest thereon are paid in full.

Section 6. After the issuance of the Refunding Improvement Bonds authorized herein, the City shall, by all lawful means, collect and enforce outstanding improvement district assessments and the interest and penalties thereon, and shall place in said Refunding Improvement Bond Fund all amounts collected or to be collected from such assessments on property in districts, the bonds of which have been refunded, all interest and penalties on such assessments, the proceeds to be derived from the sale of tax certificates now or hereafter held by said City, on property in districts, the bonds of which have been refunded, the proceeds of the sale of property now or hereafter held by the City under tax

deeds for delinquent assessments, and, in addition, the proceeds of all tax levies made pursuant to said People's Ordinance No. 27.

Section 7. The moneys in said Refunding Improvement Bond Fund are irrevocably pledged for the payment of Refunding Improvement Bonds issued hereunder and the interest thereon, after paying the costs and expenses of collecting and enforcing said assessments. At any time when there is money in said Refunding Improvement Bond Fund, in an amount over and above that required to pay accrued interest on all of said bonds then outstanding and six months' interest on said bonds in advance, the City Treasurer shall forthwith call, pay and cancel a bond or bonds of this issue in regular numerical order.

Section 8. It is contemplated that assessments to be collected from said special improvement districts will be sufficient to pay and redeem said Refunding Improvement Bonds on May 1st in the years and amounts as follows:

<u>Year</u>	<u>Principal</u>
1942	\$30,000.00
1943	29,000.00
1944	30,000.00
1945	30,000.00
1946	31,000.00
1947	30,000.00
1948	26,000.00
1949	22,000.00
1950	17,000.00
1951	11,000.00

1952	7,500.00
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In the event that such collections in any year do not total the amounts above specified in this Section, the difference between the amounts so collected and the amounts so designated for that year shall be included in the next succeeding municipal tax levy, (the amount for such purpose, however, not to exceed one mill on the assessed valuation of the taxable property in said City), and the proceeds of such levy shall be placed in said Refunding Improvement Bond Fund, and this procedure shall be repeated from year to year, if necessary, until said Refunding Improvement Bonds and the interest thereon have been paid in full.

Section 9. The City Treasurer is hereby authorized and directed to sell tax certificates held, or to be held by the City on property in districts, the bonds of which have been refunded hereunder, at such price or prices as the City Council may determine; also, said Treasurer may sell property held or to be held by the City under tax deeds for delinquent assessments in said districts, in such manner and for such prices as shall be specified by the City Council; provided, however, that the sum of the amounts to be realized from the sale of said Tax Certificates and property, together with the amount of unpaid assessments on property in districts, the bonds of which have been refunded, and the interest and the proceeds of said ad valorem taxes shall never be less than the principal of said Refunding Improvement Bonds at that time outstanding and the accrued interest thereon. The proceeds from the sale of said tax certificates and property shall be placed in said Refunding Improvement Bond Fund and shall be applied only for the purpose specified in Section 7 hereof.

Section 10. Nothing contained herein shall in any way affect the assessments, liens and liabilities which no exist against the properties in the improvement districts hereinbefore designated, for the costs and expenses of constructing and installing improvements in said districts. Said assessments shall continue to bear interest at the rates specified in their respective assessing ordinances and the liens and liabilities thereof shall continue to be in force and effect and shall persist until paid, for the benefit of each and every holder of a refunding bond issued hereunder.

Section 11. The City Treasurer shall continue to keep separate accounts for each improvement district in said City, which accounts shall at all times show the amount of paid and unpaid assessments, interest and penalties on and against the various properties in the respective improvement districts.

Section 12. Properties in districts, the bonds of which have been refunded, which become delinquent in the payment of assessments or installments hereof, or interest or penalties thereon, shall be sold at the times and in the manner provided by

law. At such tax sales, if there be no other bidder, the City of Grand Junction, shall in its name, bid in such delinquent properties, taking certificates of purchase therefor, and it shall sell and dispose of such properties or certificates as provided herein, and shall place the proceeds thereof in said Refunding Improvement Bond Fund.

Section 13. The owners of Refunding Improvement Bonds issued hereunder shall be subrogated to all the rights and privileges of the owners of bonds refunded, and any owner of a Refunding Improvement Bond, on his own behalf and on behalf of all others similarly situated, shall have full and complete power and authority to enforce and compel any or all of said rights and privileges.

Section 14. Any proceeds of said ad valorem tax levies which may be placed in said Refunding Improvement Bond Fund may be deemed only as temporary advancements to said Fund, to be reimbursed to the City so far as collections of assessments will permit.

Section 15. When said Refunding Improvement Bonds, principal and interest, are paid in full, any money in said Refunding Improvement Bond Fund, all assessments, interest and penalties thereafter collected, and the proceeds of sales of said tax certificates and properties, shall be turned over and reimbursed to the City and shall be used or credited as the City Council may then determine.

Section 16. If the City shall make advancements to said Fund, for the purpose of paying said Refunding Bonds, or interest, it shall be subrogated to all the rights and privileges of the former owners of said bonds and interest coupons.

Section 17. If the City or any of its officials should fail, neglect or refuse to fulfill any of its or their obligations under the provisions of this Ordinance, a cause of action therefor may, at the election of the bondholders or any of them, be deemed not to have accrued until the maturity of the Refunding Improvement Bonds authorized herein, and no statute of limitations shall commence to run until that time, but nothing contained herein shall be construed to deprive the owners and holders of said Refunding Improvement Bonds, or any of them, of any right or remedy they may have hereunder whenever such right or remedy accrues.

Section 18. The provisions of this ordinance shall constitute an irrevocable contract between the City of Grand Junction, Colorado, and each and every holder or owner of a Refunding Improvement Bond issued hereunder.

Section 19. If any Court of competent jurisdiction should ever determine that any part of this ordinance is invalid or unenforceable, such determination shall not effect the remaining

parts hereof, the intention being to make the provisions hereof severable.

Section 20. The officials of said City charged with any duty or obligation under the provisions hereof are authorized, empowered and directed to fulfill such duty or obligation promptly and in strict conformity with the terms and intent hereof, and said officials shall take and adopt such steps, proceedings and measures and shall execute such papers, documents or certificates as may be necessary or advisable fully to carry out the liberal purposes and intent of this ordinance.

Section 21. Because of imminent defaults which will imperil the faith and credit of the City, it is hereby declared that there exists a special emergency for the preservation of the public peace, health, and safety, and this Ordinance shall take effect upon passage.

PASSED as an emergency ordinance this 16th day of April, A. D. 1941.

/s/ T. S. Campbell  
President City Council

ATTEST:

/s/ Helen C. Tomlinson  
City Clerk

I HEREBY CERTIFY that the foregoing emergency ordinance entitled, "AN ORDINANCE AUTHORIZING THE CITY OF GRAND JUNCTION, COLORADO, TO REFUND THE BONDS OF SPECIAL IMPROVEMENT DISTRICTS HERETOFORE CREATED IN SAID CITY, PRESCRIBING THE FORM OF REFUNDING BONDS, PROVIDING FOR THE PAYMENT OF THE SAME AND THE INTEREST THEREON, AND DECLARING AN EMERGENCY," was introduced, read, passed, numbered 648 and ordered published by the unanimous vote of the members of the City Council of the City of Grand Junction, Colorado, at a regular meeting of said Council held on the 16th day of April, A. D. 1941.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City, this 16th day of April, A. D. 1941.

/s/ Helen C. Tomlinson  
City Clerk