

ORDINANCE NO. 1990

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A CITY OF GRAND JUNCTION, COLORADO, INDUSTRIAL DEVELOPMENT REVENUE BOND (INDEPENDENCE PLAZA LTD. PROJECT), SERIES 1981, IN THE PRINCIPAL AMOUNT OF \$2,000,000; AND APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS RELATING THERETO.

WHEREAS, the City of Grand Junction, Colorado (the City), is authorized by part 1 of article 3 of title 29, Colorado Revised Statutes 1973, as amended (the Act), to issue revenue bonds for the purpose of financing projects to the end that industrial, commercial and business enterprises will locate in the City, to enter into financing agreements with others for the purpose of providing revenues to pay such bonds, and further to secure the payment of such bonds; and

WHEREAS, by a resolution duly adopted on July 15, 1981 (the Inducement Resolution), the City committed itself to issue such bonds in an aggregate principal amount not to exceed \$2,000,000 in accordance with the provisions of the Act for the purpose of financing office and warehouse facilities for lease to industrial, commercial and business enterprises (the Project) for Independence Plaza Ltd., a Colorado limited partnership (the Company), to be located within the City; and

WHEREAS, the following documents have been submitted to the City Council of the City (the Council) and filed in the office of the City Clerk (the Clerk) and are there available for public inspection:

(a) a Loan Agreement, to be dated as of its date of delivery (the Loan Agreement), between and among the City, the Company and The Empire Savings, Building and Loan Association (the Lender); and

(b) a Deed of Trust, to be dated as of its date of delivery (the Deed of Trust), from the Company, as grantor, to the Public Trustee of Mesa County, Colorado (the Trustee), for the benefit of the Lender; and

(c) an Assignment of Leases and Rents, to be dated as of its date of delivery (the Assignment), from the Company, as assignor, to the Lender, as assignee; and

(d) a Uniform Commercial Code - Security Agreement, to be dated as of its date of delivery (the Security Agreement), between the Company, as debtor, and the Lender, as secured party; and

WHEREAS, the Council desires to issue at this time a City of Grand Junction, Colorado, Industrial Development Revenue Bond (Independence Plaza Ltd. Project) Series 1981, in the principal amount of \$2,000,000 (the Series 1981 Bond); and

WHEREAS, it is necessary to issue the Series 1981 Bond by

ordinance and to approve the form and authorize the execution of the aforementioned documents thereby.

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

Section 1. Approvals and Authorizations. The forms of Loan Agreement, including the form of the Series 1981 bond, Deed of Trust, Assignment, and Security Agreement are hereby approved. The President of the Council and the Clerk are hereby authorized and directed to execute the Loan Agreement and the Series 1981 bond and affix the seal of the City thereto and further to execute and authenticate such other documents, instruments or certificates as are deemed necessary or desirable by bond counsel in order to issue and secure the Series 1981 bond. Such documents are to be executed in substantially the form hereinabove approved, provided that such documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Bond Ordinance. copies of all of the documents shall be delivered, filed and recorded as provided therein. When executed, the right, title and interest of the City, in, to and under the Loan Agreement shall, by terms of the Loan Agreement, have been assigned to the Lender.

The proper officers of the city are hereby authorized and directed to prepare and furnish to bond counsel certified copies of all proceedings and records of the City relating to the Series 1981 bond and such other affidavits and certificates as may be required to show the facts relating to the authorization and issuance thereof as such facts appear from the books and records in such officers' custody and control.

The approval hereby given to the various documents referred to above includes the approval of such additional details therein as may be necessary and appropriate for their completion and such modifications thereof, deletions therefrom, and additions thereto as may be approved by bond counsel prior to the execution of the documents. The execution of any instrument by the appropriate officers of the City herein authorized shall be conclusive evidence of the approval by the City of such instrument in accordance with the terms hereof.

Section 2. Issuance and Sale of Bond. The City shall issue its Industrial Development Revenue Bond (Independence Plaza Ltd. Project), Series 1981, to be dated as of its date of delivery in the principal amount of \$2,000,000, for the purpose, in the form and upon the terms set forth in this Bond Ordinance, the Loan Agreement and the Deed of Trust, including the form of the Bond set forth as Exhibit A to the Loan Agreement.

The Series 1981 bond shall be sold to the Lender pursuant to the terms of the Loan Agreement. The Series 1981 Bond shall be payable in the manner and to the persons set forth in the Loan Agreement and the form of the Bond set forth as Exhibit A to the Loan

Agreement.

The maximum net effective interest rate authorized for the Series 1981 bond is eighteen percent (18%) per annum. The actual net effective interest rate for the Series 1981 bond does not exceed eighteen percent (18%) per annum.

Section 3. Determinations. It is hereby Found, determined and declared that:

(a) the financing of the Project will promote the public health, welfare, safety, convenience and prosperity and promote and develop trade or other economic activity by inducing industrial, commercial and business enterprises to locate, expand, or remain in the City and the State of Colorado in order to mitigate the serious threat of extensive unemployment and to secure and maintain a balanced and stable economy for the City and the State of Colorado;

(b) the maximum amounts necessary in each year to pay the principal of and interest on the Series 1981 Bond are \$250,000 for the first twelve (12) months the Series 1981 Bond is outstanding, from the delivery date of the Series 1981 Bond in the calendar year 1981, to, but not including that date (Anniversary Date) in the calendar year 1982 and \$256,977.84 for each of the next twenty-nine (29) years the Series 1981 Bond is outstanding from the Anniversary Date of the Series 1981 Bond in the Calendar year 1982 to, but not including, the Anniversary Date in the calendar year 2011.

(c) the amount necessary to be paid each year into any reserve funds which the Council may deem advisable to establish in connection with the retirement of the Series 1981 bond and the maintenance of the Project is \$0;

(d) the Loan Agreement provides that the Company shall maintain the Project and carry all proper insurance with respect thereto;

(e) the Loan Agreement requires that the Company pay the taxes which the taxing entities specified in Section 29-3-120(3) of the Act are entitled to receive from the Company with respect to the Project;

(f) the payments required in the Loan Agreement to be made are sufficient to pay the principal of, interest on, and any premium due in connection with the prepayment of the Series 1981 bond when due and to pay all other costs required in the Loan Agreement to be paid.

Section 4. Nature of Obligation. Under the provisions of the Act, and as provided in the Loan Agreement, the Series 1981 Bond shall be a special, limited obligation of the City payable solely from, and secured by a pledge of, the revenues derived from the Loan Agreement and shall be further secured by the lien of the Deed of

Trust and Security Agreement upon the Project. The City will not pledge any of its property or secure the payment of the Series 1981 Bond with its property. The Series 1982 Bond shall never constitute the debt or indebtedness of the City within the meaning of any provision or limitation of the state constitution or statutes or the home rule charter of the City and shall not constitute nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers. In entering into the Loan Agreement, the City will not obligate itself, except with respect to the application of the revenues derived from the Loan Agreement and the Series 1981 Bond proceeds. The City will not pay out of its general fund or otherwise contribute any part of the Cost of the Project (as said term is defined in the Loan Agreement).

Section 5. Bond Ordinance Irrepealable. After the Series 1981 Bond is issued, this Bond Ordinance shall constitute an irrevocable contract between the City and the holder of the Series 1981 Bond and shall be and remain irrepealable until the Series 1981 Bond, both principal and interest, shall be fully paid, cancelled and discharged.

Section 6. Ratification. All action heretofore taken by the City and by the officers thereof not inconsistent herewith directed toward the financing of the Project and the issuance and sale of the Series 1981 Bond is hereby ratified, approved and confirmed.

Section 7. Repealer. All acts, orders, resolutions, ordinances, or parts thereof, taken by the City and in conflict with this Bond Ordinance are hereby repealed, except that this repealer shall not be construed so as to revive any act, order, resolution, ordinance, or part thereof, heretofore repealed.

Section 8. Severability. If any paragraph, clause or provision of this Bond Ordinance, except Section 4 hereof, is judicially adjudged invalid or unenforceable, such judgement shall not affect, impair or invalidate the remaining paragraphs, clauses or provisions hereof.

FINALLY PASSED and ADOPTED as amended this 19th day of August, 1981.

CITY OF GRAND JUNCTION, COLORADO

Louis R. Brach

President of the Council

(CITY SEAL)

Attest:

Theresa F. Martinez

Deputy City Clerk

I HEREBY CERTIFY that the foregoing ordinance, being Ordinance No. 1990, was introduced, read, and ordered published by the City Council of the City of Grand Junction, Colorado, at a regular meeting of said body held on the 5th day of August, 1981, and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, at least ten days before its final passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said city this 20th day of August, 1981.

Theresa F. Martinez

Theresa F. Martinez
Deputy City Clerk

Published: August 7, 1981

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Effective: September 20, 1981