

ORDINANCE NO. 2029

AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$3,500,000 INDUSTRIAL DEVELOPMENT REVENUE BONDS UNDER THE COUNTY AND MUNICIPALITY DEVELOPMENT REVENUE BOND ACT IN ORDER TO FINANCE A PROJECT ON BEHALF OF MODERN MERCHANDISING, INC., APPROVING CERTAIN DOCUMENTS RELATING THERETO, ESTABLISHING A MAXIMUM NET EFFECTIVE INTEREST RATE OF THE BONDS AND AWARDING THE SALE THEREOF.

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

1. It has been proposed that the City undertake a Project whereby it would issue its Industrial Development Revenue Bonds (Modern Merchandising, Inc. Project), Series 1982 and loan the proceeds thereof to Modern Merchandising, Inc., a Minnesota corporation (the Company) in order to finance the costs of the construction of a Project consisting of a retail sales and warehouse facility. This Council gave preliminary approval to the Project by resolution adopted January 2, 1980, and pursuant to that resolution the following documents relating to the Project have been submitted to the Council and are now, or shall be placed, on file in the office of the Clerk;

(a) Loan Agreement, to be dated as of January 1, 1982, proposed to be made and entered into between the City and the Company;

(b) Indenture of Trust, to be dated as of January 1, 1982, proposed to be made and entered into between the City and The First National Bank of Saint Paul, in St. Paul, Minnesota, as Trustee (the Trustee);

(c) A Bond Purchase Agreement, proposed to be made and entered into among the City, the Company and Miller & Schroeder Municipals, Inc. (the Underwriter);

(d) A Letter of Credit to be issued by First National Bank of Minneapolis (the Bank) proposed to be made in favor of the Trustee at the request of and for the account of the Company; and

(e) A Reimbursement Agreement, to be dated as of January 1, 1982, proposed to be made and entered into between the Company and the Bank.

2. It is hereby found, determined and declared that:

(a) In furtherance of the provisions of the County and Municipality Development Revenue Bond Act, Title 29, Article 3, Colorado Revised Statutes 1973, as amended (the Act) and in order to promote industry and develop trade or other economic activity by inducing commercial and business enterprises to locate, expand or remain in the State, to mitigate the serious threat of extensive unemployment in parts of the State, to secure and maintain a balanced and stable economy in all parts of the State

and to further the use of its agricultural products or natural resources, it is necessary and advisable to authorize the issuance of the City's Industrial Development Revenue Bonds (Modern Merchandising, Inc. Project), Series 1982 (the Bonds) in the principal amount of \$3,500,000, and to make the proceeds thereof available to the Company, pursuant to the Loan Agreement, in order to finance the costs of the Project.

(b) The Loan Agreement constitutes a "financing agreement" within the meaning of Section 29-3-103(4) of the Act.

(c) The Project will be situated within the boundaries of the City or within eight miles from the nearest point of its corporate limits.

(d) The Loan Agreement provides for payment to the City of such revenues as will be sufficient to pay the principal of and interest on the Bonds and the Loan Agreement obligates the Company to pay for the maintenance of and insurance on the Project. The Loan Agreement also requires the Company to pay the taxes which all taxing entities are entitled to receive from the Company with respect to the Project.

(e) The Bonds are to be paid exclusively from the revenue derived by the City from the Project, including the Loan Repayments to be made by the Company under the Loan Agreement and any payments to be made by the Bank under the Letter of Credit. The City shall not obligate itself except with respect to the Project and the application of the revenues therefrom and bond proceeds therefor. The principal of and interest on the Bonds shall be payable solely out of the revenues derived from the financing of the Project.

3. The City hereby authorizes the issuance of the Bonds and the financing of the Project. The forms of Loan Agreement, Indenture of Trust, Bond Purchase Agreement, Letter of Credit and Reimbursement Agreement referred to in paragraph 1 are approved subject to such modifications as are deemed appropriate and approved by the President of the City Council and the City Attorney, such approval to be conclusively evidenced by the execution of the Loan Agreement, Indenture of Trust and Bond Purchase Agreement by the President of the City Council and the City Clerk. The President of the City Council and the City Clerk are authorized and directed to execute the Loan Agreement upon execution thereof by the Company, the Bond Purchase Agreement upon execution thereof by the Company and the Underwriters and the Indenture of Trust upon execution thereof by the Trustee. Prior to the execution of any of such documents this Council shall, by supplemental resolution adopted pursuant to this Ordinance, provide for the denominations, dates, maturity dates, interest rates and redemption provisions of the Bonds, and such provisions shall be inserted in the Indenture of Trust. The President of the City Council and the City Clerk are also authorized and directed to execute such other instruments as may be required to give effect to the transactions herein contemplated.

4. In anticipation of the collection of revenues of the Project the City shall issue its Bonds in the form and upon the terms set forth in the Indenture of Trust, this Ordinance and the supplemental resolution adopted pursuant to this Ordinance as provided in Section 3 hereof. The net effective interest rate on the Bonds shall not exceed 15% per annum. The proposal of the Underwriter to purchase the Bonds at the price and upon the terms specified in the Bond Purchase Agreement is hereby found and determined to be reasonable and is hereby accepted. The President of the City Council and the City Clerk are authorized and directed to prepare and execute the Bonds as prescribed in the Indenture of Trust, this Ordinance and the supplemental resolution to be adopted pursuant hereto and to deliver them to the Trustee, together with a certified copy of the proceedings of this Council relating to the Bonds, and all other documents required by the Indenture of Trust, for authentication and delivery to the Underwriter.

5. The Underwriter proposes to offer the Bonds for sale by means of an Official Statement. The City hereby authorizes the Underwriter to prepare and distribute such an Official Statement, and a preliminary Official Statement; provided, however, that the City takes no responsibility for, and shall make no representation or warranty as to the accuracy or completeness of, any information contained therein.

6. The approval hereby given to the various documents referred to above includes an approval of such additional details therein as may be necessary and appropriate and such modifications thereto, deletions therefrom and additions thereto as may be necessary and appropriate and are not inconsistent with this Ordinance or the supplemental resolution to be adopted hereto. The execution of any instrument by the appropriate officer or officers of the City herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms hereof. In the absence of the President of the City Council, any of the documents authorized by this Ordinance to be executed may be executed by the President pro tempore of the City Council and in the event of the absence or disability of the City Clerk by such officer of the City who, in the opinion of the City Attorney, may execute such documents.

7. The City hereby elects to apply the provisions of Section 103(b)(6)(D) of the Internal Revenue Code of 1954, to the Bonds and the President of the City Council and City Clerk are authorized and directed to file evidence of such election with the Internal Revenue Service and to take such other action as may be necessary to make such election effective.

8. The President of the City Council and the City Clerk and other officers of the City are authorized and directed to prepare and to furnish to the Underwriter and bond counsel certified copies of all proceedings and records of the City relating to the Bonds, and

such other affidavits and certificates as may be required to show the facts relating to the legality thereof as such facts appear from the books and records and the officers' custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

9. This Ordinance shall take effect thirty days after its final passage and publication as provided in by Section 136 of Article XVI of the Charter.

PASSED and ADOPTED this 2nd day of December, 1981.

Louis R. Brach

President of the Council

Attest:

Neva B. Lockhart, CMC

City Clerk

(SEAL)

I HEREBY CERTIFY that the foregoing ordinance, being Ordinance No. 2029, 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 18th day of November, 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 3rd day of December, 1981.

Neva B. Lockhart

Neva B. Lockhart, CMC
City Clerk

Published: November 20, 1981

Published: December 4, 1981

Effective: January 3, 1982