

ORDINANCE NO. 2503

AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF GRAND JUNCTION, COLORADO, SALES AND USE TAX IMPROVEMENT REVENUE BONDS, SERIES 1991, IN THE TOTAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000, FOR THE PURPOSE OF FINANCING CERTAIN CAPITAL IMPROVEMENTS; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SAID BONDS FROM A PORTION OF THE REVENUES OF THE SALES AND USE TAX IMPOSED BY THE CITY; AND PROVIDING OTHER COVENANTS AND DETAILS IN CONNECTION THEREWITH.

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

Section 1. Definitions. As used herein, unless the context requires otherwise, the capitalized terms below shall have the following meanings:

Bonds or 1991 Bonds: the City's Sales and Use Tax Improvement Revenue Bonds, Series 1991, dated as of March 1, 1991, issued in the aggregate principal amount of \$2,000,000, as authorized by this Ordinance.

Bond Account: the "City of Grand Junction, Colorado, Sales and Use Tax Revenue Bonds Parity Bond Account," created in Section 14(a) hereof for the purpose of paying the principal of, premium, if any, and interest on the Bonds and any additional bonds authorized and issued by the City which are payable from the Pledged Revenues, and which have a lien on such revenues on a parity with the lien of the Bonds.

Bond Insurance Policy: the municipal bond insurance policy issued by the Bond Insurer guaranteeing the payment of principal and interest on the 1991 Bonds.

Bond Insurer: Financial Guaranty Insurance Company, a New York stock insurance company, or any successor thereto.

Bond Purchase Agreement: the agreement between the City and the Purchaser concerning the purchase of the Bonds by the Purchaser.

Bond Registrar or Registrar: The Colorado National Bank of Denver, Denver, Colorado, or its successor, which shall perform the registration and transfer functions as set forth in this Ordinance and the Paying Agent Agreement.

Business Day: any day other than a Saturday, Sunday or other day on which banks in Denver, Colorado are required or authorized to be closed.

Charter: the home rule charter of the City, as it may be amended from time to time.

City: the City of Grand Junction, Colorado.

Code: the Code of Ordinances of the City, as it may be amended from time to time.

Construction Account: The "City of Grand Junction, Colorado, Sales and Use Tax Improvement Revenue Bonds Series 1991 Construction Account" established in Section 14(a) hereof.

Council: the City Council of the City.

Debt Service Fund: the "City of Grand Junction, Colorado, Sales and Use Tax Debt Service Fund" established in Section 16 hereof for the purpose of securing all of the City's sales and use tax bonds which are payable from the Pledged Revenues, which fund will initially consist of the Bond Account for the 1991 Bonds and any Party Lien Bonds and the Rebate Account for the 1991 Bonds.

Event of Default: one or more of the events set forth in Section 21 of this Ordinance.

Federal Securities: direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, provided, that the full faith and credit of the United States of America must be pledged to any such direct obligation or guarantee.

Financial Guaranty Agreement: the Debt Service Reserve Fund Policy Agreement between the City and the Bond Insurer relating to the Reserve Account Credit Facility being issued by the Bond Insurer to fulfill the Reserve Fund Requirement for the Bonds.

Ordinance: this Ordinance, which authorizes the issuance of the Bonds.

Owner or owner: when used with respect to a Bond or Bonds, means the registered owner of any outstanding Bond.

Parity Lien Bonds: bonds, notes, certificates, contracts, or other similar obligations issued in accordance with Section 18 hereof, payable in whole or in part from the Pledged Revenues and having a lien thereon on a parity with the lien of the Bonds.

Paying Agent: The Colorado National Bank of Denver, Denver, Colorado, or its successor, which shall perform the function of paying agent as set forth in this Ordinance and the Paying Agent Agreement.

Paying Agent Agreement: The Registrar and Paying Agent Agreement dated as of March 1, 1991, between the City and the Paying Agent and Registrar.

Permitted Investments: any investments or deposits listed on

Exhibit A hereto which are at the time permitted by the Charter and applicable ordinances or other provisions of the City.

Pledged Revenues: (i) the proceeds of a sales and use tax at a rate of 3/4%, which is a portion of the City's presently existing 2.75% sales and use tax, imposed by Chapter 24 of the Code, including investment income to the extent provided in Section 17(f) hereof; (ii) any additional legally available taxes (other than general ad valorem taxes), funds or revenues which the City Council hereafter pledges to the payment of the Bonds; and (iii) the proceeds derived by the City from any legally available tax or taxes or fees (other than general ad valorem taxes) which replace or supersede the Pledged Revenues, regardless of whether such taxes or fees are imposed by the City, the State or any other political subdivision thereof; all to the extent that any of the foregoing are at any time required by Section 16 hereof to be deposited into and held in the Bond Account. The term "Pledged Revenues" does not include: (i) any amounts determined, pursuant to the Code and other applicable law, to be subject to valid claims for refunds; (ii) amounts in or required to be paid into the Rebate Account or any similar account for Parity Lien Bonds; (iii) any moneys retained by the State Department of Revenue for costs of collection, administration and enforcement of the sales and use tax; (iv) amounts lawfully withheld by retailers; (v) the proceeds of any increase in such sales and use tax which may be approved in the future unless expressly pledged to the payment of the Bonds by the Council; or (vi) incremental sales taxes which are pledged to the payment of obligations issued pursuant to an urban renewal plan as defined in Section 31-25-103(9), Colorado Revised Statutes, a plan of development as defined in Section 31-25-802(6.4), Colorado Revised Statutes, or a value capture plan as defined in Section 43-4-508, Colorado Revised Statutes.

Project: the acquisition, construction, remodeling and equipping of capital improvements for the City, including the reimbursement of the City for the costs of certain capital improvements acquired during fiscal year 1990.

Purchaser: Kirchner Moore, a division of George K. Baum & Company, of Denver, Colorado, the original purchaser of the Bonds.

Rebate Account: the account created and designated as such pursuant to Section 16(c) hereof.

Record Date: the last business day of the calendar month next preceding each interest payment date.

Reserve Fund Requirement: an amount equal to 10% of the outstanding principal amount of the Bonds and any additional Parity Lien Bonds which may be hereafter issued.

Reserve Account: the "City of Grand Junction, Colorado, Sales and Use Tax Revenue Bonds Parity Bond Reserve Account," created in Section 14(b) hereof for purposes of providing additional security

for payment of the Bonds and any Parity Lien Bonds.

Reserve Account Credit Facility: an insurance policy, surety bond, letter or line of credit, or similar instrument which may be utilized in the Reserve Account to provide security for the Bonds and any Parity Lien Bonds, as provided in Sections 16(b) and 18(c) hereof, the issuer or provider of which is, or the claims paying ability of the provider of which is, at the time such utilization commences, rated in the highest rating category by Standard & Poor's Corporation, Moody's Investors Service, Inc., or A.M. Best & Company. The term "Reserve Account Credit Facility" includes the "Reserve Policy" for the Bonds described in Section 16(g) hereof. Any such Reserve Account Credit Facility (other than the Reserve Policy) must be approved by the Bond Insurer prior to being deposited into the Reserve Account.

Reserve Fund: the "City of Grand Junction, Colorado, Sales and Use Tax Reserve Fund" established in Section 16 hereof for the purpose of securing all of the City's sales and use tax bonds payable from the Pledged Revenue, which fund will initially consist of the Reserve Account.

Sales and Use Tax Fund: the Sales and Use Tax (3/4%) Capital Improvement Fund of the City which is created by this Ordinance, into which the Pledged Revenues are directed to be deposited as provided in Section 16 hereof.

Special Record Date: a special date fixed to determine the names and addresses of registered owners of Bonds for purposes of paying interest on a special interest payment date for the payment of defaulted interest.

Subordinate Lien Bonds: bonds, notes, certificates, contracts, or other similar obligations, issued in accordance with Sections 16 and 18 hereof, payable in whole or in part from the Pledged Revenues and having a lien thereon which is subordinate to the lien of the Bonds and Parity Lien Bonds.

Tax Code: the Internal Revenue Code of 1986, as amended to the date of delivery of the Bonds, and applicable regulations and rulings presently or hereafter promulgated or proposed thereunder or under any predecessor thereto.

Section 2. Recitals.

(a) The Council has determined and hereby declares that the interests of the City and the public interest and necessity demand the acquisition, construction, installation or completion of the Project.

(b) Pursuant to the City Charter, and Article XX, Section 6 of the Colorado Constitution, the City is authorized, by ordinance without an election, to issue bonds or other obligations for the purpose of constructing, acquiring, and installing capital

improvements, payable solely from the sales and use tax revenues credited to the Sales and Use Tax Fund.

(c) The Council has determined to authorize and issue its sales and use tax revenue bonds in the principal amount of \$2,000,000 for the purpose of defraying the costs of the Project.

(d) The Bonds authorized by this Ordinance shall be payable in whole or in part from the portion of the available proceeds of the City sales and use tax constituting Pledged Revenues and shall have a first and prior lien on such portion of the City's sales and use tax, but not necessarily an exclusive first lien.

(e) The City has received a proposal from the Purchaser concerning the purchase of the Bonds.

(f) The Council has determined, and hereby determines, that the Bonds shall be sold to the Purchaser in accordance with the Bond Purchase Agreement, and that such sale is to the best advantage of the City.

(g) There have been filed with the City Clerk:

(i) the form of an Official Statement for the Bonds; and

(ii) the form of the Financial Guaranty Agreement.

(h) It is necessary to provide for the form and details of the Bonds, the payment of the Bonds and other provisions relating to the authorization and issuance of the Bonds.

Section 3. Authorization. In accordance with the Charter, the constitution and laws of the State of Colorado, and the provisions of this Ordinance, the City hereby authorizes the issuance of its sales and use tax revenue bonds, each to be designated (City of Grand Junction, Colorado, Sales and Use Tax Improvement Revenue Bond, Series 1991", in the aggregate principal amount of \$2,000,000, for the purpose of financing the Project.

Section 4. Special Obligations; Pledge; Negotiability.

(a) All of the Bonds, together with the interest thereon, and all amounts due to the Bond Insurer shall be payable only out of the Pledged Revenues which are to be deposited in the Debt Service Fund and the Bond Account thereof or the Reserve Fund and the Reserve Account thereof. The owner or owners of the Bonds and the Bond Insurer may not look to any ad valorem property taxes levied or collected by the City for the payment of the principal of and interest on the Bonds, and the Bonds and all amounts due to the Bond Insurer shall not constitute a debt or an indebtedness of the City within the meaning of any constitutional, Charter, or statutory provision or limitation; nor shall they be considered or held to be general obligations of the City. None of the covenants, agreements, representations and warranties contained herein or in

the Bonds shall ever impose or be construed as imposing any liability, obligation or charge against the City (except to the extent of the Pledged Revenues which are to be deposited in the Debt Service Fund and the Bond Account thereof or the Reserve Fund and the Reserve Account thereof) or its general credit, payable out of its general funds or out of any funds derived from ad valorem property taxation. The payment of the Bonds and all amounts due to the Bond Insurer are not secured by an encumbrance, mortgage or other pledge of any property, except the Pledged Revenues which are to be deposited in the Debt Service Fund and the Bond Account thereof or the Reserve Fund and the Reserve Account thereof as provided herein.

(b) The City hereby irrevocably pledges the Pledged Revenues which are to be deposited in the Debt Service Fund and the Bond Account thereof or the Reserve Fund and the Reserve Account thereof, on the terms provided herein, for the payment of the principal of and interest on the Bonds and all amounts due to the Bond Insurer. Such pledge shall create an irrevocable and first lien (but not an exclusive first lien) on the Pledged Revenues for the payment of the principal of and interest on the Bonds and a subordinate lien for the payment of all amounts due to the Bond Insurer.

(c) The covenants and agreements herein set forth to be performed on behalf of the City shall be for the equal benefit, protection and security of the registered owners of any and all of the outstanding Bonds and, on a subordinate basis, the Bond Insurer. The Bonds, regardless of the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction, except as otherwise expressly provided in or pursuant to this Ordinance.

(d) The issuance of the Bonds by the City shall constitute a warranty by and on behalf of the City for the benefit of each and every owner of any of the Bonds that the Bonds have been issued for valuable consideration in full conformity with law. Subject to the registration provisions hereof, the Bonds hereby authorized shall be fully negotiable and shall have all the qualities of negotiable paper, and the registered owners thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Colorado Uniform Commercial Code. The principal of and interest on the Bonds shall be paid, and the Bonds shall be transferable, free from and without regard to any equities between the City and the original or any intermediate owner of any Bonds or any setoffs or cross-claims.

Section 5. Bond Details. The Bonds shall be issued only as fully registered Bonds without coupons in the denominations of \$5,000 each or integral multiples thereof (provided that no Bond may be in a denomination which exceeds the principal coming due on its maturity date and no individual Bond will be issued for more than one maturity). The Bonds shall be numbered in such manner as the Registrar shall determine. The Bonds shall be dated as of March 1, 1991, and shall bear interest from their date until maturity,

payable semiannually on each June 15 and December 15, commencing on June 15, 1991, except that any Bond which is reissued upon transfer, exchange or other replacement shall bear interest from the most recent interest payment date to which interest has been paid, or if no interest has been paid, from the date of the Bonds. The Bonds shall bear interest at the interest rates per annum to be designated by the City Manager and the Mayor, who are hereby delegated authority to determine such interest rates, provided that the net effective interest rate on the Bonds shall not exceed 7.95% per annum. The Bonds shall mature serially on December 15 of each year from 1991 to 2000 (or having sinking fund redemptions in years when there is no serial maturity) in amounts to be determined by the Mayor and the City Manager, and the authority to determine such amounts is hereby delegated to such City officials so long as the aggregate principal amount of Bonds does not exceed the maximum aggregate principal amount set forth in this Ordinance. The interest rates on the Bonds and the amount of Bonds maturing each year shall be set forth in the Bond Purchase Agreement, and the signatures of the Mayor and City Manager on such document shall evidence their determinations regarding interest rates and principal maturities.

Section 6. Payment of Bonds - Paying Agent and Bond Registrar. (a) The principal of the Bonds shall be payable to the registered owner of each Bond upon maturity thereof and upon presentation and surrender at the Paying Agent. If any Bond shall not be paid upon such presentation and surrender at or after maturity, it shall continue to draw interest at the interest rate borne by said Bond until the principal thereof is paid in full. Payment of interest on any Bond shall be made to the registered owner thereof by check or draft mailed by the Paying Agent, on or before each interest payment date (or, if such interest payment date is not a Business Day, on or before the next succeeding Business Day), to the registered owner thereof at his or her address as it last appears on the registration records kept by the Registrar on the Record Date; but any such interest not so timely paid shall cease to be payable to the person who is the registered owner thereof at the close of business on the Record Date and shall be payable to the person who is the registered owner thereof at the close of business on a Special Record Date for the payment of such defaulted interest. Such Special Record Date shall be fixed by the Registrar whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the registered owners of the Bonds not less than ten days prior to the Special Record Date by first-class mail to each such registered owner as shown on the Registrar's registration records on a date selected by the Registrar, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest. The Paying Agent may make payments of interest on any Bond by such alternative means as may be mutually agreed to between the registered owner of such Bond and the Paying Agent; provided, however, that the City shall not be required to make funds available to the Paying Agent prior to three business days before the payment dates stated in this Ordinance. All such

payments shall be made in lawful money of the United States of America without deduction for the services of the Paying Agent or Registrar.

(b) The Registrar or Paying Agent may resign on thirty days prior written notice to the City and the Bond Insurer, provided that no such resignation shall be effective until a successor Registrar and Paying Agent is appointed and has accepted the duties thereof. The City at any time may reasonably determine that the Registrar or Paying Agent is incapable of fulfilling its duties hereunder and may remove it upon thirty days prior written notice. If the Registrar or Paying Agent initially appointed hereunder shall resign, or shall be removed by the City, the City may, upon notice mailed to the Bond Insurer and to each Owner at his or her address last shown on the registration books, appoint a successor to such Registrar or Paying Agent. Every such successor Registrar or Paying Agent shall be a bank or trust company located in and in good standing in the United States and having shareholders' equity (e.g., capital stock, surplus and profits), however denominated, not less than \$50,000,000. It shall not be required that the same institution serve as both Registrar and Paying Agent hereunder, but the City shall have the right to have the same institution serve as both Registrar and Paying Agent hereunder. The Bond Insurer shall be furnished with written notice of the resignation or removal of the Paying Agent and the Bond Registrar and the appointment of any successor thereto.

Section 7. Prior Redemption. (a) Optional Redemption. The prior redemption provisions of the Bonds shall be determined by the Mayor and the City Manager, and the authority to determine such redemption provisions is hereby delegated to such City officials so long as the limitations set forth in the following sentence are met. Bonds maturing on and after December 15, 1997 must be callable on and after December 15, 1996 at a price of par plus a premium not to exceed 1% of the aggregate principal amount of Bonds being called. The limitations in the foregoing sentence do not prevent the Mayor and City Manager from agreeing to redemption provisions which are more favorable to the City (such as provisions allowing an earlier call of Bonds, a call of Bonds of earlier maturities, a call of Bonds at par, or a call of Bonds at a premium which declines in later years). The Mayor and City Manager's determination of optional redemption provisions and premiums (if any) shall be evidenced by their signatures on the Bond Purchase Agreement which shall contain the Bonds' redemption provisions. Bonds which are designated as subject to prior redemption shall be subject to redemption prior to their respective maturities, at the option of the City, at any time on and after the dates determined by the Mayor and City Manager, in whole or in part, in integral multiples of \$5,000, from such maturities or any portions of maturities selected by the City and by lot within a maturity in such manner as the Paying Agent shall determine, at a redemption price equal to the principal amount of each Bond or portion thereof called for redemption plus accrued interest to the redemption date and any premium, if any, (not to

exceed 1%) determined by the Mayor and City Manager. Notwithstanding the foregoing, the City may not redeem any Bonds pursuant to this Section so long as any amounts are due and owing to the Bond Insurer.

Except for any optional redemption elected by the City in connection with any escrow refunding or mandatory sinking fund redemption (if any), the Bonds shall only be called for optional redemption to the extent of funds on deposit with the Paying Agent and available for such purpose (which may include the known minimum yield from Federal Securities as provided in Section 19 hereof) on the date the notice of redemption is mailed to the registered owners as hereinafter in this Section provided.

In the event a Bond is of a denomination larger than \$5,000, a portion of such Bond may be redeemed, but only in the principal amount of \$5,000 or integral multiples thereof, and the Registrar shall, without charge to the owner of such Bond, authenticate and issue a replacement Bond or Bonds for the unredeemed portion thereof.

(b) Notice of Redemption. The Finance Director shall give written instructions concerning any optional prior redemption of Bonds to the Registrar at least 60 days prior to the redemption date; provided, however, that the Registrar may waive this requirement if instructions are given in time for notice to be given to Bond Owners. Notice identifying the Bonds or portions thereof to be redeemed shall be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail, postage prepaid, not more than 60 nor less than 30 days prior to the date fixed for redemption, to the Bond Insurer and to the registered owner of each Bond to be redeemed in whole or in part at the address shown on the registration records maintained by the Bond Registrar. Failure to give such notice by mailing to the Bond Insurer or to any owner of any Bond, or any defect therein, shall not affect the validity of any proceedings for the redemption of any Bonds. Actual receipt of mailed notice by the owner of any Bond shall not be a condition precedent to the redemption of such Bond or any other Bond. The principal amount so redeemed will be payable upon presentation and surrender of the Bond at the Paying Agent, and accrued interest to the redemption date will be paid by check or draft mailed to the registered owner (or by alternative means if so agreed to by the registered owner and the Paying Agent). All Bonds so called for redemption will cease to bear interest after the specified redemption date.

Section 8. Form and Execution of Bonds. The Bonds shall be signed with the facsimile or manual signature of the Mayor and President of the City Council, sealed with a facsimile or manual impression of the seal of the City, and attested by the facsimile or manual signature of the City Clerk. Should any officer whose facsimile or manual signature appears on the Bonds cease to be such officer before delivery of the Bonds to the purchaser, such facsimile or manual signature shall nevertheless be valid and sufficient for

all purposes.

The Bonds shall be in substantially the following form (provided that any of the text of the Bonds may, with appropriate reference, be printed on the back of the Bonds):

[Form of Bond]

No. R- _____
\$ _____

UNITED STATES OF AMERICA
STATE OF COLORADO
COUNTY OF MESA

CITY OF GRAND JUNCTION

SALES AND USE TAX IMPROVEMENT REVENUE BOND, SERIES 1991

INTEREST RATE	MATURITY DATE	DATED AS OF	CUSIP
		March 1, 1991	

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The City of Grand Junction, in the County of Mesa and the State of Colorado, a municipal corporation duly organized and operating under the City Charter and the constitution and laws of the State of the State of Colorado, for value received, hereby promises to pay from the special funds and accounts hereafter designated, but not otherwise, to the registered owner named above, or registered assigns, on the maturity date specified above (unless called for earlier redemption), the principal amount specified above, and in like manner to pay interest on such principal amount at the interest rate per annum specified above, payable semiannually on June 15 and December 15 each year, commencing on June 15, 1991, until such principal amount is paid, unless this Bond shall have been previously called for redemption and payment shall have been duly made. The principal of this Bond is payable upon presentation and surrender hereof at the principal office of the City's paying agent and registrar (the "Paying Agent" or the "Registrar"), presently The Colorado National Bank of Denver in Denver, Colorado. Interest on this Bond will be paid on each interest payment date (or, if such interest payment date is not a business day, on the next succeeding business day), by check or draft mailed by the Paying Agent to the person in whose name this Bond is registered (the "registered owner") in the registration records

of the Registrar and at the address appearing thereon at the close of business on the last business day of the calendar month (whether or not a business day) next preceding such interest payment date (the "Record Date"). Any such interest not so timely paid shall cease to be payable to the person who is the registered owner hereof at the close of business on the Record Date and shall be payable to the person who is the registered owner hereof at the close of business on a Special Record Date (defined in the ordinance of the City adopted to authorize this Bond (the "Bond Ordinance")) for the payment of defaulted interest. Such Special Record Date shall be fixed by the Registrar whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the registered owners of the bonds of the series of which this is one (the "Bonds") not less than ten days prior to the Special Record Date. All such payments shall be made in lawful money of the United States of America without deduction for the services of the Paying Agent or Registrar.

The Bonds of which this Bond is one are all of like date, tenor, and effect except as to number, principal amount, interest rate, date of maturity, and optional prior redemption, and are issued by the City Council of the City of Grand Junction, in the County of Mesa and State of Colorado, for the purpose of financing certain capital improvements, under the authority of and in full conformity with the City's home rule charter, the constitution and laws of the State of Colorado, and pursuant to the duly adopted Bond Ordinance.

The principal of and interest on this Bond are payable only from the proceeds of a sales and use tax at a rate of 3/4%, which constitutes a part of the proceeds of the City's presently existing 2.75% sales and use tax (subject to certain exceptions and exclusions as provided in the Bond Ordinance, the "Pledged Revenues") to be deposited to the City's "Sales and Use Tax Debt Service Fund" and the funds and accounts thereof and "Sales and Use Tax Reserve Fund" and the funds and accounts thereof, all as more particularly set forth in the Bond Ordinance. This Bond constitutes a first and prior lien, but not necessarily an exclusively first lien, on the Pledged Revenues. Obligations in addition to the Bonds of this issue, of which this Bond is one, may be issued and made payable from the Pledged Revenues, having a lien thereon subordinate and junior to the lien of the Bonds of this issue; or, subject to expressed conditions, having a lien on the Pledged Revenues on a parity with the lien of the Bonds of this issue, in accordance with the provisions of the Bond Ordinance.

It is hereby recited, certified, and warranted that for the payment of this Bond, the City has created and will maintain the special funds and accounts referred to above, and will deposit therein the Pledged Revenues, and out of said special funds, as an irrevocable charge thereon, will pay the principal of and interest on this Bond in the manner provided by the Bond Ordinance. For a

description of such funds and accounts, the Pledged Revenues, the manner in which the Bond Ordinance may be amended, and the nature and extent of the security afforded thereby for the payment of this Bond, reference is made to the Bond Ordinance.

This Bond is payable solely from such Pledged Revenues, does not constitute a debt of the City within the meaning of any constitutional, home rule charter, or statutory limitation, and shall not be considered or held to be a general obligation of the City.

It is further hereby recited, certified, and warranted that all the requirements of law have been complied with fully by the proper officers of the City in issuing this Bond.

The Bonds maturing on and after December 15, _____, are subject to redemption prior to their respective maturities, at the option of the City, on and after December 15, _____, in whole or in part, in integral multiples of \$5,000, _____ from maturities or any portions of maturities selected by the City and by lot within a maturity in such manner as the Paying Agent shall determine, at a redemption price equal to the principal amount of each Bond or portion thereof called for redemption plus accrued interest to the redemption date and a premium of _____%.

The Bonds will be redeemed only in integral multiples of \$5,000. In the event a Bond is of a denomination larger than \$5,000, a portion of such Bond may be redeemed, but only in the principal amount of \$5,000 or integral multiples thereof, and the Registrar shall, without charge to the owner of such Bond, authenticate and issue a replacement Bond or Bonds for the unredeemed portion thereof.

Notice of prior redemption shall be given by mailing a copy of the redemption notice, not more than 60 nor less than 30 days prior to the date fixed for redemption, to the registered owner of each Bond to be redeemed at the address shown on the registration records maintained by the Bond Registrar, in the manner set forth in the Bond Ordinance. All Bonds called for redemption will cease to bear interest after the specified redemption date.

The City and the Bond Registrar shall not be required to transfer or exchange: (1) any Bonds or portion thereof subject to prior redemption during a period beginning at the opening of business on the fifteenth day prior to the day of the mailing by the Registrar of notice of prior redemption and ending at the close of business on the day of such mailing; or (2) any Bond or portion thereof after the mailing of notice calling all or any portion of such Bond for prior redemption. Except as otherwise provided with respect to record dates for the payment of interest, the City, the Paying Agent, and the Bond Registrar may deem and treat the registered owner of any Bond as the absolute owner thereof for all purposes (whether or not such Bond shall be overdue) and any notice to the contrary shall not be binding upon the City, the

Paying Agent, or the Bond Registrar.

Upon surrender of this Bond at the principal office of the Bond Registrar with a written instrument satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney, this Bond may, at the option of the registered owner or his duly authorized attorney, be exchanged for an equal aggregate principal amount of such Bonds of the same maturity but of other authorized denominations, subject to the terms and conditions and upon payment of the charges provided in the Bond Ordinance.

This Bond is fully transferable by the registered owner hereof in person or by his duly authorized attorney on the registration records kept by the Bond Registrar upon surrender of this Bond together with a duly executed written instrument of transfer satisfactory to the Bond Registrar. Upon such transfer a new fully registered Bond of authorized denomination or denominations of the same aggregate principal amount and maturity will be issued to the transferee in exchange for this Bond, subject to the terms and conditions and upon payment of the charges provided in the Bond Ordinance.

For purposes of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended, the City has designated the Bonds as a "qualified tax exempt obligation."

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the certificate of authentication hereon shall have been manually signed by the Bond Registrar.

IN TESTIMONY WHEREOF, the City Council of the City of Grand Junction has caused this Bond to be signed by the manual or facsimile signature of the Mayor and President of the City Council, sealed with a manual or facsimile impression of the seal of the City, and attested by the manual or facsimile signature of the City Clerk, all as of the 1st day of March, 1991.

CITY OF GRAND JUNCTION, COLORADO

(SEAL OR FACSIMILE)

Mayor and President

ATTESTED:

City Clerk

[Form of Bond Registrar's Certificate of Authentication]

CERTIFICATE OF AUTHENTICATION

Date of Registration and Authentication:

This Bond is one of the Bonds of the issue described in the within-mentioned Bond Ordinance, and this Bond has been duly registered in the registration records kept by the undersigned as Bond Registrar.

THE COLORADO NATIONAL BANK OF DENVER,
Denver, Colorado, as Bond Registrar

By:

Authorized Representative

[Form of Transfer]

ASSIGNMENT

FEES AND TAXES MAY BE CHARGED FOR TRANSFER OR EXCHANGE OF THIS BOND

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____ attorney, to transfer said Bond on the records kept for registration thereof with full power of substitution in the premises.

Signature of Registered Owner:

NAME

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

Dated: _____

Signature guaranteed:

(Bank, Trust Company, or Firm)

Address or transferee:

Social Security or other tax identification number of transferee:

Section 9. Authentication. No Bond shall be valid or obligatory

for any purpose or be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication on such Bond substantially in the form hereinabove set forth shall have been duly manually executed by the Bond Registrar, and such executed certificate of the Bond Registrar upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Ordinance. The Bond Registrar's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Bond Registrar, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Bonds issued hereunder. By authenticating any of the Bonds initially delivered pursuant to this Ordinance, the Bond Registrar and Paying Agent shall be deemed to have assented to the provisions of, and to have agreed to abide by and to perform the duties provided for them in, this Ordinance.

Section 10. Delivery of Bonds. After the adoption of this Ordinance, the City shall execute the Bonds and deliver them to the Bond Registrar, and the Bond Registrar shall authenticate the Bonds and deliver them to the purchasers thereof, as directed by the City.

Section 11. Registration, Transfer and Exchange.

(a) Records for the registration and transfer of the Bonds shall be kept by the Bond Registrar, which is hereby appointed by the City as registrar (i.e., transfer agent) for the Bonds. Upon the surrender for transfer of any Bond at the principal office of the Bond Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing, the Bond Registrar shall enter such transfer on the registration records and shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount and of the same maturity, bearing a number or numbers not previously assigned. Bonds may be exchanged at the principal office of the Bond Registrar for an equal aggregate principal amount of Bonds of the same maturity of other authorized denominations. The Bond Registrar shall authenticate and deliver a Bond or Bonds which the registered owner making the exchange is entitled to receive, bearing a number or numbers not previously assigned. The Bond Registrar may impose reasonable charges in connection with such exchanges and transfers of Bonds, which charges (as well as any tax or other governmental charge required to be paid with respect to such exchange or transfer) shall be paid by the registered owner requesting such exchange or transfer.

(b) The Bond Registrar shall not be required to transfer or exchange (i) all or any portion of any Bond subject to prior redemption during the period beginning at the opening of business fifteen days before the day of the mailing by the Bond Registrar of notice calling any Bonds for prior redemption as herein

provided and ending at the close of business on the day of such mailing, or (ii) all or any portion of a Bond after the mailing of notice calling such Bond or any portion thereof for prior redemption.

(c) Except as may otherwise be provided with respect to payment of interest pursuant to Section 6 hereof, the person in whose name any Bond shall be registered on the registration records kept by the Bond Registrar shall be deemed and regarded as the absolute owner thereof for the purpose of making payment thereof and for all other purposes and payment of or on account of principal of and interest on any Bond shall be made only to or upon the written order of the registered owner thereof or his or her legal representative, but such registration may be changed upon transfer of such Bond in the manner and subject to the conditions and limitations provided herein. All such payments shall be valid and effectual to discharge the liability upon such Bond to the extent of the sum or sums so paid.

(d) The officers of the City are authorized to deliver to the Bond Registrar fully executed but unauthenticated Bonds in such quantities as may be convenient to be held in custody by the Bond Registrar pending use as herein provided.

(e) Upon any Event of Default which would require the Bond Insurer to make payments under the Bond Insurance Policy, the Bond Insurer and its designated agent shall be provided by the Registrar with the registration records relating to the 1991 Bonds.

Section 12. Cancellation and Destruction of Bonds. Whenever any outstanding Bond shall be delivered to the Bond Registrar for payment pursuant to this Ordinance and upon payment of the principal amount and interest represented thereby, such Bond shall be cancelled and destroyed by the Bond Registrar and recorded as such in the records of the Bond Registrar. Whenever any outstanding Bond shall be delivered to the Bond Registrar for transfer pursuant to the provisions hereof, such Bond shall be cancelled by the Bond Registrar and counterparts of a certificate of cancellation shall be furnished by the Bond Registrar to the City.

Section 13. Lost Bonds. If any Bond shall be lost, stolen, destroyed or mutilated, the Bond Registrar may, upon receipt of such evidence, information or indemnity relating thereto as it or the City may reasonably require, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same maturity, bearing a number or numbers not previously assigned. If such lost, stolen, destroyed or mutilated Bond shall have matured or shall have been called for redemption, the Bond Registrar may direct that such Bond be paid by the Paying Agent in lieu of replacement. The Bond Registrar and the City may require that the registered owner of any such Bond pay their reasonable fees, charges and expenses relating to their activities pursuant to this Section.

Section 14. Disposition of Bond Proceeds and Additional Deposits.

(a) The Bonds, when executed and registered as provided by law, shall be delivered to the Purchaser as directed by the City, and proceeds derived therefrom shall be used exclusively for the purposes of: (i) depositing the amount of the accrued interest paid as part of the purchase price of the Bonds into the "City of Grand Junction, Colorado, Sales and Use Tax Revenue Bonds Parity Bond Account" of the Debt Service Fund hereby created for the purpose of paying the principal of, premium, if any, and interest on the Bonds and any Parity Lien Bonds, and (ii) depositing the remaining proceeds into the "City of Grand Junction, Colorado, Sales and Use Tax Improvement Revenue Bonds, Series 1991 Construction Account" hereby created. After the payment of such costs of the Project including the costs of issuance, any unexpended balance of Bond proceeds remaining in the Construction Account shall be deposited into the Bond Account for the payment of the principal of and interest on the Bonds as the same become due. Neither the Purchaser nor any subsequent owners of the Bonds shall be responsible for the application or disposal by the City or any of its officers of the funds derived from the sale thereof.

(b) There is hereby created the "City of Grand Junction, Colorado, Sales and Use Tax Revenue Bonds Parity Bond Reserve Account" of the Reserve Fund to act as a continuing reserve to secure the payment of the Bonds and any Parity Lien Bonds.

Section 15. Tax Covenant and Rebate Account; Qualified Tax Exempt Obligations.

(a) The City covenants for the benefit of the owners of the Bonds that it will not take any action or omit to take any action with respect to the Bonds, the proceeds thereof, any other funds of the City or any facilities financed with the proceeds of the Bonds if such action or omission (i) would cause the interest on the Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, (ii) would cause interest on the Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code except to the extent such interest is required to be included in the adjusted current earnings adjustment applicable to corporations under Section 56 of the Tax Code in calculating corporate alternative minimum taxable income, or (iii) would cause interest on the Bonds to lose its exclusion from Colorado taxable income or Colorado alternative minimum taxable income under present Colorado law. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the Bonds until the date on which all obligations of the City in fulfilling the above covenant under the Tax Code have been met.

(b) All of the amounts on deposit in the Sales and Use Tax Fund, the Debt Service Fund, the Reserve Fund or in any fund or account created under this Ordinance, and all amounts pledged to the

payment of the Bonds, shall be invested in compliance with the requirements of subsection (a) of this Section. Amounts on deposit in the Rebate Account shall not be subject to the lien and pledge of this Ordinance, to the extent that such amounts are required to be paid to the United States Treasury. The City shall withdraw from the Debt Service Fund and the Reserve Fund for deposit into the Rebate Account, as provided in Section 16 hereof, amounts required to be deposited into the Rebate Account from time to time. Upon receipt of an opinion of nationally recognized bond counsel that the balance in the Rebate Account is in excess of the amount required by subsection (a) of this Section to be included therein, such excess shall be transferred to the Sales and Use Tax Fund.

(c) For purposes of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended, the City hereby designates the Bonds as a "qualified tax exempt obligation."

Section 16. Payment of Principal and Interest. The Pledged Revenues shall be deposited immediately upon receipt to the special fund hereby created which shall be designated as the "Sales and Use Tax 3/4% Capital Improvement Fund" of the City (the "Sales and Use Tax Fund"). Moneys in the Sales and Use Tax Fund shall not be available for general municipal purposes of the City to the extent such moneys are needed as provided in this Ordinance. The amount of the Pledged Revenues deposited to the Sales and Use Tax Fund shall be accounted for separately and shall be identifiable at all times. The Pledged Revenues in the Sales and Use Tax Fund shall be deposited to the extent required below into the "City of Grand Junction, Colorado, Sales and Use Tax Debt Service Fund" hereby created and the "City of Grand Junction, Colorado, Sales and Use Tax Reserve Fund" hereby created for the purpose of securing all of the City's obligations payable from and secured by the Pledged Revenues. Such Pledged Revenues shall be applied only in the following manner and order:

(a) Bond Account. First, the City covenants to deposit to the Bond Account, from the Pledged Revenues, the following amounts:

(i) Monthly, beginning on or before March 15, 1991, and on or before the 15th day of each month thereafter, through and including November 15, 1991, one-ninth (1/9) of the principal amount of the Bonds becoming due on December 15, 1991, and thereafter, there is to be deposited to the Bond Account monthly, on or before the 15th day of each month, one-twelfth (1/12) of the principal amount becoming due on the Bonds on the next principal payment date.

(ii) Monthly, beginning on or before March 15, 1991, and on or before the 15th day of each month thereafter, through and including May 15, 1991, one-third (1/3) of the interest amount due and payable on the Bonds on June 15, 1991, and thereafter, there is to be deposited to the Bond Account monthly, on or before the 15th day of each month, one-sixth (1/6) of the interest amount due

and payable on the Bonds on the next interest payment date.

(iii) If Parity Lien Bonds are authorized and issued, then payments may be made to the Bond Account concurrently (but not necessarily simultaneously) with the payment for the Bonds.

The City shall pay the moneys in the Bond Account needed for the next payment of principal and/or interest (as applicable) on the Bonds to the Paying Agent not later than the third business day before each payment date.

(b) Reserve Funds. Second, the City covenants to deposit to the Reserve Account, monthly, on or before the fifteenth day of each month, commencing on or before the fifteenth day of the month immediately succeeding the delivery of the Bonds, such amount or amounts, if any, as may be necessary to restore and maintain in the Reserve Account an amount equal to the Reserve Fund Requirement, as a continuing reserve to secure the payment of the Bonds and any Parity Lien Bonds by meeting possible deficiencies in the Bond Account. No payment need be made into the Reserve Account so long as the moneys therein shall equal not less than the Reserve Fund Requirement. The moneys in the Reserve Account shall be accumulated and maintained as a continuing reserve to be used, except to the extent otherwise provided below in this section and in Section 15 hereof, only to prevent deficiencies in the payment of the principal of and the interest on the Bonds and any Parity Lien Bonds resulting from the failure to deposit into the Bond Account sufficient funds to pay said principal and interest as the same accrue. Interest or investment income on the Reserve Account shall be deposited into the Bond Account and applied as provided in this Section 16. Notwithstanding the foregoing or any other provision of this Ordinance, the City may substitute or otherwise utilize a Reserve Account Credit Facility to meet, in whole or in part, the requirements of this Ordinance concerning moneys to be held in or paid into the Reserve Account; and such revenues received by the City from the Pledged Revenues shall be applied first to pay any amount or amounts required under the terms of any Reserve Account Credit Facility (including payments under the Reserve Account Credit Facility which is being provided by the Bond Insurer and which is being utilized to fulfill the Reserve Fund Requirement with regard to the Bonds, all as further described in subsection (g) hereof and in the Financial Guaranty Agreement) pursuant to this subsection (b), and then to make payments into the Reserve Account as described in the first sentence of this Subsection. To the extent that a Reserve Account Credit Facility is substituted for moneys in the Reserve Account, such moneys may be withdrawn therefrom and applied by the City to any lawful purpose. Any Reserve Account Credit Facility shall have a term extending at least through the final maturity date of the Bonds, unless secured to meet the requirements of this Ordinance in connection with the initial issuance of additional Parity Lien Bonds, in which case the term shall extend at least through the maturity date of such Parity Lien Bonds. The Bond Insurer shall approve any Reserve Account Credit Facility (other than the one

described in subsection (g) hereof). If the Reserve Account contains both moneys or investments and a Reserve Account Credit Facility, draws on the Reserve Account shall be made from the following sources in the following order or priority:

- (1) Moneys or investments;
- (2) Reserve Account Credit Facility.

If the Reserve Account contains Reserve Account Credit Facilities provided by more than one issuer, draws shall be made on a pro rata basis for each Reserve Account Credit Facility. If Parity Lien Bonds are authorized and issued, deposits may be made to the Reserve Account as additional security for such Parity Lien Bonds concurrently (but not necessarily simultaneously) with the payments required by this Subsection (b). The Reserve Fund Requirement will be calculated upon (i) any principal payment, whether at stated maturity or upon redemption, (ii) the issuance of any Parity Lien Bonds, or (iii) the defeasance of all or a portion of the Bonds. If the covenant contained in Section 15(a) hereof does not permit the use of proceeds of any series of Parity Lien Bonds for a full funding of the Reserve Account in the amount of the Reserve Fund Requirement, the maximum amount of proceeds of such series of Parity Lien Bonds which may be deposited to the Reserve Account pursuant to such covenant will be deposited to the Reserve Account upon the issuance of such Parity Lien Bonds, and Pledged Revenues will be deposited to the Reserve Account monthly so that not later than 36 calendar months after the date of issuance of such series of bonds, the amount on deposit in the Reserve Account equals the Reserve Fund Requirement.

(c) Rebate Account Payments. After making the payments required by subsections (a) and (b) above, the City shall deposit any remaining Pledged Revenues to the account of the Debt Service Fund created hereunder and designated the "City of Grand Junction, Colorado, Sales and Use Tax Improvement Revenue Bonds, Series 1991, Rebate Account" (the "Rebate Account") as required under Section 148 of the Tax Code and the regulations promulgated thereunder and shall apply such funds to the extent necessary to comply with the City's covenants under Section 15 hereof to make payments to the United States. Payments into similar rebate accounts for Parity Lien Bonds shall be made concurrently (but not necessarily simultaneously) with payments into the Rebate Account.

(d) Subordinate Lien Bonds. After making the payments required by subsections (a), (b) and (c) above, any remaining Pledged Revenues shall be used for the payment of the principal of and interest on any Subordinate Lien Bonds, and for any reserve fund which may be established as additional security for the payment of such Subordinate Lien Bonds. Nothing in this Ordinance shall prevent the establishment of priorities or parity relationships among Subordinate Lien Bonds, whether now existing or hereafter issued (including, without limitation, any subordination of existing Subordinate Lien Bonds to other Subordinate Lien Bonds hereafter

issued).

(e) Any Lawful Purpose. After compliance with subsections (a) through (d), inclusive, the remaining Pledged Revenues may be used for any lawful purpose, as the Council may direct.

(f) General Administration of Funds and Accounts. The Sales and Use Tax Fund, the Construction Account, the Debt Service Fund, the Bond Account, the Rebate Account, the Reserve Fund, and the Reserve Account shall be held in the custody of the City. Each periodic payment shall be credited to the proper fund or account not later than the date designated therefor, except that when any such date shall be a day which is not a Business Day, then such payment shall be made on or before the next succeeding Business Day. Moneys in the Sales and Use Tax Fund, the Construction Account, the Debt Service Fund, the Bond Account, the Rebate Account, the Reserve Fund, and the Reserve Account, not immediately needed may be deposited or invested and reinvested by the City, in deposits or investments which are at the time Permitted Investments, subject to Section 15 hereof. Securities or obligations purchased as an investment of moneys in any such fund or account shall be deemed at all times to be a part of such fund or account, except to the extent otherwise provided herein. Interest and any profit realized from investments in the Sales and Use Tax Fund and the Construction Account shall be deposited in the Sales and Use Tax Fund, and interest and any profit realized from investments in the Bond Account and the Reserve Account shall be deposited to the Bond Account. Interest and any profit realized from investments in the Bond Fund but not in the Bond Account and the Reserve Fund but not in the Reserve Account shall be deposited as Council directs by future ordinance or resolution. Any loss resulting from investments in the Sales and Use Tax Fund, the Construction Account, the Debt Service Fund, the Bond Account, the Reserve Fund, and the Reserve Account shall be charged to each such fund or account, respectively. Interest and profit realized and any loss resulting from investments in the Rebate Account shall be credited or charged to such account. The moneys in any fund or account herein provided for shall consist of lawful money of the United States or Permitted Investments or both such money and such Permitted Investments. Moneys deposited in a demand or time deposit account in or evidenced by a certificate of deposit of a commercial bank, appropriately secured according to the laws of the State, shall be deemed lawful money of the United States. Neither the City nor any officer or employee of the City shall be liable or responsible for any loss resulting from any investment or reinvestment made in accordance with this Ordinance.

Any investments held in the Reserve Account (except investment agreements) shall be valued as frequently as deemed necessary by the Bond Insurer, but not less often than quarterly, at the market value thereof, exclusive of accrued interest. Deficiencies in the amount on deposit in the Reserve Account resulting from a decline in market value shall be restored no later than the succeeding valuation date. Investments purchased with funds on deposit in the

Reserve Account shall have an average aggregate weighted term to maturity not greater than five years.

(g) The City hereby elects to deposit a Reserve Account Credit Facility into the Reserve Account, as provided in the following paragraphs of this subsection (g). This Reserve Account Credit Facility will be provided by the Bond Insurer and held by the Paying Agent as provided herein and in the Financial Guaranty Agreement.

(i) The City's repayment of any draws under the Reserve Account Credit Facility being provided by the Bond Insurer to fulfill the Reserve Fund Requirement for the Bonds (the "Reserve Policy") and related reasonable expenses incurred by the Bond Insurer (together with interest thereon at a rate equal to the lower of (a) the prime rate of Morgan Guaranty Trust Company of New York in effect from time to time plus 2% per annum and (b) the highest rate permitted by Colorado law) shall enjoy the same priority as the obligation to maintain and refill the Reserve Account. Repayment of draws, expenses and accrued interest (collectively, "Policy Costs") shall be made from Pledged Revenues and shall commence in the first month following each draw, and each such monthly payment shall be in an amount at least equal to 1/12 of the aggregate of Policy Costs related to such draw. If and to the extent that cash has also been deposited in the Reserve Account all such cash shall be used (or investments purchased with such cash shall be liquidated and the proceeds applied as required) prior to any drawing under the Reserve Policy, and repayment of any Policy Costs shall be made prior to replenishment of any such cash amounts. If, in addition to the Reserve Policy, any other Reserve Account substitute instrument ("Additional Reserve Policy") is provided, drawings under the Reserve Policy and any such Additional Reserve Policy, and repayment of Policy Costs and reimbursement of amounts due under the Additional Reserve Policy, shall be made on a pro rata basis (calculated by reference to the Maximum Amounts available thereunder) after applying all available cash in the Reserve Account and prior to replenishment of any such cash draws, respectfully. Although the Reserve Policy amount is being calculated by reference to the Reserve Fund Requirement for the Bonds, the Reserve Policy may be drawn on, up to the maximum amount available thereunder, after applying all available cash in the Reserve Account and prior to replenishment of any such cash draws, respectfully, to pay debt service on either the Bonds or any Parity Lien Bonds hereafter issued.

(ii) If the City shall fail to repay any Policy Costs in accordance with the requirements of this subsection (g), the Bond Insurer shall be entitled to exercise any and all remedies available at law or under this Ordinance other than (i) acceleration of the maturity of the Bonds or (ii) remedies which would adversely affect Bondholders; provided, however, any such remedy shall only give the Bond Insurer a right to Pledged Revenues and the Bond Insurer's right to Pledged Revenues shall be subordinate to the right of Bond owners to such Pledged Revenues.

(iii) This Ordinance shall not be discharged until all Policy Costs owing to the Bond Insurer shall have been paid in full.

(iv) As security for the City's repayment obligations with respect to the Reserve Policy, the Bond Insurer is hereby granted a lien (subordinate only to that of the Bondholders) on all Pledged Revenues. The provider of any Additional Reserve Policy may be granted a lien on Pledged Revenues on a parity with that of the Bond Insurer.

(v) The Paying Agent shall ascertain the necessity for a claim upon the Reserve Policy and provide notice to the Bond Insurer in accordance with the terms of the Reserve Policy at least two business days prior to each interest payment date.

(vi) This Ordinance shall not be modified without the prior written consent of the Bond Insurer except as provided in Section 20 hereof.

(vii) The Reserve Policy will be held by the Paying Agent acting as fiduciary for the owners of the Bonds; provided however, that the Paying Agent is acting as fiduciary for the owners of the Bonds only with respect to the Reserve Policy and not more generally with respect to the Bonds.

(viii) The Reserve Policy shall expire on the final maturity date of the Bonds.

Section 17. Covenants of the City. The City hereby irrevocably covenants and agrees with each and every owner of the Bonds that so long as any of the Bonds remain outstanding:

(a) It will not amend or repeal Chapter 24 of the Code in any way that would adversely affect the amount of Pledged Revenues which would otherwise be collected. However, nothing herein shall prevent the City from amending Chapter 24 in order to make changes in the administration, collection, or enforcement of such sales and use taxes, provided that such changes would not adversely affect the owners of the Bonds.

(b) It will administer, enforce, and collect, or cause to be administered, enforced, and collected, the sales and use tax authorized by the Code, and shall take such necessary action to collect delinquent payments as shall be authorized by the Code and in accordance with law.

(c) It will keep such books and records showing the proceeds of the municipal sales and use taxes, in which complete entries shall be made in accordance with standard principles of accounting, and any owner of any of the Bonds shall have the right at all reasonable times to inspect the records and accounts relating to the collection and receipt of such sales and use taxes.

(d) It will, at least once a year, cause an audit to be performed of the records relating to the collection and receipt of the sales and use taxes (which may be performed as a part of the City's general annual audit), and upon request, make available at cost the report of the auditor or accountant, to any Owner of any of the Bonds, and shall mail a copy of such audit report to the Bond Insurer, at 175 Water Street, New York, New York 10038, Attention: General Counsel. Such audit may be made part of and included within the general audit of the City, and made at the same time as the general audit.

(e) In the event the sales and use taxes of the City are replaced and superseded by a state-collected, locally-shared sales and use tax or taxes, or are replaced and superseded in some other manner from some other source or sources, the revenue derived by the City from said replacement source or sources, shall be administered hereunder in substantially the same manner and as to substantially the same extent as the Pledged Revenues. From and after the date of said replacement, the Bonds and any Parity Lien Bonds shall have a first and prior lien, but not necessarily an exclusive such lien, upon such replacement revenues to the same extent as the lien on the Pledged Revenues.

(f) Income earned from the investment of moneys held in the Sales and Use Tax Fund, the Debt Service Fund, the Reserve Fund and the funds and accounts thereof shall be deposited immediately upon receipt as provided in Section 16(g) hereof, except that income earned from the investment of moneys in the Rebate Account shall be retained in the Rebate Account and shall not be deemed to be Pledged Revenues (except to the extent transferred to the Sales and Use Tax Fund pursuant to the last sentence of Section 15(b) hereof).

Section 18. Additional Obligations.

(a) No bonds, notes, certificates, contracts, or other similar obligations shall be issued payable from the Pledged Revenues and having a lien thereon which is prior or superior to the lien of the Bonds.

(b) Nothing in this Ordinance shall be construed in such manner as to prevent the issuance by the City of Parity Lien Bonds, provided (i) the City is current in the payment of principal and interest on the Bonds and any outstanding Parity Lien Bonds, and in the accumulation of any required amounts in the Reserve Account for the Bonds and any other Parity Lien Bonds, and (ii) the Pledged Revenues collected or received by the City in the last preceding fiscal year are sufficient to cover 1.75 times the maximum annual principal and interest requirements on the Bonds and any outstanding or proposed Parity Lien Bonds. Notwithstanding the foregoing, if the City wishes to issue Parity Lien Bonds and the City then owes moneys to the Bond Insurer under the Financial Guaranty Agreement, the amount of the City's obligation to the Bond Insurer on the date of issuance of any Parity Lien Bonds

shall be added to the sum derived under clause (ii) of the preceding sentence to determine if the City can issue such Parity Lien Bonds. Furthermore, no Parity Lien Bonds may be issued without the Bond Insurer's prior written consent if any Policy Costs (as defined in Section 16(g)(1) are past due and owing to the Bond Insurer. In determining the maximum annual principal and interest requirements as described above, mandatory sinking fund redemption installments shall be treated as serial principal maturities. In the event that the municipal sales and use tax has been increased, or the amount of such tax pledged to the Bonds and Parity Lien Bonds has been increased, during the preceding or current fiscal year and if such increase is pledged to pay the proposed Parity Lien Bonds, then the Pledged Revenues for the last preceding fiscal year may be adjusted by applying the new percentage to the amount of sales and use taxes actually collected during such prior fiscal year, for the purpose of determining compliance with clause (ii) of this subsection. A written certification by an independent, nationally recognized certified public accountant who is not an employee of the City that the requirements of clause (ii) of this subsection have been met shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver said Parity Lien Bonds. The City has established the calendar year as the fiscal year of the City for accounting purposes.

(c) Simultaneously with the issuance of Parity Lien Bonds, there shall be deposited to the Reserve Account an amount equal to the Reserve Fund Requirement relating to such Parity Lien Bonds, or the maximum amount permitted by the covenant in Section 15(a) hereof or a Reserve Account Credit Facility in lieu thereof or any combination thereof.

(d) If at any time after the Bonds, or any part thereof, shall have been issued and remain outstanding, the City shall find it desirable to refund any outstanding obligations payable from the Pledged Revenues, said obligations, or any part thereof, may be refunded, subject to the provisions stated below. Any refunding obligations payable in whole or in part from the Pledged Revenues shall be issued with such details as the Council may provide, so long as there is no impairment of any contractual obligations imposed upon the City; but if only a part of the outstanding obligations payable from the Pledged Revenues is refunded, then such securities may not be refunded without the consent of the owner or owners of the unrefunded portion of such obligations unless:

(i) the refunding obligations do not increase, for any fiscal year in which any Bonds will be outstanding, the aggregate principal and interest requirements evidenced by such refunding obligations and by the outstanding obligations payable from the Pledged Revenues and not refunded, and the lien of the refunding obligations on the Pledged Revenues is not raised to a higher priority than the lien thereon of the obligations thereby refunded; or

(ii) the lien on the Pledged Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any Bonds not refunded; or

(iii) the refunding obligations are issued in compliance with paragraph (b) of this Section 18.

(e) Nothing herein shall prevent the City from issuing Subordinate Lien Bonds.

(f) No variable rate Parity Lien Bonds shall be issued without the prior written consent of the Bond Insurer.

Section 19. Defeasance. When all principal of and interest on any Bond and all amounts due the Bond Insurer under the Bond Insurance Policy or Financial Guaranty Agreement have been duly paid, the pledge and lien and all obligations hereunder with respect to such Bond shall thereby be discharged and such Bond shall no longer be deemed to be outstanding within the meaning of this Ordinance. There shall be deemed to be such due payment of any Bond when the City has placed in escrow and in trust with a commercial bank located within or without the State of Colorado, and exercising trust powers, an amount sufficient (including the known minimum yield from Federal Securities in which such amount may be initially invested) to meet all requirements of principal and interest as the same become due on such Bond to its final maturity or upon a designated prior redemption date. The Federal Securities shall become due at or prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the City and such bank at the time of the creation of the escrow. The investment of the amounts deposited in the escrow shall comply with Section 15 hereof. Notwithstanding any other provision hereof, amounts paid on the Bonds by the Bond Insurer (either under the Bond Insurance Policy or the Reserve Policy) shall not be deemed paid pursuant to this Ordinance and shall continue to be due and owing under this Ordinance until paid by the City. In the event that there is a defeasance of only part of the Bonds of any maturity, the Bond Registrar shall, if requested by the City, institute a system to preserve the identity of the individual Bonds or portions thereof so defeased, regardless of changes in Bond numbers attributable to transfers and exchanges of Bonds; and the Bond Registrar shall be entitled to reasonable compensation and reimbursement of expenses from the City in connection with such system. In the event of an advance refunding of any Bonds, the City shall cause to be delivered a verification report of an independent nationally recognized certified public accountant.

Section 20. Amendment. Within the limits of applicable law, any limitation in this Ordinance may be waived or modified by the written consent of the owners of Bonds representing seventy-five percent (75%) of the then outstanding principal amount of Bonds; and provided further that the written consent of the owners of all

Bonds adversely affected thereby is required to:

- (a) Extend the maturity of any Bond;
- (b) Reduce the principal amount or interest rate of any Bond;
- (c) Create a lien upon the Pledged Revenues ranking prior to the lien created by this Ordinance;
- (d) Reduce the principal amount of the Bonds required for consent to any waiver or modifications; or
- (e) Establish priorities between Bonds.

Notwithstanding the foregoing provisions of this Section 20, so long as the Bond Insurer is not in default in its payment obligations under the Bond Insurance Policy, the consent of the Bond Insurer to any waiver, modification or amendment described in this Section 20 shall be obtained in substitution of the consent of the registered owners of 75% or all, as the case may be, of the principal amount of the Bonds then outstanding, and the consent of such registered owners shall not be required. In addition to any other consent required in this Section 20, the consent of the Bond Registrar and Paying Agent is required for any amendments which adversely affect the Bond Registrar and Paying Agent. Copies of any waiver, modification or amendment to this Ordinance shall be delivered to Standard & Poor's Corporation and Moody's Investors Corporation, or any other entity then maintaining a rating on the Bonds. The Bond Insurer shall be provided with a full transcript of all proceedings relating to the execution of any supplemental or amendatory ordinance.

Section 21. Events of Default. It is an Event of Default if:

- (a) The City fails to pay the principal of any Bond when due at maturity or upon prior redemption.
- (b) The City fails to pay the interest on any Bond when due.
- (c) The City is not capable of fulfilling its obligations hereunder.
- (d) The City defaults in the punctual performance of its covenants hereunder for 60 days after written notice shall have been given by the Bond Insurer or by the owners of 25% of the outstanding Bonds.
- (e) An event of default occurs and is continuing under the Financial Guaranty Agreement.
- (f) The City fails to pay the Bond Insurer any amounts under the Bond Insurance Policy when due.

The Bond Insurer shall receive from the City immediate written

notice of any payment default and written notice of any other default known to the City or any appointed trustee within 30 days of their respective knowledge thereof.

Section 22. Remedies. Upon the happening of any Event of Default, the Bond Insurer or owner or owners of not less than 25% in principal amount of the outstanding Bonds, or a trustee therefor, may protect and enforce their rights hereunder by proper legal or equitable remedy deemed most effectual including mandamus, specific performance of any covenants, the appointment of a receiver (the consent of such appointment being hereby granted), injunctive relief, or requiring the City Council to act as if it were the trustee of an express trust, or any combination of such remedies. Notwithstanding the foregoing, so long as the Bond Insurer is not in default in its payment obligations under the Bond Insurance Policy or the Reserve Account Credit Facility, the Bond Insurer shall direct the enforcement of any remedy hereunder without the consent of the owners of the Bonds. All proceedings shall be maintained for the benefit of the Bond Insurer so long as it is not in default in its payment obligations under the Bond Insurance Policy or Reserve Account Credit Facility, and thereafter for the equal benefit of all owners. The failure of the Bond Insurer or any owner to proceed does not relieve the City or any person of any liability for failure to perform any duty hereunder. The foregoing rights are in addition to any other right available to the Bond Insurer or owners of Bonds and the exercise of any right by any owner shall not be deemed a waiver of any other right.

Section 23. Costs of Issuance. All costs and expenses incurred in connection with the issuance and payment of the Bonds, including the premium for the Bond Insurance Policy, shall be paid either from the proceeds of the Bonds or from other legally available moneys of the City, or from a combination thereof.

Section 24. Acceptance of Bond Purchase Agreement. The Council hereby authorizes the City Manager and the Mayor to accept the Purchaser's proposal, and hereby authorizes the sale of the Bonds to the Purchaser at a price specified in the Bond Purchase Agreement, plus accrued interest, and otherwise upon the terms, conditions, and provisions as set forth in the Bond Purchase Agreement, so long as all terms of the Bonds are within the limits set forth in this Ordinance. The Council hereby determines that the sale of the Bonds as provided herein and in the Bond Purchase Agreement is to the best advantage of the City.

Section 25. Authorization to Execute Collateral Documents. The officers of the City and members of the Council are authorized and directed to take any and all other actions necessary or appropriate to effectuate the provisions of this Ordinance, including but not limited to, the execution of the Paying Agent Agreement, the Bond Purchase Agreement, the Financial Guaranty Agreement and such certificates and affidavits as may be reasonably required by the Purchaser.

Section 26. Approval of Preliminary Official Statement and Authorization of Final Official Statement. The distribution and use of the Preliminary Official Statement in substantially the form presented to Council, is hereby ratified, approved and confirmed. The Finance Director is hereby delegated the authority to designate the Preliminary Official Statement as a "nearly final official statement" for purposes of Rule 15c2-12 of the Securities and Exchange Commission. The Purchaser is authorized to prepare or cause to be prepared, and the Finance Director is authorized and directed to approve, on behalf of the City, a final Official Statement for use in connection with the offering and sale of the Bonds. The execution of a final Official Statement by the Finance Director shall be conclusively deemed to evidence the approval of the form and contents thereof by the City.

Section 27. Ratification and Approval of Prior Action. All actions heretofore taken by the officers of the City and the members of the Council, consistent with the provisions of this Ordinance, relating to the authorization, issuance, and delivery of the Bonds, including but not limited to the execution of the Financial Guaranty Agreement and the Paying Agent Agreement, are hereby ratified, approved, and confirmed.

Section 28. Severability. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 29. Repealer. All orders, resolutions, bylaws, ordinances or regulations of the City, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent only of such inconsistency.

Section 30. Ordinance Irrepealable. After the Bonds are issued, this Ordinance shall constitute an irrevocable contract between the City and the registered owners of the Bonds, and shall be and remain irrepealable until the Bonds and the interest thereon shall have been fully paid, satisfied, and discharged. No provisions of any constitution, statute, charter, ordinance, resolution or other measure enacted after the issuance of the Bonds shall in any manner be construed as impairing the obligations of the City to keep and perform the covenants contained in this Ordinance.

Section 31. Recording and Authentication. Immediately on its passage this Ordinance shall be recorded in the City Book of Ordinances kept for that purpose, authenticated by the signatures of the Mayor and President of the City Council and City Clerk, and shall be published in accordance with Section 51 of the Charter.

Section 32. Statutes Superseded. Pursuant to Article XX of the Colorado Constitution and the Charter, all statutes of the State

of Colorado which might otherwise apply in connection with the Bonds are hereby superseded.

Section 33. Agreement to Provide Bond Insurer Certain Information; Rights of Bond Insurer Suspended Upon Default. The City will provide the Bond Insurer a copy of its annual budget and audited financial statements promptly after they become available, a copy of the official statement, if any, prepared in connection with the issuance of Parity Lien Bonds, and such additional information as the Bond Insurer reasonably requests from time to time. Notwithstanding any other provision of this Ordinance, any rights granted to or conferred upon the Bond Insurer hereunder shall be in effect only so long as the Bond Insurer is not in default in its payment obligations under the Bond Insurance Policy or the Reserve Account Credit Facility, and upon and for the duration of any such default by the Bond Insurer its rights hereunder may be suspended by the City (except to the extent of subrogation for any payments under the Bond Insurance Policy theretofore made by the Bond Insurer or amounts due and owing under the Financial Guaranty Agreement) until such default is cured.

Section 34. Notices to Bond Insurer. Any notice required to be sent to the Bond Insurer hereunder shall be sent to the Bond Insurer at 175 Water Street, New York, New York 10038, Attention: General Counsel.

Section 35. Effective Date. This Ordinance shall be effective thirty days after publication following final passage.

EXHIBIT A

PERMITTED INVESTMENT GUIDELINES

The City may invest funds and accounts held under this Ordinance in any of the following, to the extent the same are permitted by the Charter and applicable ordinances or other provisions of the City:

(1) Direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, provided, that the full faith and credit of the United States of America must be pledged to any such direct obligation or guarantee ("Direct Obligations");

(2) direct obligations and fully guaranteed certificates of beneficial interest of the Export-Import Bank of the United States; senior debt obligations of the Federal Home Loan Banks; debentures of the Federal Housing Administration; guaranteed mortgage-backed bonds and guaranteed pass-through obligations of the Government National Mortgage Corporations; guaranteed Title XI financing of the U.S. Maritime Administration; mortgage-backed securities and senior debt obligations of the Federal National Mortgage Association; participation certificates and senior debt

obligations of the Federal Home Loan Mortgage Corporation; and obligations of the Resolution Funding Corporation (collectively, "Agency Obligations");

(3) direct obligations of any state of the United States of America or any subdivision or agency thereof whose unsecured general obligation debt is rated "A3" or better by Moody's Investors Service and "A-" or better by Standard & Poor's Corporation, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose unsecured general obligation debt is rated "A3" or better by Moody's Investors Service and "A-" or better by Standard & Poor's Corporation;

(4) commercial paper rated "Prime-1" by Moody's Investors Service and "A-1" or better by Standard & Poor's Corporation;

(5) obligations rated "A3" or better by Moody's Investors Service and "A-" or better by Standard & Poor's Corporation;

(6) deposits, Federal funds or bankers acceptances of any domestic bank, including a branch office of a foreign bank which branch office is located in the United States, provided legal opinions are received to the effect that full and timely payment of such deposit or similar obligation is enforceable against the principal office or any branch of such bank, which:

a. has an unsecured, uninsured or unguaranteed obligation rated "Prime-1" or "A3" or better by Moody's Investors Service and "A-1" or "A-" or better by Standard & Poor's Corporation, or

b. is the lead bank of a parent bank holding company with an uninsured, unsecured and unguaranteed obligation meeting the rating requirements in (a.) above;

(7) deposits of any bank or savings and loan association which has combined capital, surplus and undivided profits of not less than \$3 million, provided such deposits are fully insured by the Bank Insurance Fund or the Savings Association Insurance Fund administered by the Federal Deposit Insurance Corporation;

(8) investments in a money-market fund rated "Am" or "Am-G" or better by Standard & Poor's Corporation;

(9) repurchase agreements with a term of one year or less with any institution with debt rated "AA" or commercial paper rated "A-1" (in each case by Standard & Poor's Corporation);

(10) repurchase agreements collateralized by Direct Obligations or Agency Obligations with any registered broker/dealer subject to the Securities Investors' Protection Corporation jurisdiction or any commercial bank, if such broker/dealer or bank has an uninsured, unsecured and unguaranteed obligation rated "Prime-1" or "A3" or better by Moody's Investors Service, and "A-1" or "A-"

or better by Standard & Poor's Corporation, provided:

a. a master repurchase agreement or specific written, repurchase agreement governs the transaction; and

b. the securities are held free and clear of any lien by the City or an independent third party acting solely as agent for the City, and such third party is (i) a Federal Reserve Bank, (ii) a bank which is a member of the Federal Deposit Insurance Corporation and which has combined capital, surplus and undivided profits of not less than \$25 million, or (iii) a bank approved in writing for such purpose by Financial Guaranty Insurance Company, and the City shall have received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the City; and

c. a perfected first security interest under the Uniform Commercial Code, or book entry procedures prescribed at 31 C.F.R. 306.1 et seq. or 31 C.F.R. 350.0 et seq. in such securities is created for the benefit of the City; and

d. the repurchase agreement has a term of thirty days or less, or the City will value the collateral securities no less frequently than monthly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within two business days of such valuation; and

e. the repurchase agreement matures at least ten days (or other appropriate liquidation period) prior to a debt service payment date, and

f. the fair market value of the securities in relation to the amount of the repurchase obligation, including principal and interest, is equal to at least 100%; and

(11) investment agreements with a bank or insurance company which has an unsecured, uninsured and unguaranteed obligation (or claims-paying ability) rated "A3" or better by Moody's Investors Service and "A-" or better by Standard & Poor's Corporation, or is the lead bank of a parent bank holding company with an uninsured, unsecured and unguaranteed obligation meeting such rating requirements, provided:

a. interest is paid at least semi-annually at a fixed rate during the entire term of the agreement, consistent with bond payment dates, and

b. moneys invested thereunder may be withdrawn without any penalty, premium, or charge upon not more than one day's notice (provided such notice may be amended or canceled at any time prior to the withdrawal date), and

c. the agreement is not subordinated to any other obligations of such insurance company or bank, and

d. the same guaranteed interest rate will be paid on any future deposits made to restore the reserve to its required amount, and

e. the City receives an opinion of counsel that such agreement is an enforceable obligation of such insurance company or bank.

INTRODUCED, READ BY TITLE, PASSED ON FIRST READING, APPROVED, AND ORDERED PUBLISHED ONCE IN FULL this 19th day of December, 1990.

(SEAL)

William E. McCurry

Mayor

ATTEST:

Neva B. Lockhart, CMC

City Clerk

FINALLY ADOPTED AND APPROVED, AND ORDERED PUBLISHED ONCE IN FULL AS AMENDED AND COMPLETED, this 6th day of February, 1991.

William E. McCurry

Mayor

ATTEST:

Neva B. Lockhart, CMC

City Clerk

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