

RESOLUTION NO. 79-02

A RESOLUTION SETTING FORTH THE INTENTION OF THE CITY OF GRAND JUNCTION, COLORADO, TO ISSUE ADJUSTABLE RATE REVENUE BONDS SERIES 2002 TO FINANCE A PORTION OF THE CONSTRUCTION AND EQUIPPING COSTS FOR A MANUFACTURING FACILITY OF TOT L.L.C. OR ITS SUCCESSORS OR ASSIGNS, TO DESIGNATE A PORTION OF THE CITY'S 2003 PRIVATE ACTIVITY BOND ALLOCATION FOR THE PROJECT AND TO ISSUE ADJUSTABLE RATE REVENUE BONDS SERIES 2003 TO FINANCE THE REMAINING PORTION OF THE CONSTRUCTION AND EQUIPPING COSTS FOR A MANUFACTURING FACILITY OF TOT L.L.C. OR ITS SUCCESSORS OR ASSIGNS.

RECITALS:

- A. The City of Grand Junction, Colorado (the "City") is authorized and empowered under the provisions of the County and Municipality Development Revenue Bond Act, Article 3 of Title 29, Colorado Revised Statutes, as amended (the "Act"), to issue revenue bonds to pay the costs of a project (as defined in the Act) and to loan the proceeds of said revenue bonds to others to provide for the financing, acquiring, equipping, and improving of such a project; and
- B. TOT L.L.C. (the "Borrower") desires that the City finance the acquisition, construction, equipping and improving of real and personal property in the form of an approximately 25,000 square-foot manufacturing facility (the "Project") to be located within the boundaries of the City, and to loan the proceeds of such revenue bonds to the Borrower or its successors or assigns (the "Borrower"); and
- C. The Borrower intends to lease the Project to Pyramid Printing, Inc., a company located within the City; and
- D. The City has received information that it considers reliable that the Project will qualify as a project within the meaning of the Act; and
- E. The City desires to indicate its intention to finance the costs of financing, acquiring, constructing, equipping, and improving the Project by the issuance of two series of tax-exempt revenue bonds under the Act in a total principal amount estimated to be \$3,200,000, namely Series 2002 Bonds and Series 2003 Bonds in an estimated principal amount of \$1,600,000 each, said Series 2002 Bonds and Series 2003 Bonds to be payable solely out of revenues derived from the repayment by the Borrower of the loan from the City; and

- F. The City's ability to issue tax-exempt revenue bonds to finance such improvements is subject to the limitations set forth in the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Bond Allocation Act"); and
- G. The Borrower desires that such financing, acquiring, constructing, equipping and improving of the Project commence as soon as possible; and
- H. The City Council has determined and hereby determines that the financing of the Project will promote the public health, welfare, safety, convenience and prosperity and promote and develop trade or other economic activity by inducing manufacturing facilities to locate, expand, or remain in the City and the State of Colorado; and
- I. The City's 2002 private activity bond allocation is not sufficient to finance the Project and therefore the City Council has determined and hereby determines that it is in the best interests of the City and its inhabitants to award a portion of the City's 2002 private activity bond allocation to the Project in the amount of \$1,600,000, and to indicate its intention to allocate a portion of the City's 2003 private activity bond allocation to the Project in the amount of \$1,600,000.

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

1. The City Council of the City hereby finds that the assistance it may give will further the purposes set forth in the Act and that the Project will create economic benefits for the City and its inhabitants.
2. In order to induce the Borrower to construct the Project within the City, subject to the provisions hereof, the City shall take all necessary or advisable steps to effect the issuance of two series of tax-exempt revenue bonds pursuant to the Act, Series 2002 Bonds and Series 2003 Bonds in the principal amount estimated to be \$1,600,000 for each series (collectively, the "Bonds"), or such other amount as shall be determined and agreed upon between the Borrower and the City, to finance the Project. The Bonds will not be general obligations of the City. Neither shall the Bonds, including interest thereon, constitute the debt, indebtedness or multiple-fiscal year direct or indirect financial obligation of the City within the meaning of any limitation of the Constitution or Statutes of the State of Colorado, nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers. The Bonds shall be payable solely from and secured by a pledge of

revenues derived from and payable by the Borrower pursuant to financing agreements with the City.

3. No costs or expenses, whether incurred by the City or any other party in connection with the issuance of the Bonds or the preparation of any documents by any legal or financial consultants retained in connection therewith, shall be borne by the City. All such costs or expenses shall be paid from the proceeds of the Bonds or otherwise borne by the Borrower.
4. Prior to the execution of a financing agreement, mortgage, indenture of trust, bond purchase agreement, or any other necessary documents and agreements in connection with such Bonds, documents, and/or agreements shall be submitted for approval to the City, and, if satisfactory to the City, their execution shall be authorized by ordinance of the City pursuant to law. Prior to any further action by the City Council, the Borrower shall provide the City with all information concerning the utilization of Bond proceeds for said Project, construction plans, and all financial information requested by the City.
5. The City Council hereby awards to the Project \$1,600,000 of the City's 2002 portion of the State's private activity bond volume cap (the "City's 2002 Volume Cap"). The appropriate officers of the City are hereby authorized to take all action that may be necessary to preserve the City's 2002 Volume Cap, including, but not limited to, notifying the Department of Local Affairs pursuant to Section 24-32-1706(3)(c), C.R.S.
6. The City Council hereby declares its intention to award \$1,600,000 of the City's 2003 portion of the State's private activity bond volume cap to the Project.
7. All commitments of the City contained herein are subject to the following conditions and any other requirements deemed necessary by the City:
 - a. The property on which the Project is proposed to be constructed be located within the City; and
 - b. The Series 2002 Bonds shall be issued and sold not later than December 31, 2002 and the Series 2003 Bonds shall be issued and sold not later than December 31, 2003, and in the event the Series 2002 Bonds and the Series 2003 Bonds are not issued by such dates, the City shall be under no

obligation to perform any of the terms and conditions contained in this Resolution.

8. Nothing herein requires the City to proceed with the issuance of the Bonds, it being in the sole discretion of the City Council as to whether the Bonds will be issued or not. The approval of this Resolution does not limit or restrict the City in the exercise of any of its legal powers with respect to the Project or the property on which it is to be located.
9. If any section, paragraph, clause or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution.
10. This Resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Grand Junction, Colorado, this 21st day of August, 2002.

CITY OF GRAND JUNCTION, COLORADO

/s/ Cindy Enos-Martinez
President of the Council

ATTEST:

/s/ Stephanie Tuin
City Clerk