

ORDINANCE NO. 2034

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A CITY OF GRAND JUNCTION, COLORADO, INDUSTRIAL DEVELOPMENT REVENUE BOND (MESA BEVERAGE COMPANY PROJECT), SERIES 1982, IN THE PRINCIPAL AMOUNT OF NOT MORE THAN \$5,460,000; AND APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS RELATING THERETO.

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

WHEREAS, by a Resolution duly adopted on April 15, 1981 (the Inducement Resolution), the Municipality committed itself to issue such bonds in an aggregate principal amount not to exceed \$6,000,000 in accordance with the provisions of the Act for the purpose of financing a beverage bottling and distribution facility (the Project) for Mesa Beverage Company, a Colorado corporation (the Company), to be located within the Municipality; and

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

(a) a Loan Agreement, to be dated as of its date of delivery (the Loan Agreement), between the Municipality, the Company, and The Colorado National Bank of Denver, a national banking corporation (the Lender);

(b) a Mortgage and Security Agreement, to be dated as of its date of delivery (the Mortgage and Security Agreement), between the Company, as mortgagor and debtor, and the Lender, as mortgagee and secured party; and

(c) a Guaranty Agreement, to be dated as of its date of delivery (the Guaranty), between Ernest D. Buescher, E. Blanche Buescher, and Louis A. Buescher; and

WHEREAS, the Board desires to issue at this time a City of Grand Junction, Colorado, Industrial Development Revenue Bond (Mesa Beverage Company Project), Series 1982, in the principal amount of not more than \$5,460,000 (the Bond); and

WHEREAS, it is necessary to issue the Bond by ordinance and to approve the form and authorize the execution of the aforementioned documents thereby.

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

Section 1. Approvals and Authorizations. The forms of Loan Agreement, including the form of the Bond Mortgage and Security Agreement and Guaranty are hereby approved. The President of the Council and the Clerk are hereby authorized and directed to execute the Loan Agreement and the Bond and affix the seal of the Municipality thereto and further to execute and authenticate such other documents, instruments or certificates as are deemed necessary or desirable by bond counsel in order to issue and secure the Bond. Such documents are to be executed in

substantially the form hereinabove approved, provided that such documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Bond Ordinance. Copies of all of the documents shall be delivered, recorded, and filed as provided therein. When executed, the Loan Agreement shall, by its terms, be assigned to the Lender.

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

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

Section 2. Issuance and Sale of Bond. The Municipality shall issue its industrial Development Revenue Bond (Mesa Beverage Company Project), Series 1982, to be dated as of its date of delivery, in the principal amount of not more than \$5,460,000, for the purpose, in the form and upon the terms set forth in this Bond Ordinance and the Loan Agreement, including the form of the Bond set forth as Exhibit A to the Loan Agreement.

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

The Maximum net effective interest rate authorized for the Bond is Twenty-eight percent (28%) per annum. The actual net effective interest rate for the Bond does not exceed twenty-eight percent (28%) per annum.

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

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

(b) the amounts necessary in each year to pay the principal of and interest on the Bond are as follows:

<u>YEAR</u> <u>PRINCIPAL</u> <u>INTEREST TOTAL</u>			
1982-0- \$1,016,166.701,0 16,166.70			
1983-0- 1,365,000.001,36 5,000.00			
1984\$225,0001,35 9,000.611,584,00 0.61			
1985325,0001,289 ,233.241,614,233 .24			
1986400,0001,197 ,209.141,597,209 .14			
1987475,0001,082 ,464.471,557,464 .47			
1988575,000952,0 89.671,527,089.6 7			
1989680,000790,1 25.401,470,125.4 0			
1990795,000603,0 70.251,398,070.2 5			
1991925,000384,9 47.511,309,947.5 1			

19921,060,000133 ,235.911,193,235 .91			
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The amounts necessary to pay principal and interest are computed on the assumptions that the entire principal amount is advanced on the date of issuance and that the interest rate on the Bond will be the maximum permitted under the term of the Loan Agreement.

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

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

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

(f) the payments required in the Loan Agreement to be made are sufficient to pay the principal of and interest on the Bond when due and to pay all other costs required in the Loan Agreement to be paid.

Section 4. Nature of Obligation. Under the provisions of the Act, and as provided in the Loan Agreement, the Bond shall be a special, limited obligation of the Municipality payable solely from, and secured by a pledge of, the revenues derived from the Loan Agreement and shall be further secured by lien and security interest of the Mortgage and Security Agreement upon the Project and by the Guaranty. The Municipality will not pledge any of its property or secure the payment of the Bond with its property. The Bond shall never constitute the debt or indebtedness of the Municipality within the meaning of any provision or limitation of the state constitution or statutes or the home rule charter of the Municipality and shall not constitute nor give rise to a pecuniary liability of the Municipality or a charge against its general credit or taxing powers. In entering into the Loan Agreement, the Municipality will not obligate itself, except with respect to the application of the revenues derived from the Loan Agreement and the Bond proceeds. The Municipality will not pay out of its general fund or otherwise contribute any part of the Cost of the Project (as said term is defined in the Loan Agreement).

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

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

Section 7. Repealer. All acts, orders, resolutions, ordinances, or parts thereof, taken by the Municipality and in conflict with this

Bond Ordinance are hereby repealed, except that this repealer shall not be construed so as to revive any act, order, resolution, ordinance, or part thereof, heretofore repealed.

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

PASSED FOR PUBLICATION THIS 17th day of February, 1982.  
CITY OF GRAND JUNCTION, COLORADO

Louis R. Brach

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President  
City Council  
(CITY)  
(SEAL)  
ATTEST:

Neva B. Lockhart, CMC

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City Clerk  
FINALLY PASSED AND ADOPTED THIS 3rd day of March, 1982.  
CITY OF GRAND JUNCTION, COLORADO

Louis R. Brach

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President  
City Council  
(CITY)  
(SEAL)  
ATTEST:

I HEREBY CERTIFY that the foregoing ordinance, being Ordinance No. 2034, was introduced, read, and ordered published by the City Council of the City of Grand Junction, Colorado, at a regular meeting of said body held on the 17th day of February, 1982, and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, at least ten days before its final passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 4th day of March, 1982.

Neva B. Lockhart, CMC

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Neva B. Lockhart, CMC  
City Clerk  
Published: February 19, 1982  
Published: March 5, 1982  
Effective: April 4, 1982