

ORDINANCE NO. 3021

AN ORDINANCE AUTHORIZING ASSIGNMENT TO THE
COLORADO HOUSING AND FINANCE AUTHORITY OF A
PRIVATE ACTIVITY BOND ALLOCATION OF CITY OF GRAND
JUNCTION PURSUANT TO THE COLORADO PRIVATE
ACTIVITY BOND CEILING ALLOCATION ACT

WHEREAS, the City of Grand Junction is authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide such mortgage loans and for certain other purposes; and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State ceiling among the Colorado Housing and Finance Authority (the "Authority") and other governmental units in the State, and further providing for the assignment of such allocations from such other governmental units to the Authority; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act the City of Grand Junction has an allocation of the 1997 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 1997 (the "1997 Allocation"); and

WHEREAS, the City of Grand Junction has determined that, in order to increase the availability of adequate affordable housing for low- and moderate-income persons and families within the City and elsewhere in the State, it is necessary or desirable to provide for the utilization of all of the 1997 Allocation; and

WHEREAS, the City of Grand Junction has determined that the 1997 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Authority to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families in accordance with the act within the City of Grand Junction; and

WHEREAS, the City Council of the City of Grand Junction has determined to assign \$1,003,125 of its 1997 Allocation to the Authority, which assignment is to be evidenced by an Assignment of Allocation between the City of Grand Junction and the Authority attached hereto as Exhibit A (the "Assignment of Allocation").

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Grand Junction that:

1. The assignment to the Authority of \$1,003,125 of **City of Grand Junction's** 1997 Allocation be and hereby is approved.

2. The form and substance of the Assignment of Allocation be and hereby are approved; provided, however, that the City Manager be and hereby is authorized to make such technical variations, additions or deletions in or to such Assignment of Allocation as he shall deem necessary or appropriate and not inconsistent with the approval thereof by this ordinance.

3. The City Manager of the City of Grand Junction be and hereby is authorized to execute and deliver the Assignment of Allocation on behalf of the City of Grand Junction and to take such other steps or actions as may be necessary, useful or convenient to effect the aforesaid assignment in accordance with the intent of this ordinance.

4. 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.

INTRODUCED ON FIRST READING this 6th day of August, 1997.

PASSED, ADOPTED AND APPROVED this 20th day of August, 1997.

ATTEST:

/s/ Stephanie Nye
City Clerk

/s/ Janet Terry
President of the Council

EXHIBIT A

ASSIGNMENT OF ALLOCATION

This Assignment of Allocation (the "Assignment"), dated this 7th day of August 1997, is between the City of Grand Junction (the "Assignor") and the Colorado Housing and Finance Authority (the "Assignee").

WITNESSETH:

WHEREAS, the Assignor and the Assignee are authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families in accordance with the Colorado Private Activity Bond Ceiling Allocation Act; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide such mortgage loans and for certain other purposes (the "State Ceiling"); and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Assignee and other governmental units in the State, and further providing for the assignment of allocations from such other governmental units to the Assignee; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the Assignor has an allocation of the 1997 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 1997 (the "1997 Allocation"); and

WHEREAS, the Assignor has determined that, in order to increase the availability of adequate affordable housing for low- and moderate income persons and families within the City of Grand Junction and elsewhere in the State, it is necessary or desirable to provide for the utilization of all of the 1997 Allocation; and

WHEREAS, the Assignor has determined that the 1997 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Assignee to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds") in accordance with the act and the Assignee has expressed its willingness to attempt to issue Revenue Bonds with respect to the 1997 Allocation; and

WHEREAS; the City Council of the Assignor has determined to assign to the Assignee \$1,003,125 of its 1997 Allocation, and the Assignee has agreed to accept such assignment, which is to be evidenced by this Assignment.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. The Assignor hereby assigns to the Assignee \$1,003,125 of its 1997 Allocation, subject to the terms and conditions contained herein. The Assignor represents that it has received no monetary consideration for said assignment.

2. The Assignee hereby accepts the Assignment to it by the Assignor of \$1,003,125 of Assignor's 1997 Allocation, subject to the terms and conditions contained herein. The Assignee agrees to use its best efforts to issue and sell Revenue Bonds, in one or more series, and to provide mortgage loans in at least the amount of \$1,003,125 to finance single-family housing facilities located in the City of Grand Junction.

3. The Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all or any portion of the assignment set forth herein as an allocation for a project with a carryforward purpose.

4. The Assignor and Assignee each agree that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Assignment.

5. Nothing contained in this Assignment shall obligate the Assignee to finance mortgage loans in any particular amount or at any particular interest rate or to use any particular percentage of the proceeds of its Revenue Bonds to provide mortgage loans to finance single-family housing facilities located in City of Grand Junction.

6. This Assignment is effective upon execution and is irrevocable.

IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment on the date first written above.

CITY OF GRAND JUNCTION

By: _____
City Manager

ATTESTS:

By: _____
City Clerk

COLORADO HOUSING AND FINANCE
AUTHORITY

By: _____
Executive Director

By: _____
Assistant Secretary

ASSIGNMENT OF ALLOCATION

This Assignment of Allocation (the "Assignment"), dated this 7th day of August 1997, is between the City of Grand Junction (the "Assignor") and the Colorado Housing and Finance Authority (the "Assignee").

WITNESSETH:

WHEREAS, the Assignor and the Assignee are authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families in accordance with the Colorado Private Activity Bond Ceiling Allocation Act; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide such mortgage loans and for certain other purposes (the "State Ceiling"); and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Assignee and other governmental units in the State, and further providing for the assignment of allocations from such other governmental units to the Assignee; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the Assignor has an allocation of the 1997 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 1997 (the "1997 Allocation"); and

WHEREAS, the Assignor has determined that, in order to increase the availability of adequate affordable housing for low- and moderate income persons and families within the City of Grand Junction and elsewhere in the State, it is necessary or desirable to provide for the utilization of all of the 1997 Allocation; and

WHEREAS, the Assignor has determined that the 1997 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Assignee to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds in accordance with the authority and the Assignee has expressed its willingness to attempt to issue Revenue Bonds with respect to the 1997 Allocation; and

WHEREAS; the City Council of the Assignor has determined to assign to the Assignee \$1,003,125 of its 1997 Allocation, and the Assignee has agreed to accept such assignment, which is to be evidenced by this Assignment.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. The Assignor hereby assigns to the Assignee \$1,003,125 of its 1997 Allocation, subject to the terms and conditions contained herein. The Assignor represents that it has received no monetary consideration for said assignment.

2. The Assignee hereby accepts the Assignment to it by the Assignor of \$1,003,125 of Assignor's 1997 Allocation, subject to the terms and conditions contained herein. The Assignee agrees to use its best efforts to issue and sell Revenue Bonds, in one or more series, and to provide mortgage loans in at least the amount of \$1,003,125 to finance single-family housing facilities located in the City of Grand Junction.

3. The Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all or any portion of the assignment set forth herein as an allocation for a project with a carryforward purpose.

4. The Assignor and Assignee each agree that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Assignment.

5. Nothing contained in this Assignment shall obligate the Assignee to finance mortgage loans in any particular amount or at any particular interest rate or to use any particular percentage of the proceeds of its Revenue Bonds to provide mortgage loans to finance single-family housing facilities located in City of Grand Junction.

6. This Assignment is effective upon execution and is irrevocable.

IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment on the date first written above.



CITY OF GRAND JUNCTION

By: *David K. Akers*
City Manager

ATTESTS:

By: *Stephanie Nye*
City Clerk



COLORADO HOUSING AND FINANCE
AUTHORITY

By: *Paul M. Hurling*
Executive Director

By: _____
Assistant Secretary



August 22, 1997

City of Grand Junction, Colorado
250 North Fifth Street
81501-2668
FAX: (970)244-1599

Colorado Housing and Finance Authority
1981 Blake Street
Denver, Colorado 80202-1272

Gentlemen:

I am an attorney duly admitted to practice in the State of Colorado (the "State"). I have acted as counsel for the City of Grand Junction in connection with the Assignment by the City of Grand Junction to the Colorado Housing and Finance Authority (the "Authority") of the City of Grand Junction's allocation of the ceiling on private activity bonds which may be issued in the State during the period from January 1 to December 31, 1997 (the "1997 Allocation"), under Part 17 of Article 32 of Title 24 of the Colorado Revised Statutes (the "Allocation Act"). This assignment is being effected pursuant to an Ordinance adopted by City Council on first reading on August 6, 1997 (the "Ordinance"), and an Assignment of Allocation dated August 7, 1997 (the "Assignment of Allocation"), between the City of Grand Junction and the Authority.

I have examined, among other things, a copy of the Ordinance. I have also examined the Constitution of the State and such statutes and regulations as I deemed appropriate, including, without limitation, the charter of the City of Grand Junction, certificates of public officials and of officers and representatives of the City of Grand Junction, and such other documents as I have deemed necessary as a basis for the opinions hereinafter expressed. In the course of such examinations I have assumed the genuineness of all signatures and the authenticity of all documents submitted to me as copies.

Based upon the foregoing, it is my opinion that:

1. The City of Grand Junction is a City, validly existing under the Constitution and the laws of the State.
2. The City of Grand Junction has full legal right, power and authority: (a) to assign its 1997 Allocation, or a portion thereof, in accordance with the Ordinance and the Assignment of Allocation; (b) to adopt the Ordinance; (c) to execute and deliver the Assignment of Allocation, and (d) to perform its obligations under the Ordinance.
3. The adoption or the execution and delivery and the performance of the City of Grand Junction of the Ordinance and the Assignment of Allocation and the performance of City of Grand Junction's obligations thereunder have been duly authorized by the City of Grand Junction, and each have been duly adopted or executed and delivered by the City of Grand Junction and each of them constitute valid and binding obligations of the City of Grand Junction enforceable in accordance with its terms.

4. The adoption of the Ordinance and the execution and delivery of the Assignment of Allocation and compliance with the terms, conditions and provisions of each thereof by the City of Grand Junction will not conflict with or result in a breach or violation of any of the terms, conditions or provisions of the Constitution or the laws of the State, local ordinances, resolutions, charter, bylaws, or other regulations, or any other governmental authority of any nature whatsoever as now existing, or to the best of my knowledge, any agreement or instrument to which the City of Grand Junction is now a party or by which it is bound, or constitute a default thereunder.

5. With respect to the 1997 Allocation, or a portion thereof, being assigned to the Authority pursuant to the Ordinance and the Assignment of Allocation, the City of Grand Junction has not: (a) issued private activity bonds; (b) assigned the allocation to another "issuing authority" as such term is defined in the Allocation Act; (c) made a mortgage credit certificate election; or (d) treated the allocation as an allocation for a project with a carryforward purpose.

6. No approval, permit, consent or authorization applicable to the City of Grand Junction and not already obtained by the City of Grand Junction or any government or public agency, authority or person is required in connection with the adoption of the execution and delivery by the City of Grand Junction of, and the performance by it of its obligations under the Ordinance and the Assignment of Allocation.

This opinion may be relied upon by: (i) the Authority's Bond Counsel in rendering its opinion in connection with the issuance by the Authority of revenue bonds; and (ii) each institution which may act as an underwriter of any such revenue bonds.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Dan Wilson".

Dan Wilson, City Attorney