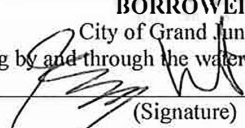
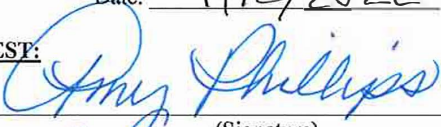
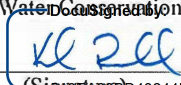



## LOAN CONTRACT AMENDMENT NO. 1

<b>State Agency</b> Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718, Denver, CO 80203	<b>Amendment No. 1 Contract Number</b> CMS 175748 CT2021-3110
<b>Borrower</b> City of Grand Junction acting by and through the water activity enterprise	<b>Original Contract Number</b> CMS 164699 CT2021-3110
<b>Current Contract Maximum Amount</b> \$4,343,000.00 (includes CWCB 1% loan origination fee)	<b>Contract Performance Beginning Date</b> 01/26/2021
<b>Project Name</b> Carson Reservoir Dam Rehabilitation Project	<b>Contract Performance End Date</b> 01/26/2025
<b>Reason for Modification</b> During construction season the contractor encountered material that was inconsistent with records, didn't meet specifications, and couldn't be reused. Suitable embankment material had to be excavated from the reservoir bottom and offsite. These changes and the cost of winterization and remobilization have increased costs.	<b>Loan Contract Terms</b> 1.00% for 10 years <b>Loan Contract Repayment Schedule</b> Loan not in repayment at this time

### THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

<p style="text-align: center;"><b>BORROWER</b></p> <p style="text-align: center;">City of Grand Junction acting by and through the water activity enterprise</p> <p style="text-align: center;">           (Signature)       </p> <p>Name: <u>Greg Caton</u></p> <p>Title: <u>City Manager</u></p> <p>Date: <u>9/12/2022</u></p> <p><b>ATTEST:</b></p> <p style="text-align: center;">           (Signature)       </p> <p>Name: <u>Amy Phillips</u></p> <p>Title: <u>City Clerk</u></p> <p>Date: <u>Sept 13, 2022</u></p>	<p style="text-align: center;"><b>STATE OF COLORADO</b></p> <p style="text-align: center;">Jared S. Polis, Governor Colorado Department of Natural Resources Dan Gibbs, Executive Director Colorado Water Conservation Board</p> <p style="text-align: center;">           (Signature)       </p> <p>Name: <u>Kirk Russell, P.E., Section Chief</u></p> <p>Date: <u>November 28, 2022   5:06 AM MST</u></p>
	
<p>In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate</p> <p><b>STATE CONTROLLER</b></p> <p><b>Robert Jarvis, CPA, MBA, JD</b></p> <p>By: <u>Ion Cotsapas</u></p> <p>Name: <u>Ion Cotsapas</u></p> <p>Title: <u>DNR Procurement Director</u></p> <p>Amendment Effective Date: <u>November 28, 2022   7:47 PM MST</u></p>	

**1. PARTIES**

This Amendment (the “Amendment”) to the Original Contract shown on the Signature and Cover Page for this Amendment (the “Contract”) is entered into by and between the Borrower, and the State.

**2. TERMINOLOGY**

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Contract shall be construed and interpreted in accordance with the Contract.

**3. AMENDMENT EFFECTIVE DATE AND TERM****A. Amendment Effective Date**

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Page for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date.

The Parties’ respective performances under this Amendment and the changes to the Contract contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment.

**4. PURPOSE**

CWCB approved an increase to the loan amount for CWCB Loan Contract No. CT2021-3110, for the Carson Reservoir Dam Rehabilitation Project. The increase is due to encountered material that was inconsistent with records, didn’t meet specifications, and couldn’t be reused. Suitable embankment material had to be excavated from the reservoir bottom and offsite. These changes and the cost of winterization and remobilization have increased costs. The parties agree to amend the contract to increase the final loan amount by \$1,313,000.00 from \$3,030,000.00 to \$4,343,000.00 and the total loan amount is hereby modified accordingly. These amounts include the one percent (1%) origination fee.

**5. MODIFICATIONS**

The Contract and all prior amendments thereto, if any, are modified as follows:

- A. The original loan contract amount is hereby deleted and replaced with the Current Contract Maximum Amount of \$4,343,000.00, shown on the Signature and Cover Page for this Amendment.
- B. Amendment to Promissory Note, Appendix A, in the revised loan amount, and incorporated herein *shall replace and supersede* the Original Promissory Note attached to the Original Contract as Appendix 3.
- C. Amendment to Security Agreement, Appendix B, in the revised loan amount, and incorporated herein *shall supplement and operate in conjunction* with the Original Security Agreement, attached to the Original Contract as Appendix 5.
- D. The Special Provisions contained in the Contract are hereby modified as follows:

i. The Special Provision titled “Prohibited Terms” is replaced in its entirety with:

“PROHIBITED TERMS. Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor’s liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. ”

ii. The Special Provision titled “Public Contracts with Natural Persons” is deleted.

iii. The Special Provision titled “Public Contracts with Natural Persons” is deleted.

**6. RESOLUTION**

The Borrower has adopted a Resolution irrevocable for the term of this loan, authorizing the Borrower to enter into this contract amendment to borrow the additional loan amount, to establish and collect assessments sufficient to pay

the annual loan payments, to pledge said assessments for repayment of the loan, and to execute documents necessary to convey a security interest in said assessments if necessary, to the CWCBC, and attached as **Appendix C**.

**7. BOND COUNSEL OPINION LETTER**

Prior to the execution of this Amendment by the CWCBC, the Borrower shall submit to the CWCBC a letter from its bond counsel stating that it is the bond counsel's opinion that (1) the person(s) signing for the Borrower was duly elected or appointed and has authority to sign such documents on behalf of the Borrower and to bind the Borrower; (2) the Borrower's governing body has validly adopted a resolution approving this Amendment; (3) there are no provisions in the any state or local law that prevent this Amendment from binding the Borrower; and (4) this Amendment will be valid and binding against the Borrower if entered into by the CWCBC.

**8. LIMITS OF EFFECT AND ORDER OF PRECEDENCE**

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments or other modifications to the Contract, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Contract, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract or any prior modification to the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Contract to the extent that this Amendment specifically modifies those Special Provisions.

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**APPENDIX A, AMENDMENT NO. 1 TO LOAN CONTRACT CT2021-3110  
AMENDMENT TO THE PROMISSORY NOTE**

Date: September 13, 2022

Borrower: City of Grand Junction, acting by and through the water activity enterprise

Principal Amount: \$4,343,000.00

Term of Repayment: 1.00% for 10 years

Loan Contract No.: CT2021-3110

Loan Payment: \$458,542.96

Payment Initiation Date\*: \_\_\_\_\_

Maturity Date\*: \_\_\_\_\_

FOR VALUE RECEIVED, the Borrower promises to pay the Colorado Water Conservation Board ("CWCBC"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the Loan Contract and this promissory note.

1. This Amendment to Promissory Note *shall replace and supersede* the Original Promissory Note attached to the Original Contract and incorporated by reference.
2. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable one year from Payment Initiation Date, and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street Room 718, Denver, Colorado 80203.
4. The CWCBC may impose a late charge in the amount of 5% of the annual payment if the CWCBC does not receive the annual payment within 15 calendar days of the due date.
5. This Note may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This Note is issued pursuant to the Loan Contract between the CWCBC and the Borrower. The Loan Contract creates security interests in favor of the CWCBC to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a Security Agreement ("Security Instruments") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the Borrower. The Loan Contract and Security Instruments grant additional rights to the CWCBC, including the right to accelerate the maturity of this Note in certain events.
8. If any annual payment is not paid when due or any default under the Loan Contract or the Security Instruments securing this Note occurs, the CWCBC may declare the entire outstanding principal balance of the Note, all accrued

interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the Borrower written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this Promissory Note.

9. The Borrower and any co-signer or guarantor hereby agree that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This Note shall be governed in all respects by the laws of the State of Colorado.

Attest:

By

Name

Title

Date

*Amy Phillips*  
Signature  
*Amy Phillips*  
*City Clerk*  
*Sept 13, 2022*

Borrower: City of Grand Junction,  
acting by and through the water activity enterprise

By

Signature

Name

Title

Date

*Greg Caton*  
*Greg Caton*  
*City Manager*  
*9/12/2022*



**APPENDIX B, AMENDMENT NO. 1 TO LOAN CONTRACT CT2021-3110**  
**AMENDMENT TO SECURITY AGREEMENT**

Debtor: City of Grand Junction,  
acting by and through the water activity enterprise

Secured Party: Colorado Water Conservation Board

Revised Loan Amount: \$4,343,000.00

Term of Repayment: 10 years of amortized payments or until loan is paid in full

Interest Rate: 1.00%

Loan Contract Number: CT2021-3110

1. The Parties have amended the Original Loan Contract and Promissory Note to increase the loan amount by \$1,313,000.00, from \$3,030,000.00 to \$4,343,000.00 and hereby amend the original Security Agreement to document the change of loan amount.
2. The Parties expressly agree that this Amendment to Security Agreement is supplemental to the Security Agreement and all terms, conditions, and provisions thereof, unless specifically modified below, are to apply to this Amendment to Security Agreement as though they were expressly rewritten, incorporated, and included herein.
3. Collateral for the loan remains the same.



Attest

By

Signature

Name

Title

Date

Debtor: City of Grand Junction,  
acting by and through the water activity enterprise

By

Signature

Name

Title

Date



**RESOLUTION NO. 51-22 APPENDIX C**

**A RESOLUTION AUTHORIZING A LOAN CONTRACT OF  
STATE FUNDS FOR CARSON RESERVOIR REHABILITATION PROJECT**

**NOW THEREFORE BE IT RESOLVED THAT** the Grand Junction City Council, having been duly advised and considered the matter, hereby authorizes City Manager Greg Caton to enter into a contract with the State of Colorado, Colorado Water Conservation Board for a loan amendment for the construction of the Carson Reservoir Rehabilitation Project (Project.)


Furthermore, the Grand Junction City Council hereby resolves to perform and observe all contractual terms, conditions and obligations, and pledge the revenues of the Water Enterprise Fund to assure repayment of the loan.

The Project will be funded solely by funds made available under Colorado Water Conservation Board (CWCB) Water Project Loan Program which authorizes CWCB to loan money for water projects from the CWCB Severance Tax Perpetual Base Fund for the benefit of the people of the state, provided that the Borrower assures repayment of the money.

The total construction cost of the Project may be up to \$4,300,000. The total loan amount will not exceed \$4,343,000.00 (\$4,300,000.00 for Project costs and CWCB's origination fee of 1% in the amount of \$43,000.00) at an interest rate of 1.00% per annum for a repayment term of ten (10) years.

The Project will benefit the City's water enterprise, which is a government owned business that may incur debt as provided in Article X, Section 20 of the Colorado Constitution, and C.R.S. 37-45.1-101 *et. seq.*

IN CONSIDERATION OF THE FOREGOING, THE RESOLUTION IS PASSED AND APPROVED this 15<sup>th</sup> day of June 2022.

  
\_\_\_\_\_  
Anna M. Stout  
President of the City Council

Attest:

  
\_\_\_\_\_  
Amy Phillips  
City Clerk

