

CWD98CWD

TYPE OF RECORD:	PERMANENT
CATEGORY OF RECORD:	CONTRACT
NAME OF CONTRACTOR:	CLIFTON WATER DISTRICT
SUBJECT/PROJECT:	AMENDS 1990 AGREEMENT ADOPTED BY RESOLUTION NO. 49-90. CLIFTON WATER DISTRICT, 250 MILLION GALLONS OF WATER DURING OCTOBER, NOVEMBER, AND DECEMBER OF EACH YEAR, AND 30 CENTS PER THOUSAND GALLONS FOR ANY AMOUNT OVER 250 MILLION GALLONS
CITY DEPARTMENT:	UTILITIES AND STREETS
YEAR:	1998
EXPIRATION DATE:	NONE
DESTRUCTION DATE:	NONE

A G R E E M E N T

THIS AGREEMENT serves as an amendment, substitution, release and replacement of certain terms of that certain agreement dated August 10, 1990 by and between the CITY OF GRAND JUNCTION, COLORADO, hereinafter referred to as the CITY and CLIFTON WATER DISTRICT, hereinafter referred to as CLIFTON. This agreement shall be made and be effective as of the date shown below.

Recitals:

For many years the CITY and CLIFTON have had a mutually beneficial, competent, cooperative relationship. The relationship is manifested almost daily at the operational level and was last manifested in writing at the highest levels of the organizations in August of 1990.

In August of 1990 the CITY and CLIFTON entered into an agreement which provided among other things, for the exchange of water between CLIFTON and the CITY and the CITY and CLIFTON. That agreement and the continuing alliance that it formed has worked well for many years. It is the express intention of the parties to have that relationship continue.

The August 1990 agreement provided for, among other things, payment by CLIFTON to the CITY of \$75,000. (in 6 equal monthly installments of \$12,500.) for a total of 250 million gallons of water during the months of October, November, December, January, February and March of each year and 30 cents per thousand gallons for any amount over 250 million gallons.

The August 1990 agreement provided for, among other things, payment by the CITY to CLIFTON of \$75,000. (in 6 equal monthly installments of \$12,500.) for a total of 250 million gallons of water during the months of April, May, June, July, August and September of each year and 30 cents per thousand gallons for any amount over 250 million gallons.

Since 1990 the CITY and CLIFTON have cooperatively exchanged water in accordance with the terms of the 1990 agreement. Because the consideration is a "wash" for the CITY and CLIFTON neither entity is making money on the arrangement. The reason and/or utility of billing, accounting for and paying the money is not apparent to the CITY or CLIFTON and for that reason each seeks to amend the 1990 agreement to allow for water exchanges without payment for a maximum of 250 million gallons in the months stated in the 1990 agreement. The CITY and CLIFTON have paid and do intend on continuing to pay the overage charges provided for in the 1990 agreement.

FOR AND IN consideration of the premises stated in the recitals above and in the 1990 agreement attached hereto and incorporated herein by this reference as if fully set forth and for the other good and valuable consideration of a positive, mutually cooperative working relationship, CLIFTON and the CITY agree as follows:

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1. That the certain agreement by and between the CITY and CLIFTON dated August 10, 1990, is hereby amended with a full and complete release of the term of that agreement by which the CITY agrees to pay \$75000. to CLIFTON for 250 million gallons of water during the months of April, May, June, July, August and September of each year. The CITY waives any and all payments, or claims for payment, present and future, of the \$75,000. annual payment, monthly installments or any part thereof from the date of this agreement.
2. That the certain agreement by and between CLIFTON and the CITY dated August 10, 1990, is hereby amended with a full and complete release of the term of that agreement by which CLIFTON agrees to pay \$75000. to the CITY for 250 million gallons of water during the months of October, November, December, January, February and March of each year. CLIFTON waives any and all payments, or claims for payment, present and future, of the \$75,000. annual payment, monthly installments or any part thereof from the date of this agreement.
3. The balance of the terms of the August 1990 agreement are to and shall remain unchanged.
4. This agreement shall evidence and shall by its terms be deemed to fully and completely amend, satisfy and replace the prior specific referenced terms of the 1990 agreement between the parties. Such amendment, replacement and satisfaction is ratified and accepted by the parties by their respective signatures below as a full and unequivocal manifestation of their intent.
5. CLIFTON acknowledges the sufficiency of consideration for this agreement and that any monetary consideration that CLIFTON has received, if any, under or pursuant to the agreement dated August 10, 1990 shall be sufficient to compensate it for any and all water sold, transferred or conveyed to the CITY.
6. The CITY acknowledges the sufficiency of consideration for this agreement and that any monetary consideration that the CITY has received under or pursuant to the agreement dated August 10, 1990 shall be sufficient to compensate it for any and all water sold, transferred or conveyed to CLIFTON.
7. The CITY, by and through the Director of Public Works and Utilities is responsible for administering the 1990 agreement and in his capacity recommends and approves of the amendment described in this agreement.
8. CLIFTON, by and through the Manager is responsible for administering the 1990 agreement and in his capacity recommends and approves of the amendment described in this agreement.

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9. The CITY and CLIFTON being contractually obligated do hereby accept and approve of the amendment described in this agreement and each furthermore acknowledges, accepts and agrees that CLIFTON and the CITY shall abide by all conditions and obligations to perform the balance of the obligations, each and every one, without change, as described in the August 10, 1990 agreement.

10. CLIFTON and the CITY do waive and release any and all defenses to formation of this agreement including but not specifically limited to the lack of specific authority in the 1990 agreement to amend that agreement.

11. That respective officers signing below do so with full authority to bind and cause the CITY and CLIFTON to be bound to the terms hereof.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the 24th day of August, 1998.

CLIFTON WATER DISTRICT

by: John L. Ballagh

Chairman of the Board
Post Office Box 100
Clifton, CO 81520

Attest:

by: George E. Wheeler

Secretary of the Board

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CITY OF GRAND JUNCTION

by: Mark K. Achen
Mark K. Achen
City Manager, ACTING
250 N. 5th Street
Grand Junction, CO 81501



Attest:

by: Stephanie Nye
Stephanie Nye
City Clerk