

RESOLUTION NO. 58-97

A resolution supporting the amendment to the Master Agreement between the City of Grand Junction and the State Board of the Great Outdoors Colorado Trust Fund.

Whereas, the City of Grand Junction supports the completion of the Colorado Riverfront Greenway Legacy Project.

Whereas, the City of Grand Junction has received a grant from Great Outdoors Colorado to fund the Colorado Riverfront Greenway Legacy Project.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY OF GRAND JUNCTION THAT:

SECTION 1: The City of Grand Junction hereby authorizes the City Manager to Sign the amendment agreement with Great Outdoors Colorado.

SECTION 2: This resolution to be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 17th day of September, 1997.

/s/ Janet Terry
President of the Council

ATTEST

/s/ Stephanie Nye
City Clerk

AMENDMENT TO THE LEGACY PROJECT GRANT AGREEMENT
FOR THE COLORADO RIVERFRONT LEGACY PROJECT

This Amendment to Legacy Project Grant Agreement ("Amendment") is made effective as of 19th day of August 1997 among the undersigned parties under the following recitals:

RECITALS

- A. On or about December 5, 1996, the undersigned parties executed that specific Colorado Riverfront Legacy Project Grant Agreement, Great outdoors Colorado Contract Number 6330 (the "Agreement").
- B. Circumstance have changed with respect to the administration of the Grant under the Agreement which the Parties desire to reflect in this Amendment. Unless otherwise expressly defined herein, capitalized terms shall have the meaning assigned them in the Agreement

AMENDMENT

NOW, THEREFORE-, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree that the Agreement, shall be amended as follows:

- A. Article VI, Section 5 is hereby deleted and replaced in its entirety with the following language:

5. Liability.

a. To the extent allowed by law, Grantee shall indemnify, defend and hold harmless the Board, its officers, agents and employees from any and all liabilities, claims, demands, damages or costs (including reasonable attorneys' fees and expenses of defending such matters) resulting from the acts or omissions of Grantee, its officers, agents and employees in connection with this Agreement, except to the extent caused by the negligence or willful and wanton conduct of the Board, its officers, agents or employees.

b. Notwithstanding any other provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver, either express or implied, by any party to this Agreement, of any of the immunities, rights, benefits or protection provided under the Colorado Governmental Immunity Act

as amended or as may be amended (including, without limitation, any amendments to such statute, or under any similar statute which is subsequently enacted ("CGIA")). The parties agree that no provision of this Agreement shall be construed in such a manner as to reduce the extent to which the CGIA limits the liability of any party to Agreement.

c. To the extent that Grantee is comprised of more than one entity, the obligations of Grantee under this Section and shall be separate, and not joint and several.

B. Article VI, Section 14 is hereby amended to add the following language:

The Board and Grantee hereby acknowledge and agree that this Agreement is not intended to create a joint venture between the parties to this Agreement. Grantee represents to the Board that the person(s) executing this Agreement has the authority to do so and to bind the party or entity on behalf of which it signs to the terms and provisions of this Agreement.

C. Article VI, Section 16 is hereby deleted and replaced in its entirety with the following language:

16. Multiple Year Obligations of the Board. To make certain the understanding of the parties because this Agreement will extend beyond the current fiscal year, the Board and Grantee understand, acknowledge, agree and hold that, except for that portion of the Grant which has been appropriated by the Board for payment in the current fiscal year, the financial obligations created under this Agreement in no way constitute either a current or future obligation or expense of the Board, The appropriated amount for a specific fiscal year shall be payable exclusively from Board funds and shall not in any way be construed to be a general obligation indebtedness of the State of Colorado or any agency or department at thereof. The Board has not pledged the full faith and credit of the State, or any agency or department thereof to the payment of the Grant hereunder, and this Agreement shall not directly or contingently obligate the State or any agency or department thereof to apply money from, or levy or pledge any form of taxation to, the payment of the Grant.

D. A new paragraph at Article VI, Section 21 is hereby created as follows:

21. Construction. Each party hereto has reviewed and revised (or requested revisions of) this Agreement, and therefore, any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement.

E. A new paragraph at Article VI, Section 22 is hereby created as follows:

22. Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement, and the balance of this Agreement shall otherwise remain in full force and effect.

F. A new paragraph at Article VI, Section 23 is hereby created as follows:

23. Third Party Beneficiary. The Board and Grantee hereby acknowledge and agree that this Agreement is intended to only cover the relative rights and obligations between the Board and Grantee and that no third party beneficiaries are intended.

G. With respect to the Colorado Division of Parks and Outdoor Recreation and the Colorado Division of Wildlife (collectively, the "Divisions"), the parties hereby acknowledge and agree as follows:

(i) Recital C is hereby amended to read as follows:

Grantee together with the Divisions submitted a detailed project application (the "Project Application") to the Board for the completion of the project entitled and described above (the "Project"). On May 22, 1996, the Board approved the Project Application subject to the following contingencies (i) total net proceeds available from the lottery programs equals or exceeds \$87,000,000 each year and the Board continues to receive its portion of the total net proceeds as currently allocated under Article XXVII of the Colorado Constitution; (ii) Grantee and the Divisions execute separate detailed grant agreements with the Board; and (iii) Grantee and the Divisions each discharge all of their respective obligations under their respective grant agreement with the Board.

(ii) Because the Divisions will be executing a separate grant agreement for the Project, the definition of Grantee in the Agreement is hereby revised to expressly exclude the Divisions.

(iii) Article 1, Section 2. Notwithstanding the fact that Grantee and Divisions will execute separate grant agreements for the Project, Grantee and the Divisions will jointly complete a detailed work plan which describes all the phases of the Project and includes those elements set forth in the Agreement.

H. The Parties intend this to be a valid amendment to the Agreement as required by paragraph 15 of the Colorado Riverfront Legacy Project Agreement.

This Amendment is executed as of the 19th day of August 1997.

STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND

William Shafroth, Executive Director

GRANTEE:

MESA COUNTY LAND CONSERVANCY

By: _____

Name: _____

Title: _____

CITY OF GRAND JUNCTION

By: _____

Name: _____

Title: _____

CITY OF FRUITA

By: _____

Name: _____

Title: _____

TOWN OF PALISADE

By: _____

Name: _____

Title: _____

MESA COUNTY

By: _____

Name: _____

Title: _____