ORDINANCE NO. 4718

AN ORDINANCE APPROVING A LOAN FROM THE COLORADO WATER RESOURCES AND **POWER** DEVELOPMENT AUTHORITY TO **FINANCE** IMPROVEMENTS TO THE CITY'S WATER SYSTEM: AUTHORIZING THE FORM AND EXECUTION OF THE LOAN AGREEMENT AND A GOVERNMENTAL AGENCY BOND TO EVIDENCE SUCH LOAN: AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATED THERETO: AND PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH.

WHEREAS, the City of Grand Junction, Colorado (the "City"), is a home rule city duly existing under the Constitution and laws of the State of Colorado and its City Charter (the "Charter"); and

WHEREAS, the members of the City Council of the City (the "Council") have been duly elected and qualified; and

WHEREAS, the Council has determined and does hereby determine that the City's water system (the "System") is an enterprise within the meaning of Article X, Section 20 of the Colorado Constitution ("TABOR"), and Section 37-45.1-103 of the Colorado Revised Statutes, as amended; and

WHEREAS, the Council has heretofore determined that the interest of the City and the public interest and necessity require certain improvements to the System, including without limitation the rehabilitation of the filtration system at the water plant within the System (collectively, the "Project"); and

WHEREAS, the Council has determined that in order to finance the Project it is necessary, advisable, and in the best interests of the City to enter into a loan agreement (the "Loan Agreement") with the Colorado Water Resources and Power Development Authority (the "CWRPDA"), a body corporate and political subdivision of the State of Colorado, pursuant to which CWRPDA will loan the City an amount not to exceed \$1,700,000 (the "Loan") for such purposes; and

WHEREAS, the City's repayment obligations under the Loan Agreement shall be evidenced by a governmental agency bond (the "Bond") to be issued by the City to CWRPDA; and

WHEREAS, the Bond and the Loan Agreement (collectively, the "Financing Documents") shall be a revenue obligation of the City payable from the Pledged Property (as defined in the Loan Agreement), and pursuant to TABOR and Article XII, Section 93(f) of the Charter may be approved by the Council without an election; and

WHEREAS, forms of the Financing Documents have been filed with the City Clerk; and

WHEREAS, the Council desires to approve the forms of the Financing Documents and authorize the execution thereof.

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

Approvals, Authorizations, and Amendments. The forms of the Financing Documents filed with the City Clerk are incorporated herein by reference and are hereby approved. The City shall enter into and perform its obligations under the Financing Documents in the forms of such documents, with such changes as are not inconsistent herewith and as are hereafter approved by the President of the Council (the "President"). The President and City Clerk are hereby authorized and directed to execute the Financing Documents and to affix the seal of the City thereto, and further to execute and authenticate such other documents or certificates as are deemed necessary or desirable in connection therewith. The Financing Documents shall be executed in substantially the forms approved at this meeting.

The execution by the President, the City Clerk, or other appropriate officers of the City of any instrument or certificate or other document in connection with the matters referred to herein shall be conclusive evidence of the approval by the City of such instrument or certificate or other document.

<u>Election to Apply Supplemental Act</u>. Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, of the Colorado Revised Statutes, as amended (the "Supplemental Act"), provides that a public entity, including the City, may elect

in an act of issuance to apply all or any of the provisions of the Supplemental Act. The Council hereby elects to apply all of the provisions of the Supplemental Act to the Financing Documents.

Delegation and Parameters.

Pursuant to Section 11-57-205 of the Supplemental Act, the Council hereby delegates to the President, the Financial Operations Manager, or any member of the Council the authority to make the following determinations relating to and contained in the Financing Documents, subject to the restrictions contained in paragraph (b) of this Section 3:

The interest rate on the Loan;

The principal amount of the Loan;

The amount of principal of the Loan maturing in any given year and the final maturity of the Loan;

The conditions on which and the prices at which the Loan may be paid prior to maturity;

The dates on which the principal of and interest on the Loan are paid; and The existence and amount of reserve funds for the Loan, if any.

The delegation in paragraph (a) of this Section 3 shall be subject to the following parameters and restrictions: (i) the interest rate on the Loan shall not exceed 2.00%; (ii) the principal amount of the Loan shall not exceed \$1,700,000; and (iii) the final maturity of the Loan shall not be later than December 31, 2036.

Conclusive Recital. Pursuant to Section 11-57-210 of the Supplemental Act, the Financing Documents shall contain a recital that they are issued pursuant to the Supplemental Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Financing Documents after their delivery for value.

Pledge of Revenues. The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Financing Documents provided herein shall be governed by Section 11-57-208 of the Supplemental Act and this Ordinance. The revenues pledged to the payment of the Financing Documents shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall have the priority described in the Loan Agreement. The lien of such pledge shall be valid, binding, and enforceable

as against all persons having claims of any kind in tort, contract, or otherwise against the City irrespective of whether such persons have notice of such liens.

<u>Limitation of Actions</u>. Pursuant to Section 11-57-212 of the Supplemental Act, no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the Financing Documents shall be commenced more than thirty days after the date of adoption of this Ordinance.

<u>Limited Obligation</u>; <u>Special Obligation</u>. The Financing Documents are payable solely from the Pledged Property and the Financing Documents do not constitute a debt within the meaning of any constitutional or statutory limitation or provision.

No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Council, or any officer or agent of the City acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal of or interest on the Bond. Such recourse shall not be available either directly or indirectly through the Council or the City, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the Bond and as a part of the consideration of its sale or purchase, CWRPDA specifically waives any such recourse.

<u>Disposition and Investment of Loan Proceeds</u>. The proceeds of the Loan shall be applied only to pay the costs and expenses of acquiring, constructing and equipping the Project, including costs related thereto and, to the extent permitted under federal tax laws, reimbursement to the City for capital expenditures heretofore incurred and paid from City funds in anticipation of the incurrence of long-term financing therefor, and all other costs and expenses incident thereto, including without limitation, the costs of obtaining the Loan.

Neither CWRPDA nor any subsequent owner(s) of the Financing Documents shall be responsible for the application or disposal by the City or any of its officers of the funds derived from the Loan. In the event that all of the proceeds of the Loan are not required to pay such costs and expenses, any remaining amount shall be used for the purpose of paying the principal amount of the Loan and the interest thereon.

<u>City Representative</u>. Pursuant to Exhibit B of the Loan Agreement, Jodi Romero, Financial Operations Director, and Jay Valentine, Internal Services Manager, are each hereby designated an Authorized Officer (as defined in the Loan Agreement) for the purpose of

performing any act or executing any document relating to the Loan, the City, the Bond, or the Loan Agreement. A copy of this Ordinance shall be furnished to CWRPDA as evidence of such designation.

Estimated Life of Improvements. It is hereby determined that the estimated life of the Project to be financed with the proceeds of the Loan is not less than 20 years from the date of the Loan.

<u>Direction to Take Authorizing Action</u>. The appropriate officers of the City and members of the Council are hereby authorized and directed to take all other actions necessary or appropriate to effectuate the provisions of this Ordinance, including but not limited to the execution and delivery of such certificates and affidavits as may reasonably be required by CWRPDA.

Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the City and members of the Council, not inconsistent with the provisions of this Ordinance, relating to the Financing Documents, or actions to be taken in respect thereof, are hereby authorized, ratified, approved, and confirmed.

Repealer. All acts, orders, ordinances, or resolutions, or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such determination shall not affect, impair, or invalidate the remaining provisions hereof, the intention being that the various provisions hereof are severable.

Ordinance Irrepealable. After the Bond is issued, this Ordinance shall constitute an irrevocable contract between the City and CWRPDA, and shall be and remain irrepealable until the Bond and the interest thereon shall have been fully paid, satisfied, and discharged. No provisions of any constitution, statute, charter, ordinance, resolution, or other measure enacted after the issuance of the Bond shall in any way be construed as impairing the obligations of the City to keep and perform its covenants contained in this Ordinance.

Effective Date. This Ordinance shall be in full force and effect 30 days after publication following final passage.

INTRODUCED, PASSED ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN PAMPHLET FORM this 7th day of September, 2016.



CITY OF GRAND JUNCTION, COLORADO

INTRODUCED, PASSED ON SECOND READING, APPROVED AND ORDERED PUBLISHED IN PAMPHLET FORM this 21st day of September, 2016.

Attest:

CITY OF GRAND JUNCTION, COLORADO

STATE OF COLORADO)
)
COUNTY OF MESA) SS
)
CITY OF GRAND JUNCTION)

I, Stephanie Tuin, the City Clerk of the City of Grand Junction, Colorado (the "City") and Clerk to the City Council of the City (the "Council"), do hereby certify as follows:

The foregoing pages are a true, correct and complete copy of an ordinance (the "Ordinance") that was introduced, passed on first reading and ordered published in full by the Council at a regular meeting thereof held on September 7, 2016 and was duly adopted and ordered published in full by the Council at a regular meeting thereof held on September 21, 2016, which Ordinance has not been revoked, rescinded or repealed and is in full force and effect on the date hereof.

The Ordinance was duly moved and seconded and the Ordinance was passed on first reading at the meeting of September 7, 2016, by an affirmative vote of a majority of the members of the Council as follows:

Voting "Aye"	Voting "Nay"	Absent	Abstaining
X	197		
X			
X			
X		· ·	
X			
X			
X			
	X X X X	X X X X X X X X	X X X X X X X X

The Ordinance was duly moved and seconded and the Ordinance was finally passed on second reading at the meeting of September 21, 2016, by an affirmative vote of a majority of the members of the Council as follows:

Councilmember	Voting "Aye"	Voting "Nay"	Absent	Abstaining
Phyllis Norris	X			
Marty Chazen	X			
Barbara Traylor Smith	X			
Bennett Boeschenstein	X			
Duncan McArthur			X	
Chris Kennedy	X			
Rick Taggart			X	

The members of the Council were present at such meetings and voted on the passage of the Ordinance as set forth above.

The Ordinance was approved and authenticated by the signature of the President of the Council, sealed with the City seal, attested by the City Clerk, and recorded in the minutes of the Council.

There are no bylaws, rules, or regulations of the Council that might prohibit the adoption of the Ordinance.

Notices of the meetings of September 7, 2016 and September 21, 2016 in the forms attached hereto as Exhibit A were posted at City Hall in accordance with law.

The Ordinance was published in pamphlet form in <u>The Daily Sentinel</u>, a daily newspaper of general circulation in the City, on September 9, 2016 and September 23, 2016, as required by the City Charter. True and correct copies of the affidavits of publication are attached hereto as Exhibit B.

WITNESS my hand and the seal of the City affixed this 23 day of September, 2016.

City Clerk and Clerk to the Council

SEAL

EXHIBIT A

(Attach Notices of Meetings of September 7, 2016 and September 21, 2016)

To access the Agenda and Backup Materials electronically, go to www.gicity.org



CITY COUNCIL AGENDA
WEDNESDAY, SEPTEMBER 7, 2016
250 NORTH 5TH STREET
6:15 P.M. – PRE-MEETING – ADMINISTRATION CONFERENCE ROOM
7:00 P.M. – REGULAR MEETING – CITY HALL AUDITORIUM

So become the most livable community west of the Rockies by 2025

Call to Order, Pledge of Allegiance, Invocation

Reverend Wendy Jones - Unitarian Universalist Congregation of the Grand Valley

[The invocation is offered for the use and benefit of the City Council. The invocation is intended to solemnize the occasion of the meeting, express confidence in the future, and encourage recognition of what is worthy of appreciation in our society. During the invocation you may choose to sit, stand, or leave the room.]

Presentations

Presentation of Two Smart Yard Awards by Forestry Board Member Elizabeth Neubauer

Certificate of Appointment

To the Downtown Development Authority/Downtown Grand Junction Business Improvement District

Citizen Comments

Council Reports

Consent Agenda

- 1. Approval of Minutes
 - a. Summary of the August 15, 2016 Workshop
 - b. Minutes of the August 17, 2016 Regular Meeting
- 2. Contracts/Other Action Items
 - a. Contract to Purchase Two Replacement Trailer Mounted Leaf Machines
 - b. Free Holiday Parking Downtown from Thanksgiving to New Year's Day with Certain Exceptions

September 2, 2016

9:03 AM

3. Resolutions

- Resolution No. 38-16 A Resolution Authorizing the Lease of Sidewalk Right-of-Way to Nepal Indian Cuisine, LLC dba Nepal Restaurant, Located at 356 Main Street
- Resolution No. 39-16 A Resolution Authorizing the City Manager to Submit a Grant Request to the Mesa County Federal Mineral Lease District for Construction of a Salt Shed

4. Set Public Hearing

- a. Quasi-judicial
 - i. An Ordinance Approving a Loan from the Colorado Water Resources and Power Development Authority to Finance Improvements to the City's Water System; Authorizing the Form and Execution of the Loan Agreement and a Governmental Agency Bond to Evidence Such Loan; Authorizing the Execution and Delivery of Documents Related Thereto; and Prescribing Other Details in Connection Therewith (Set Hearing for September 21, 2016)

Regular Agenda

If any item is removed from the Consent Agenda, it will be heard here

5. Contracts/Other Action Items

- Contract for the City's Life, Accidental Death and Dismemberment, and Long-Term Disability Insurance Benefits with VOYA
- b. Amending Federal Aviation Administration Airport Improvement Program Grant 3-08-0027-054-2016 for the Grand Junction Regional Airport Authority for Terminal Air Carrier Apron Reconstruction
- c. Federal Aviation Administration Airport Improvement Program Grant 3-08-0027-055-2016 for the Grand Junction Regional Airport Authority for Design of the Remote Transmitter/Receiver and the Replacement Runway 11/29

6. Public Hearing

- a. Quasi-Judicial
 - Ordinance No. 4717 An Ordinance Amending Ordinance No. 4652 by Amending the Planned Development for the Grand Junction Housing Authority Senior Living Planned Development – Highlands Apartments, Located at 805 and 825 Bookcliff Avenue

- 7. Non-Scheduled Citizens & Visitors
- 8. Other Business
- 9. Adjournment

To access the Agenda and Backup Materials electronically, go to www.gicity.org



CITY COUNCIL AGENDA WEDNESDAY, SEPTEMBER 21, 2016 250 NORTH 5TH STREET

6:15 P.M. – PRE-MEETING – ADMINISTRATION CONFERENCE ROOM 7:00 P.M. – REGULAR MEETING – CITY HALL AUDITORIUM

To become the most livable community west of the Rochies by 2025

Call to Order, Pledge of Allegiance, Invocation

Reverend Anna Scott, Two Rivers Center for Spiritual Living

[The invocation is offered for the use and benefit of the City Council. The invocation is intended to solemnize the occasion of the meeting, express confidence in the future and encourage recognition of what is worthy of appreciation in our society. During the invocation you may choose to sit, stand or leave the room.]

Presentations

Avaion Theatre Foundation Check Presentation by Robbie Breaux, Avaion Theatre Foundation Board President

Presentation of the 2016 Starburst Awards for Phase I, Las Colonias Park and Matchett Park/Indian Wash to the Parks and Recreation Department by Colorado Lottery Director Laura Solano and Colin Waters

Proclamation

Proclaiming September 21, 2016 as Sister City Day in the City of Grand Junction

Citizen Comments

Council Reports

Consent Agenda

- 1. Approval of Minutes
 - a. Summary of the August 29, 2016 Workshop
 - b. Minutes of the September 7, 2016 Regular Meeting

September 16, 2016 3:38 PM

2. Set Public Hearings

- a. Legislative
 - An Ordinance Amending Ordinance No. 4599 and Section 21.04.010 of the Municipal Code to Allow Marijuana Testing Facilities in the City of Grand Junction (Set Hearing for October 5, 2016)
- b. Quasi-judicial
 - An Ordinance Vacating Portions of Alley Rights-of-Way Located Between Elm and Kennedy and Mesa and Texas Avenues and a Portion of Texas Avenue Right-of-Way and Retaining a Utility Easement over Texas Avenue, Located in the Colorado Mesa University Area (Set Hearing for October 5, 2016)
 - An Ordinance Vacating Right-of-Way for Noland Avenue, Located West of S. 7th Street (Set Hearing for October 5, 2016)

Regular Agenda

If any item is removed from the Consent Agenda it will be heard here

- 3. Contract
 - a. Construction Contract for the B½ Road Overpass at U.S. Highway 50 Multimodal Conversion Project

4. Public Hearings

- a. Legislative
 - i. Ordinance No. 4718 An Ordinance Approving a Loan from the Colorado Water Resources and Power Development Authority to Finance Improvements to the City's Water System; Authorizing the Form and Execution of the Loan Agreement and a Governmental Agency Bond to Evidence Such Loan; Authorizing the Execution and Delivery of Documents Related Thereto; and Prescribing Other Details in Connection Therewith
 - ii. Ordinance No. 4719 An Ordinance Amending the 24 Road Corridor Design Standards
- 5 Non-Scheduled Citizens & Visitors
- 6. Other Business
- 7. Adjournment

EXHIBIT B

(Attach Notice of Meeting)

State PROOF OF PUBLICATION			
NOTICE IS PUBLIC HEAVEND NOTICE IS NEWEST COVEN THAT The City Canadial of the City of Grand Janctine, Calorusia, of its reg- size convenient densiting an Separa- tion information densiting and Separa- tion information of the Separa- AN CREDINANCE APPROVING A LOAN FROM THE COLONION OF THE RESOURCES AND POPERS OF THE PUBLICATE AND POPERS OF THE LOAN ACRESINGS AND POPERS OF THE LOAN ACRESINGS AND A TO PUBLICATE AND A CONTENSION THE EXECUTION OF THE LOAN ACRESINGS AND A TO PUBLICATE AND A CONTENSION THE EXECUTION AND THE DESTRUCTION OF THE SEPARATE AND A THE DIFFERENCE AND PRESCRIBING OTHER DESTRUCTION THE SEPARATE OF THE THE SEPARATE THE OFFICE AND THE SEPARATE THE OFFICE OFFICE AND THE SEPARATE THE OFFICE OFFICE AND THE SEPARATE THE OFFICE AND THE CITY COURS CONTENSION OF THE CITY COURS CO	STATE OF COLORADO County of (Mesa) Terry Flanagan Being duly sworn, says that f amLegal Secretaryof The Daily Sentinel, a daily newspaper, published and duly printed in The County of Mesa, State of Colorado: that said newspaper has a general circulation in said County and has been continuously and uninterruptedly published therein, during a period of at least fifty-two consecutive weeks next prior to the first publication of the annexed notice; that said newspaper is a newspaper within the meaning of the act of the general Assembly of the State of Colorado, entitled "An Act to regulate the printing of legal notices and advertisements," and amendments thereto; that the notice of which the annexed is a printed copy taken from said newspaper, was published in said newspaper, and in the regular and entire issue of every number thereof pace a week for 1 successive week; that said notice was to published in said newspaper proper and not in any supplement thereof, and that first publication of said notice as aforesaid, was on the9thday ofSeptember 2016, and the last, on the9th day ofSeptember 2016. Coples of each number of said paper in which said notice and/or list was published were delivered by carriers or transmitted by mail to each of the subscribers of said newspaper, The Daily Sentinel,		
Subscribed and swarn to before me, this			
Subscribed and sworn to before me, this Off day of Squirmon 2010			
	KAREN MCLEISH		
	NOTARY IN 20134102084 MY COMMISCHIES FINE 254UARY 17, 2017		

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State PROOF OF PUBLICATION

STATE OF COLORADO

	County of (Mesa)
COF ADDITION OF MARCE NO. 6718 COF ADDITION OF MARCE NO. 6718 CEC OF THE CITY OF CITION TO BE PUB-AMPHALET FORM EMERGY CAVER! Int day of September, p.m. in the City Hall Au-14. Sh Shave, Cread Juscial Indiana in the City Hall Au-14. Sh Shave, Cread Juscial hald is up, ofter proper modice, the final possage of an ne title of which is: CE APPROVING A THE CAMPAND WARD CEC APPROVING A THE COLDRADO WARD CEC APPROVING A THE COLDRADO WARD SECUTION OF GREEKENY AND A COVEMENTS TO THE CAMPAND EXCENTION OF GREEKENY AND A THE EXCENTION AND SECUTION OF GREEKENY AND A THE EXCENTION AND THE EXCENTION AND THE EXCENTION OF GREEKENY AND A THE EXCENTION AND THE EXCEN	Being duly sworn, says that I am Legal Secretary of The Daily Sentinel, a daily newspaper, published and duly printed in The County of Mesa, State of Colorado; that said newspaper has a general circulation in said County and has been continuously and uninterruptedly published therein, during a period of at least fifty-two consecutive weeks next prior to the first publication of the annexed notice; that said newspaper is a newspaper within the meaning of the act of the general Assembly of the State of Colorado, entitled "An Act to regulate the printing of legal notices and advertisements," and amendments thereto; that the notice of which the annexed is a printed copy taken from said newspaper, was published in said newspaper, and in the regular and entire issue of every number thereof once a week for 1 successive week; that said notice was so published in said newspaper proper and not in any supplement thereof, and that first publication of said notice as aforesaid, was on the 23rd day of September, 2016, and the last, on the 23rd day of September, 2016. Coples of each number of said paper in which said notice and/or
Subscribed and sworn to	list was published were delivered by carriers or transmitted by mail to each of the subscribers of said newspaper, The Daily Sentinel, according to the accustomed prode of pusiness in this office. before me, this 23th day of Splenbox, 20 110 Y D A DA HONGE KAREN McLEISH
	NOTARY PURIC

SIDTE OF CULCARADO NOTARY ID 20134002084 MY COMMISSION EXPRES JANUARY 17, 2017

I HEREBY CERTIFY THAT the foregoing Ordinance,

being Ordinance No. 4718 was introduced by the City Council of the

City of Grand Junction, Colorado at a regular meeting of said body

held on the 7th day of September, 2016 and that the same was

published in The Daily Sentinel, a newspaper published and in general

circulation in said City, in pamphlet form, at least ten days before its

final passage.

I FURTHER CERTIFY THAT a Public Hearing was held on the

21st day of September, 2016, at which Ordinance No. 4718 was read,

considered, adopted and ordered published in pamphlet form by the

Grand Junction City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and

affixed the official seal of said City this 23rd day of September 2016.

City Clerk

Published: September 9, 2016 Published: September 23, 2016

Effective: October 23, 2016