AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Resolution Effectuating Tax Abatements and Refunds for Reserve Metropolitan District 2 Should Mill Levies in Excess of Reserve Metropolitan District 2's Approved Service Plan be Deemed Illegal

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:
A RESOLUTION EFFECTUATING TAX ABATEMENTS AND REFUNDS FOR RESERVE METROPOLITAN DISTRICT 2 SHOULD MILL LEVIES IN EXCESS OF RESERVE METROPOLITAN DISTRICT 2'S APPROVED SERVICE PLAN BE DEEMED ILLEGAL.

Fiscal Impact:

Submitted by: County Attorneys Office **Submitter's Email Address:** bwiseman@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 12/19/2014

County Attorney Review: (●) Required ( ) Not Required

Comments:

ok db 12/19/14

Reviewed by: GUNCOUNTY1\dBaumgarten Discharge Date: 12/19/2014 Certificate of Insurance Required Yes ( ) No (●)

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 12/19/2014

( ) Consent Agenda (●) Regular Agenda ( ) Worksession Time Allotted: 5

Agenda Date: 12/22/2014 Follow Up Agenda Date:

Revised April 2013

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY
RESOLUTION NO. 2014-__

A RESOLUTION EFFECTUATING TAX ABATEMENTS AND REFUNDS FOR RESERVE METROPOLITAN DISTRICT 2 SHOULD MILL LEVIES IN EXCESS OF RESERVE METROPOLITAN DISTRICT 2'S APPROVED SERVICE PLAN BE DEEMED ILLEGAL.

WHEREAS, in 2013, Reserve Metropolitan District 1 and the Town of Mt. Crested Butte filed suit against Gunnison County and other parties, in Gunnison District Court Case No. 2013 CV 18, for certifying mill levies for tax year 2012, due and payable in 2013, for Reserve Metropolitan District 2, which mill levies exceeded the mill levy cap contained in Reserve Metropolitan District 2's approved Service Plan; and

WHEREAS, Gunnison County pursuant to a stipulation with some of the parties in Case No. 2013 CV 18, segregated the funds collected from such excessive mill levy, pending further ruling from the court, as a means of safeguarding Gunnison County taxpayers and property owners against any refunds or abatements should the excessive mill levies ultimately be deemed to be illegal; and

WHEREAS, Gunnison County was ordered by the Gunnison District Court to release the segregated funds for tax year 2012; and

WHEREAS, on or about December 20, 2013 RESERVE METROPOLITAN DISTRICT 2 presented another certification of mill levies to the Gunnison County Board of County Commissioners, which mill levies exceeded the mill levy cap in Reserve Metropolitan District 2's approved Service Plan by 50 mills; and

WHEREAS, the Gunnison County Board of County Commissioners declined to certify the mills in excess of the mill levy cap contained in Reserve Metropolitan District 2's approved Service Plan; and

WHEREAS, Reserve Metropolitan District 2 filed suit against the Board of County Commissioners for Gunnison County, in Gunnison District Court Case No. 2013 CV 30117, seeking an Order of Mandamus directing the certification of the mill levies in excess of Reserve Metropolitan District 2's approved Service Plan; and

WHEREAS, the Gunnison District Court ordered the Board of County Commissioners for Gunnison County to certify the mill levies presented to it by Reserve Metropolitan even though such mill levies exceeded the mill levy cap contained Reserve Metropolitan District 2's approved Service Plan; and

WHEREAS, Gunnison County wishes to avoid redundant litigation, and should the mill levies certified for Reserve Metropolitan District 2 in excess of Reserve Metropolitan District 2's approved Service Plan be ultimately ruled to be illegal, it is of paramount concern to the Board of County Commissioners of Gunnison County that any required tax refunds or abatements of

such illegal levy be borne solely by tax payers and property owners within Reserve Metropolitan District 2; and

WHEREAS, pursuant, but not limited to, the provisions of C.R.S. § 39-1-111.5, § 39-1-113, § 39-10-114 and Section 20, Article X of the Colorado Constitution, any local government may certify a refund in the form of a temporary tax credit or temporary mill levy rate reduction applicable to the subject properties.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, effective immediately from the date this Resolution is passed by such Board that should any of the mill levies certified in excess of the approved Service Plan for Reserve Metropolitan District 2 be deemed to be illegal, such that tax abatements and/or refunds have to be effectuated, such refunds will be effectuated in the form of a temporary tax credit or temporary mill levy rate reduction, in the manner provided by law, solely for the properties located within Reserve Metropolitan District 2.

INTRODUCED by Commissioner _____, seconded by Commissioner _____, and adopted this ____ day of December, 2014.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO

By: _____
Paula Swenson, Chairperson

By: _____
Phil Chamberland, Vice-Chairperson

By: _____
Jonathan Houck, Commissioner

Attest:

_____
Deputy County Clerk