AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Rock Creek Amendment

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Signature of BOCC and County Housing Authority for Rock Creek Amendment

Fiscal Impact:

Submitted by: Cathie Pagano **Submitter's Email Address:** cpagano@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 1/18/19

Reveiwed by: GUNCOUNTY1\mhoyt Discharge Date: 1/18/2019 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 1/18/2019

◉ Consent Agenda ○ Regular Agenda ○ Worksession Time Allotted: 0

Agenda Date: 1/22/2019

Revised April 2015

AMENDMENT TO

DECLARATION OF GRANTS, COVENANTS, CONDITIONS AND RESTRICTIONS

FOR ROCK CREEK VILLAGE &

EXCLUSION OF PROPERTY

THIS AMENDMENT TO DECLARATION OF GRANTS, COVENANTS, CONDITIONS AND RESTRICTIONS FOR ROCK CREEK VILLAGE (this "Amendment") is made as of the ___ day of _____, 2018, by the GUNNISON COUNTY HOUSING AUTHORITY, lawfully organized pursuant to Title 29, Article 4, Part 5, C.R.S., ("GCHA", or the "Declarant"), with the consent of the ROCK CREEK VILLAGE OWNERS' ASSOCIATION, INC., a Colorado nonprofit corporation, (the "Association").

RECITALS

A. GCHA is the "Declarant" under the Declaration of Grants, Covenants, Conditions and Restrictions for Rock Creek Village that was recorded in the real property records of the Clerk and Recorder of Gunnison County, Colorado on October 4, 2001, at Reception No. 514874, and the Declaration of Grants, Covenants, Conditions and Restrictions for Rock Creek Village and Rock Creek Commons that was recorded in the real property records of the Clerk and Recorder of Gunnison County, Colorado on September 23, 2003, at Reception No. 535106, (the "Declarations"). All capitalized terms used in this Amendment but not defined herein have the meanings given in the Declaration.

B. Pursuant to Section 19.3 of the Declarations, GCHA as the Declarant under the Declaration, has the unilateral right, to amend the Declaration for the purpose of withdrawing from the Property any real property owned by Declarant for a period of 20 years from the date of recording of the Declaration.

C. Pursuant to Section 20.2 of the Declarations, the Association can amend the Declaration upon approval of 75% or more of the Owners and 75% or more of the First Mortgagees. Pursuant to C.R.S. 38-33.3-217, this required approval percentage is deemed to be 75%.

D. GCHA and the Association desire to amend the Declarations to withdraw from the Property the real property described as follows:

Remainder Lot 22, Rock Creek Commons Phase 1-A according to the Plat recorded February 9, 2007 at Reception No. 572849

City of Gunnison,
County of Gunnison,
State of Colorado.
(the "Withdrawn Property").

The Board of County Commissioners of the County of Gunnison, Colorado ("Gunnison County"), is the owner of the Withdrawn Property.

AMENDMENT

NOW, THEREFORE, pursuant to the terms of the Declarations, GCHA, Gunnison County, and the Association hereby declare that the Declarations are amended pursuant to the following terms and conditions:

1. Withdrawal of Withdrawn Property. Exhibit A of the Declarations are hereby amended to exclude the Withdrawn Property. The Withdrawn Property shall no longer be encumbered or affected by, or subject to, the Declarations or any of the terms, conditions, liens or assessments established thereby.

2. Association Approval. The Association, by its certificate of consent below, certifies that over 75% of the Owners in the Community have approved and consented to this Amendment and the withdrawal of the Withdrawn Property.

3. Effect. Except as amended hereby, the Declarations remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

DECLARANT:

GUNNISON COUNTY HOUSING AUTHORITY

By:_____
Name:
Title:

STATE OF_____)
)ss.
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____ , 2018 by _____ as _____ of the Gunnison County Housing Authority.

Witness my hand and official seal.

My commission expires:

_____
Notary Public

GUNNISON COUNTY:

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By:_____
_____, Chairperson

ATTEST:

_____
_____, County Clerk

STATE OF _____)
)ss.
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____ as Chairperson and attested by _____ as County Clerk of the Board of County Commissioners of the County of Gunnison, Colorado.

Witness my hand and official seal.

My commission expires:

_____
Notary Public

ASSOCIATION:

The Rock Creek Owners' Association, Inc., a Colorado nonprofit corporation, hereby certifies that the above amendment and exclusion of the Withdrawn Property from the Community was approved by over 75% of the Owners within the Community by a vote of the Association on _____, 2018 as required by the Declarations and the Colorado Common Interest Ownership Act.

ROCK CREEK OWNERS' ASSOCIATION, INC.
a Colorado nonprofit corporation

By:_____
Name:
Title:

STATE OF _____)
)ss.
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____ as _____ of the Rock Creek Owners' Association, a Colorado non-profit corporation.

Witness my hand and official seal.

My commission expires:

_____
Notary Public

FIRST MORTGAGEE CONSENT:

The undersigned, hereby certifies that the above amendment and exclusion of the Withdrawn Property from the Community was Sent a dated, written notice and a copy of this amendment by certified mail to each first mortgagee at its most recent address as shown on the recorded deed of trust or recorded assignment thereof; and the dated notice, together with information on how to obtain a copy of the proposed amendment, was printed in full at least twice, on separate occasions at least one week apart, in a newspaper of general circulation in the county in which the common interest community is located pursuant to C.R.S. § 38-33.3-217. Pursuant to C.R.S. §38-33.3-217, the First Mortgagees have approved the Amendment and exclusion of the Withdrawn Property.

_____

Name:

STATE OF _____)

)ss.

County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____.

Witness my hand and official seal.

My commission expires:

_____

Notary Public