AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Law Enforcement Agreement

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Requesting BOCC signature on the Law Enforcement Agreement between Gunnison County, Mt Crested Butte & Gunnison County Sheriff, if approved.

Fiscal Impact:

Submitted by: Liz Mense for CAO **Submitter's Email Address:** EMense@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ○ Required ◉ Not Required

Comments:

Reveiwed by: Discharge Date: Certificate of Insurance Required

Yes ○ No ○

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\emense Discharge Date: 4/19/2019

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 5

Agenda Date: 4/23/2019

Revised April 2015

LAW ENFORCEMENT AGREEMENT
Among and Between
Gunnison County Board of County Commissioners
Gunnison County Sheriff
Town of Mt. Crested Butte

THIS AGREEMENT, effective the 16th day of April, 2019, by and among the Board of County Commissioners of Gunnison County, Colorado ("County"), the Gunnison County Sheriff, ("Sheriff"), and the Town of Mt. Crested Butte, a Colorado home rule municipal corporation, ("Town") (collectively, "the Parties"), is upon the following terms and conditions:

WHEREAS, the Sheriff is the chief law enforcement officer responsible for providing law enforcement services in the unincorporated areas of Gunnison County;

WHEREAS, the County approves the budget and expenses of the Sheriff;

WHEREAS, the Sheriff, the County, and the Town entered into law enforcement agreements by which the Town provided law enforcement services within certain unincorporated portions of Gunnison County as described in those agreements;

WHEREAS, the most recent agreement expired by its own terms after agreed-upon extensions of that agreement;

WHEREAS, the Sheriff recognizes, appreciates and applauds the hard work and dedication of the Mt. Crested Butte Police Department and Mt. Crested Butte's Chief of Police for their commitment and successful efforts over the years to provide law enforcement services pursuant to the prior agreements;

WHEREAS, the Town recognizes, acknowledges and applauds the work of the Sheriff, his deputies and staff to provide law enforcement services throughout Gunnison County given the County's geographic scope and the finite resources available to the Sheriff to accomplish such efforts;

WHEREAS, in light of the above, the Parties desire to enter a new agreement for the Town to provide law enforcement services within certain unincorporated portions of Gunnison County at a level of service which approximates the basic level currently provided County-wide through the Gunnison County Sheriff;

WHEREAS, pursuant to Colo. Rev. Stat. § 30-10-506 the Sheriff may appoint as many deputies as he or she may think proper and may revoke such appointments at will;

WHEREAS, such contracts are authorized and provided for by the provisions of Colo. Rev. Stat. § 29-1-203 as amended;

NOW, THEREFORE, pursuant to the terms of the aforesaid statute, it is agreed as follows:

1. **Definitions.**

a. "Chief" means the Chief of Police of the Town, or his or her designee.

b. "County" shall include all elected officials, officers, agents, attorneys and employees of Gunnison County, Colorado.

c. "Law Enforcement Services" shall mean the level of law enforcement services provided by the Sheriff for the incorporated areas within Gunnison County, or its substantial equivalent. Such services shall include but are not limited to:

i. General traffic violation enforcement;
ii. Incident response;
iii. Routine patrol in the entire Service Area;
iv. Investigation of traffic accidents;
v. Business checks after hours;
vi. Investigation of criminal offenses;
vii. Creation and maintenance of police records including crime reports and arrest warrants;
viii. Use of the Colorado Bureau of Investigation Lab when necessary;
ix. Handling of evidence related to criminal activity;
x. Coordination with the County in the development and maintenance of contingency emergency plans upon approval of the County;
xi. Crime prevention materials and programs for residential and business applications upon request and within current capability;
xii. Vacation checks of private residences upon request within current capabilities and cost limitations;
xiii. Service of civil papers; and
xiv. Enforcement of County ordinances.

d. "Service Area" shall mean that area within the boundaries of the Crested Butte Fire Protection District, except those areas that fall within the boundary of any incorporated municipality, such as Crested Butte or Mt. Crested Butte. For the avoidance of doubt, all areas within the boundaries of the Town shall remain under the law enforcement authority of the Town and not the Sheriff.

e. "Sheriff" shall mean the elected Sheriff of Gunnison County.

f. "Sheriff's Office" shall mean all officials, officers, agents and employees of the Office of the Gunnison County Sheriff.

g. "Town" shall include the Mt. Crested Butte Police Department and its officers and staff, as well as the Town's elected officials, officers, agents, attorneys, and employees, including the Chief.

h. "Town Officer" means a certified law enforcement or police officer employed by the Town.

i. "Undersheriff" shall mean the Undersheriff of Gunnison County appointed by the Sheriff pursuant to law.

2. Provision of Service by Town to County.

The Town shall provide Law Enforcement Services within the Service Area.

3. Patrol.

Specific patrol routines, times, routes and geographic coverage within the Service Area shall be established by the Town after consultation with the Sheriff.

4. Limitations on Law Enforcement Services.

a. Emergencies. Should an emergency or other exigent circumstances arise that prevents the Town from providing Law Enforcement Services, the Mt. Crested Butte Chief of Police, may, after consultation with the Sheriff or his designee, temporarily reduce the level of service, but such reduction shall last no more than a single patrol officer shift, or ten (10) hours, whichever is shorter, without the express permission of the Sheriff.

b. Simultaneous Calls. In the event that simultaneous calls for service occur for locations both within the Town and within the Service Area, the Town shall endeavor to cover both calls for service, unless personnel limitations, officer safety concerns, or other good faith reasons prevent such simultaneous coverage. If reasons exist preventing simultaneous coverage, the Town may cover the Town first and call for assistance from the Sheriff's Office or other law enforcement agencies, unless the failure to respond to call for the location(s) within the Service Area endangers human life or creates a substantial risk of serious bodily injury, in which case the Town must first respond to the call within the Service Area. The Sheriff may waive this requirement on a case-by-case basis in his sole discretion after consultation with the Chief.

c. Officer in Charge. When a Town Officer is dispatched to a call located in the Service Area, and that officer is the first on the scene, the Town Officer shall be the officer in charge until relieved by either the Sheriff or the Undersheriff in his or her discretion.

5. Appointment of Town Police Officers as Sheriff's Deputies.

a. List and Information. Within three (3) business days after the execution of this Agreement, the Chief shall provide a list of all Town Officers that the Town recommends that the Sheriff deputize in order to perform the terms of this Agreement. The Town shall also provide any other information requested by the Sheriff that the Sheriff, in his sole discretion, deems necessary in order to determine whether such Officers should be deputized. After receiving the list and any information requested by the Sheriff, the Sheriff, in his sole discretion, shall deputize those Officers he or she deems necessary to accomplish the purposes of this Agreement, except that if the Town determines, in good faith, that it cannot fulfill such purposes because the Sheriff has deputized only some, or none, of the Officers on the list, the Town may terminate this Agreement pursuant to the provisions contained herein.

The Town shall update the aforementioned list when any Town Officer whose name appears on the list separates from employment with the Town within three (3) business days of such separation.

b. Town Officers Not County Employees. All Town Officers deputized by the Sheriff shall, to the fullest extent practicable, familiarize themselves with and follow the policies and procedures of the Sheriff and the Sheriff's Office, except that such Officers are **not** employees of the County, and the County shall have no responsibility for such Officers, including but not limited to any costs or obligations associated with such Officers' employment with the Town, such as salaries, wages, benefits, insurance, worker's compensation coverage or the like. For the avoidance of doubt, no Town employee is entitled to any benefit or compensation from the County pursuant to this Agreement, including but not limited to unemployment insurance benefits or worker's compensation coverage from the County.

c. Revocation of Appointment. The Sheriff retains the sole discretion and authority to revoke the appointment of any Town Officer deputized pursuant to this agreement, except any Town Officer whose appointment is revoked is afforded the rights of notice and an opportunity to be heard regarding such revocation pursuant to Colo. Rev. Stat. § 30-10-506. Should the Town determine, in its good faith discretion, that the Sheriff's decision to revoke an appointment frustrates the Town's ability to perform its obligations under this agreement, the Town may terminate this Agreement pursuant to the provisions contained herein.

d. Employment Separation of Deputized Officer. The Town shall immediately notify the Sheriff when any deputized Town Officer has separated from employment with the Town. Upon such separation, the Sheriff may revoke the appointment of such Town Officer pursuant to law.

6. Expenses.

a. The Town shall furnish and be solely responsible for the expenses associated with all labor, supervision, supplies and equipment to perform its obligations under this Agreement, including but not limited to all costs and expenses associated with or related to vehicles, radios, body armor, weapons, restraint devices, uniforms and all other police equipment associated with or related to the Town's fulfillment of its obligations under this agreement.

b. The Town shall be solely responsible for wages, compensation, fringe benefits of Town Officers, including but not limited to all applicable insurance, taxes and tax withholding.

7. **Indemnification and Immunity**.

a. To the extent authorized by law and without waiving the provisions of the Colorado Governmental Immunity Act, Sections 24-10-101, *et seq.*, C.R.S. ("CGIA"), the Town shall defend, indemnify and save harmless the County, the Sheriff's Office and the Sheriff from any and all costs, including, but not limited to, attorneys' fees, investigation fees or other costs of defense, claims, judgments, or awards of damages, whether in settlement of any claim or by order of any court, alleged to be and resulting from the acts or omissions of the Town, its officers, employees, or agents associated with this Agreement. The Town shall promptly forward all such claims they may receive to the County Attorney.

b. To the extent authorized by law and without waiving the provisions of the CGIA, the Town agrees to indemnify, defend and hold harmless the County, the Sheriff's Office and the Sheriff harmless from any and all liability, claims, liens, demands, actions and causes of action whatsoever (including reasonable attorney's and expert's fees and costs) arising out of or related to claims by any Town employee for compensation, fringe benefits of any kind whatever (including, without limitation, pension rights of payments, insurance of any kind, reimbursement of medical expenses, vacation pay, sick leave, or sick pay).

c. To the extent authorized by law, and without waiving the provisions of the CGIA, the County, the Sheriff and the Sheriff's Office shall defend, indemnify and save harmless the Town, its officers, employees and agents from any and all costs, including, but not limited to, attorneys' fees, investigation fees or other costs of defense, claims, judgments or awards of damages, whether in settlement of any claim or by order of any court, alleged to be and resulting from the acts or omissions of either the County, the Sheriff, the Sheriff's Office, or their respective officers, employees or agents associated with this Agreement. For the purposes of this Paragraph 7(c), the terms "agents" and "officers" shall not include Town Officers deputized by the Sheriff. The County and the Sheriff shall promptly forward all such claims they may receive to the Town attorney.

d. For the avoidance of doubt, neither the Town nor County hereby waives any right, privilege or immunity it may enjoy pursuant to the CGIA or otherwise. In addition,

nothing in this Agreement is intended to limit any defense of either the Town or the County with regard to any claim or cause of action.

e. This paragraph shall survive any termination or expiration of this Agreement with respect to any liability, injury or damage occurring prior to such termination.

8. Term; Termination.

a. The term of this Agreement shall commence on April 16, 2019 and terminate on December 31, 2019, unless sooner terminated as provided herein.

b. Either party shall have the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days prior written notice to the other. Upon termination, the Town shall be entitled to compensation for services performed prior to the date of termination.

c. The County and Town hereby agree that this Agreement will terminate if either party does not make annual appropriations required to effectuate the Agreement. If sufficient annual appropriations are made by the Parties, the Agreement will remain in force until the end of the term. Nothing in this Agreement is intended to create a multiple-fiscal year financial obligation contrary to the requirements of Article X, Section 20 of the Colorado Constitution, the Taxpayer's Bill of Rights.

9. Payment for Services.

The County hereby agrees to pay to the Town, as consideration for services to be rendered by the Town, the sum of One Hundred Thirty-Nine Thousand Dollars ($_139,000)_ payable in four (4) equal quarterly installments. Such payments shall constitute the County's sole financial obligation to the Town pursuant to this Agreement.

10. Quarterly Report.

The Town shall provide a quarterly written report to the Sheriff and to the County (i.e., to the County Manager) detailing law enforcement and public service activities provided under the Agreement. This report should, as a minimum, detail number and type of criminal complaints, property loss, hours of patrol service, response time, hours of investigative service, number and type of traffic accidents, crime analysis data, and recommendations as to beneficial alteration of services. To the extent that such report contains information that could harm an ongoing criminal investigation if disclosed to the public, the Town may redact such information in the version of the report provided to the County, so long as such redactions are consistent with applicable law, including Colo. Rev. Stat. § 24-72-204(2)(a)(I). If the Sheriff indicates in writing within fifteen (15) days of the issuance of such reports that he or she disagrees with such redactions, the Town shall provide the full, un-redacted report to the County. The parties to this agreement shall meet and confer in good faith regarding the remaining contents of such reports. For the avoidance of doubt, such reports are public records to the extent provided under the Colorado Open Records

Act, Colo. Rev. Stat. § 24-72-200.1 *et seq.*, and shall be made available to the public for inspection except to the extent the Colorado Open Records Act provides otherwise.

11. Governing Law.

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Colorado. Exclusive jurisdiction and venue for any legal proceedings related to this Agreement shall be in the State of Colorado District Court, Gunnison County, Colorado.

12. Severability.

If any clause or provision of this Agreement shall be held to be invalid in whole or in part, then the remaining clauses and provisions, or portions thereof, shall nevertheless be and remain in full force and effect.

13. Amendment.

No amendment, alteration, modification of or addition to this Agreement shall be valid or binding unless expressed in writing and signed by the Parties to be bound thereby.

14. Entire Agreement.

This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof, and supersedes any and all prior agreements, proposals, negotiations and representations pertaining to the obligations to be performed hereunder.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

_____
Jonathan Houck, Chairperson

_____
John Messner, Commissioner

_____
Roland Mason, Commissioner

ATTEST:

GUNNISON COUNTY SHERIFF

_____
John Gallowich

Date Signed:_____

TOWN OF MT. CRESTED BUTTE

_____
Designated Representative

Date Signed:_____

_____
Deputy Clerk and Recorder

Dated Executed by BOCC:_____