AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Change of BOCC Representative; GVRHA

Action Requested: Motion

Parties to the Agreement:

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

Summary:

Motion to appoint Commissioner Roland Mason as the Gunnison Valley Regional Housing Authority board representative.

Fiscal Impact:

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

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 9/11/19

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 9/12/2019 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 9/12/2019

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

Agenda Date: 9/17/2019

Revised April 2015

INTERGOVERNMENTAL AGREEMENT
ESTABLISHING THE
GUNNISON VALLEY REGIONAL HOUSING AUTHORITY

THIS INTERGOVERNMENTAL AGREEMENT is entered into as of the Effective Date defined below by and among the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO, whose address is 200 E. Virginia, Gunnison, CO 81230 ("Gunnison County"); the CITY OF GUNNISON, whose address is P.O. Box 239, Gunnison, CO 81230 ("Gunnison"); the TOWN OF CRESTED BUTTE, whose address is P.O. Box 39, Crested Butte, CO 81224; and the TOWN OF MT. CRESTED BUTTE, whose address is P.O. Box 5800, Mt. Crested Butte, CO 81225 ("Mt. Crested Butte"); (collectively, the "Parties").

RECITALS

A. The provisions of Section 18 of Article XIV of the Colorado Constitution and C.R.S. § 29-1-203, allow Colorado local governments to cooperate or contract with one another to provide any function, service or facility lawfully authorized to each local government.

B. The provisions of C.R.S. § 29-1-204.5 allow Colorado local governments to contract with each other to establish a separate governmental entity to be known as a multijurisdictional housing authority.

C. A multijurisdictional housing authority established pursuant to C.R.S. § 29-1-204.5 may be used by the contracting local governments to effect the planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, and operation of housing projects or programs pursuant to a multijurisdictional plan to provide: (a) dwelling accommodations at rental prices or purchase prices within the means of families of low or moderate income; and (b) affordable housing projects or programs for employees of employers located within the jurisdiction of the authority.

D. Gunnison County, Gunnison, Crested Butte and Mt. Crested Butte recognize the benefits and advantages obtained by working together to establish and create a multijurisdictional housing authority to provide affordable housing projects or programs for local low or moderate income families and for employees of local employers, and therefore desire to participate with one another in the establishment of a multijurisdictional housing authority serving the interests of residents of Gunnison County, Gunnison, Crested Butte and Mt. Crested Butte.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and obligations herein set forth, the parties hereby mutually agree as follows:

ARTICLE I
ESTABLISHMENT OF AUTHORITY

Section 1.1 Establishment and Name of Authority. The parties hereby establish a multijurisdictional housing authority to be known as the "Gunnison Valley Regional Housing Authority" (the "Authority").

Section 1.2 Purpose. The purpose of the Authority shall be to effect the planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, and operation of housing projects or programs in Gunnison County, including the incorporated jurisdictions, to provide: (a) dwelling accommodations at rental prices or purchase prices within the means of families of low or moderate income; (b) affordable housing projects or programs for employees of employers located within the jurisdiction of the Authority; (c) senior housing facilities: (d) administer housing voucher program funded through the U.S. Department of Housing and Urban Development or other similar programs; and (e) mixed income or mixed use properties that facilitate either of the purposes set forth in Section 1.2(a) or (b).

Section 1.3 Functions or Services. The functions and services of the Authority include but are not necessarily limited to the following:

a. Advise local governments of the practical applications of local housing policy and infrastructure needs;

b. Review development proposals and participate as appropriate;

c. Facilitate partnerships to create housing;

d. Allocate funds for eligible housing projects;

e. Facilitate the establishment of a housing land trust;

f. Identify and facilitate the acquisition of vacant land that may be developed for affordable housing;

g. Identify financing opportunities;

h. Propose ballot initiatives;

i. Acquire existing housing or other real estate to assure retention of or conversion to affordable housing stock;

j. Acquire land and obtain development approvals. Issue requests for proposals for private sectors and non-profit entities to build;

k. Develop new for-sale or rental affordable housing;

l. Rehabilitate existing housing;

m. Manage affordable housing properties;

n. Administer housing voucher program;

o. Construct Infrastructure to serve affordable housing.

Section 1.4 Boundaries. The boundaries of the Authority shall be coterminous with the boundaries of the separate governmental entities that comprise the Authority, unless said boundaries are modified by the Authority.

Section 1.5 Separate Entity. The Authority shall be a political subdivision of the state, a governmental authority separate and apart from the parties, and shall be a validly created and existing political subdivision and public corporation of the state, irrespective of whether a party to this Agreement terminates its participation (whether voluntarily, by operation of law, or otherwise) in the Authority subsequent to its creation under circumstances not resulting in the rescission or termination of this Agreement establishing the Authority. It shall have the duties and the privileges, immunities, rights, liabilities and disabilities of a public body politic and corporate. The Authority may deposit and invest its moneys in the manner provided in this Agreement and in the manner provided in C.R.S. § 43-4-616. The bonds, notes and other obligations of the Authority shall not be the debts, liabilities or obligations of the parties. Further, the parties to this Agreement do not waive or limit their right or ability to pursue their own individual affordable housing projects separate and apart from the Authority.

Section 1.6 Term. The term of the Authority shall be continuous until terminated or rescinded in the manner set forth in Section 6.1.

ARTICLE II
POWERS

Section 2.1 Powers of Authority. The Authority shall have the following general powers:

a. To plan, finance, acquire, construct, reconstruct or repair, maintain, manage, and operate housing projects and programs pursuant to a multijurisdictional or individual jurisdiction plan within the means of families of low or moderate income;

b. To plan, finance, acquire, construct, reconstruct or repair, maintain, manage, and operate affordable housing projects or programs for employees of employers located within the boundaries of the Authority;

c. To make and enter into contracts with any person, including, without limitation, contracts with state or federal agencies, private enterprises, and nonprofit organizations also involved in providing such housing projects or programs or the financing for such housing projects or programs, irrespective of whether such agencies are parties to this Agreement;

d. To employ agents and employees and to set the salaries of same;

e. To cooperate with state and federal governments in all respects concerning the financing of such housing projects and programs;

f. To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property, commodity, or service;

g. Only with the express prior written permission of the local government within which the subject property is located, to condemn property for public use, if such property is not owned by any governmental entity or any public utility and devoted to public use pursuant to state authority; provided, that the Authority has obtained the prior written consent of the party or parties having jurisdiction over the property to be condemned;

h. To levy, in all of the area within the boundaries of the Authority, a sales or use tax, or both, upon every transaction or other incident with respect to which a sales or use tax is levied by the state, as more fully described in Section 4.3 of this Agreement.

i. To levy, in all of the area within the boundaries of the Authority, an ad valorem tax, as more fully described in Section 4.4 of this Agreement.

j. To incur debts, liabilities, or obligations;

k. To sue and be sued in its own name;

l. To have and use a corporate seal;

m. To fix, maintain, and revise fees, rents, security deposits, and charges for functions, services, or facilities provided by the Authority;

n. To adopt, by resolution, bylaws or regulations respecting the exercise of its powers and the carrying out of its purposes;

o. To exercise any other powers that are essential to the provision of functions, services, or facilities by the Authority and that are specified in this Agreement;

p. To do and perform any acts and things authorized by C.R.S. § 29-1-204.5, as it may be amended from time to time, and by any other applicable law, under, through, or by means of an agent or by contracts with any person, firm, or corporation; and

q. To establish enterprises for the ownership, planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, or operation, or any combination of the foregoing, of housing projects or programs authorized by C.R.S. § 29-1-204.5, as it may be amended from time to time, and by any other applicable law, on the same terms as and subject to the same conditions provided in C.R.S. § 43-4-605, as it may be amended from time to time.

r. To propose a referred measure to the electorate providing that the Authority is authorized to collect and spend or reserve all revenues of the Authority from existing property and sales or use taxes, non-federal grants and other revenue sources in any given year or in perpetuity to fulfill any of the prescribed purposes of the Authority, notwithstanding any limitation set forth in Article X, Section 20 of the Colorado Constitution.

ARTICLE III
ADMINISTRATIVE PROVISIONS

Section 3.1 Board of Directors. The Authority shall be governed by a Board of Directors, in which all legislative power of the Authority shall be vested.

a. *Number and Qualification of Directors.* Each of the parties shall appoint two members to the Board, at least one of whom shall be an elected official of the appointing party. The Board of Directors shall select an additional member at large. All members must be residents of Gunnison County, Colorado and shall have reached the age of 18 years on the effective date of their appointment.

b. *Term of Office.* Each board member who is an elected official shall serve a four year term expiring on January 31 following each year of a Presidential General Election or to the expiration of his or her term in office, whichever occurs first. Each appointed board member shall serve a two year term commencing on January 31 following each election held on the first Tuesday in November in each odd numbered year.

c. *Vacancies.* Vacancies other than by reason of expiration of terms shall be filled by the original appointing entity for the unexpired term.

d. *Resignation or Removal.* Any Board member may resign at any time, effective upon receipt by the Secretary or the President of written notice signed by the person who is

resigning. Members of the Board serve at the pleasure of their appointing entity. The appointing entities may terminate the appointment of their appointees at will at any time without cause. Furthermore, unless excused by the Board, if a director fails to attend three regular meetings of the Board in any twelve-month period, or otherwise fails to perform any of the duties devolving upon him or her as a director, he or she may be removed by the Board and the appointing entity shall fill such vacancy within sixty (60) days after such removal. Consideration of removal of a director by the Board shall be at a regular or special meeting of the Board, reasonable notice of which shall be given to the director to be removed and the entity which appointed him or her.

e. *Compensation of Directors.* Directors shall receive no compensation for their services, but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties.

f. *Action by Board.* Each member of the Board shall have one vote on matters brought before the Board. A majority of the directors shall constitute a quorum and a majority of the quorum shall be necessary for any action taken by the Board. Notwithstanding the foregoing, or any other provision herein to the contrary, the following actions shall require the approval of seventy-five percent (75%) of the full board of directors: (i) condemnation of property for public use; (ii) proposal of ballot initiatives; (iii) the removal of a director under Section 3.1(d) herein; and (iv) termination of the Authority. Meetings of the Board of Directors shall be open to the public and conducted in accordance with the C.R.S. 24-72-201 *et seq.*

g. *Duties of Board.* The directors shall govern the business and affairs of the Authority. The directors shall also comply with all provisions of parts 1, 5, and 6 of article 1 of title 29 of the Colorado Revised Statutes, which provisions relate to the obligations of local governments with respect to budgets, accounting, and audits, as such provisions may be amended from time to time.

Section 3.2 Officers. The officers of the Authority shall be a President, a Vice-President, a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President and Secretary..

a. *Election and Term of Office.* The officers of the Authority shall be elected annually by the Board. Each officer shall hold office until his/her successor shall have been duly elected and shall have been qualified or until his or her death or until he or she shall resign or shall have been removed in the manner hereinafter provided.

b. *Resignation or Removal.* Any officer may resign from office at any time, effective upon receipt by the Secretary or the President of written notice signed by the person who is resigning. Any officer may be removed from office by the Board whenever in the Board's judgment the best interests of the Authority will be served thereby.

c. *Vacancies.* A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board for the unexpired portion of the term.

d. *Duties.*

(i) President: The President, when present, shall preside at all meetings of the Board of Directors. He or she may sign, with the Secretary or any other proper officer of the Authority deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Authority, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

(ii) Vice President. In the absence of the President or in the event of his or her death, inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall perform such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

(iii) Secretary. The Secretary shall: (a) keep the minutes of the proceedings of the Board of Directors; (b) see that all notices are duly given in accordance with the provisions of the C.R.S. 24-72-201 *et seq* and this Agreement or as otherwise provided by law; (c) sign with the President; (d) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

(iv) Treasurer. The Treasurer shall be the financial officer for the Authority and shall: (a) coordinate with the department of revenue regarding the collection of sales and use tax authorized pursuant to paragraph (f.1) of subsection (3) of C.R.S. § 29-1-204.5; (b) have charge and custody of and be responsible for all funds of the Authority; (c) receive and give receipts for moneys due and payable to the Authority from any source whatsoever, and deposit all such moneys in the name of the Authority in such banks, trust companies or other depositaries as designated by the Board of Directors; and (d) in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors. All checks written from an Authority bank account over $10,000 shall require the signature of the Treasurer and a single member of the Board of Directors or the signature of two members of the Board of Directors.

Section 3.3 Executive Director. The Executive Director shall be the chief executive officer of the Authority, shall supervise the activities of the Authority, shall see that all policies, directions and orders of the Board are carried out and shall, under the supervision of the Board, have such other authority, powers and duties as may be prescribed by the Board. The Executive Director shall be appointed by a majority vote of the Board, shall report to the Board of Directors, and shall have his or her salary and compensation set by the Board. The Executive Director shall have the authority to hire additional staff members pursuant to the budget adopted by the Board and shall also have firing authority over those staff members.

Section 3.4 Committees. The Board of Directors may create such committees as it deems necessary or appropriate in order to carry out the affairs of the Authority.

Section 3.5 Conflicts of Interest. No member of the Board nor any immediate member of the family of any such member shall acquire or have any interest, direct or indirect, in (a) any property or project acquired, held, leased or sold by the Authority; or (b) any entity with whom the Authority has contracted with to plan, finance, construct, reconstruct, repair, maintain, manage or operate any property, project or program related to the Authority. If any Board member has such an interest, whether direct or indirect, he or she shall immediately disclose the same in writing to the Board of Directors, and such disclosure shall be entered upon the minutes of the Board. Upon such disclosure, such Board member shall not participate in any action by the Board affecting the project, property, or contract unless the Board determines that, in light of such personal interest, the participation of such member in any such act would not be contrary to the public interest.

Section 3.6 Insurance. The Authority shall purchase and maintain at all times an adequate policy of public entity liability insurance, which insurance shall at the minimum provide the amount of coverage described in C.R.S. § 24-10-115(1), including errors and omissions coverage. The Authority may purchase such additional insurance as the Board deems prudent. The Authority's employees acting within the scope of their employment shall be indemnified pursuant to C.R.S. § 24-10-110.

ARTICLE IV
SOURCES OF REVENUE

Section 4.1 Sources of Revenue. The expected sources of revenue for the Authority may include, but are not limited to the following:

a. federal, state, local and private grants or donations;
b. property management fees;
c. rents or other lease income;
d. interest on interest-bearing accounts;
e. proprietary revenue of the parties in accordance with this Agreement;

f. sales and/or use taxes levied in accordance with this Agreement and other applicable law;

g. ad valorem taxes levied in accordance with this Agreement and other applicable law;

h. revenue or general obligation bonds issued in accordance with applicable law.

Section 4.2 Prerequisites for All Tax Levies. The Authority shall not establish or increase any tax unless first submitted to a vote of the registered electors of the Authority in which the tax is proposed to be collected. Moreover, prior to levying any tax within the boundaries of the Authority, the Board of Directors shall:

a. Adopt a resolution determining that the levying of such taxes or fees will fairly distribute the costs of the Authority's activities among the persons and businesses benefited thereby and will not impose an undue burden on any particular group of persons or businesses; and

b. Obtain the prior written consent of the governing party or parties having jurisdiction over the property on which the taxes or fees are proposed to be levied or imposed.

Section 4.3 Sales and Use Taxes. Any sales or use tax imposed or levied by the Authority on any transactions within the boundaries of the Authority shall not exceed the rate of one percent. Prior to levying any sales or use tax, the Authority shall designate a financial officer who shall coordinate with the Colorado Department of Revenue regarding the collection, administration, and enforcement of any sales and use tax to be levied in the manner established by C.R.S. § 29-1-204.5, as it may be amended from time to time, and by other applicable law. The Authority shall apply the proceeds of all sales or use taxes solely towards the purposes, functions, or services authorized by this Agreement.

Section 4.4 Ad Valorem Taxes. The Authority may levy an ad valorem tax on all properties within the Authority's boundaries at a rate not to exceed five mills on each dollar of valuation for assessment of the taxable property within such boundaries. To levy an ad valorem tax, the Board shall certify to the Gunnison County Board of County Commissioners the levy of ad valorem property taxes in accordance with the schedule prescribed by C.R.S. § 39-5-128, as it may be amended from time to time. Thereafter, Gunnison County shall levy and collect the ad valorem taxes in the manner prescribed by law. All taxes levied under this Section 4.4, together with interest thereon and penalties for default in payment thereof, and all costs of collecting them shall constitute, until paid, a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of other general taxes.

Section 4.5 Other Sources of Revenue. The parties shall provide, at a minimum, funding for the Authority for the first three (3) full calendar years, beginning on January, 2013, in the total aggregate amount of One Hundred Eighty Thousand 00/100 Dollars ($180,000) for

each year. The parties acknowledge that such funding may not be adequate to completely fund the Authority for such years. Funding from each party shall be subject to annual availability and appropriation by the governing body of each jurisdiction.

a. *Proportional Shares of Funding*. The Parties agree that the responsibility for funding the obligations set forth in section 4.5 herein should be shared by the Parties in the following amounts:

Gunnison County	Ninety Thousand 00/100 Dollars ($90,000)
City of Gunnison	Thirty Thousand 00/100 Dollars ($30,000)
Town of Crested Butte	Thirty Thousand 00/100 Dollars ($30,000)
Town of Mt. Crested Butte	Thirty Thousand 00/100 Dollars ($30,000)

b. *Payment Dates*. The parties shall pay their respective sums due to the Authority no later than January 30th of each year. In addition to the foregoing, the parties may, from time to time, pay the Authority with proprietary revenues or other public funds for services rendered or facilities provided by the Authority, as contributions to defray the cost of any purpose set forth in this Agreement, and/or as advances for any purpose subject to repayment by the Authority.

ARTICLE V
AUTHORITY PROPERTY

In the event of termination or dissolution of the Authority, all right, title and interest of the Authority in General Assets (as hereinafter defined) shall be conveyed to the jurisdictions that are parties to this Agreement at the time of termination, as tenants-in-common subject to any outstanding liens, mortgages, or other pledges of such General Assets. The interest in the General Assets of the Authority conveyed to each party shall be that proportion which the total dollar amount paid or contributed by such jurisdiction to the Authority for all purposes during the life of the Authority bears to the total dollar amount of all such payments and contributions made to the Authority by all such jurisdictions during the life of the Authority. The term "General Assets" as used herein shall include all legal and equitable interests in real or personal property, tangible or intangible, of the Authority.

ARTICLE VI
TERMINATION OR ADDITIONAL MEMBERS

Section 6.1 Termination of Authority. This Agreement may be terminated by the approval of seventy-five percent (75%) of the full Board of Directors or when less than two parties are willing to remain as parties to this Agreement. Upon termination, each party hereto shall be released from all further liability and obligations hereunder. Notwithstanding the foregoing, the right of the Board or the parties to terminate this Agreement shall be abrogated if the Authority has bonds, notes or other obligations outstanding at the time of the proposed termination unless provision for full payment of the same has been made by escrow or otherwise.

Section 6.2 Termination of Participation. Any party may terminate its participation in this Agreement as of the end of any calendar year by giving at least 90 days' written notice to the other parties provided that such withdrawing party shall pay all of its obligations hereunder or any effective funding agreement to the effective date of the termination of its participation.

Section 6.3 Amendment to Provide for Additional Members. This Agreement may be amended to add one or more additional parties upon: (a) resolution of the Board of Directors providing for such amendment; and (b) approval of such amendment by the governing body of the prospective additional party and each then-existing party.

ARTICLE VII
GENERAL PROVISIONS

7.1 Effective Date. The Effective Date of this Agreement shall be the date of the last party to sign.

7.2 Entire Agreement. This Agreement embodies the entire agreement about its subject matter among the parties and supersedes all prior agreements and understandings, if any, and may be amended or supplemented only by an instrument in writing executed by all parties to this Agreement.

7.3 No Third Party Beneficiaries. The parties to this Agreement do not intend to benefit any person not a party to this Agreement. No person or entity, other than the parties to this Agreement, shall have any right, legal or equitable, to enforce any provision of this Agreement.

7.4 Signatory Authority. Each person signing this Agreement in a representative capacity, expressly represents the signatory has the subject party's authority to so sign and that the subject party will be bound by the signatory's execution of this Agreement. Each party expressly represents that except as to the approval specifically required by this Agreement, such party does not require any third party's consent to enter into this Agreement.

7.5 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one original Agreement.

7.6 Severability. If any term or provision of this Agreement shall be adjudicated to be invalid, illegal or unenforceable, this Agreement shall be deemed amended to delete therefrom the term or provision thus adjudicated to be invalid, illegal or unenforceable and the validity of the other terms and provisions of this Agreement shall not be affected thereby.

7.7 Notices. Except as otherwise provided in this Agreement, all notices or other communications by the Authority or any party hereto, any Board member or officer shall be in writing; shall be sufficiently given and shall be deemed given when actually received.

7.8 Interpretation. Subject only to the express limitations set forth herein, this Agreement shall be liberally construed (a) to permit the Authority and the parties to exercise all powers that may be exercised by a multijurisdictional housing authority pursuant to Colorado law; (b) permit the parties hereto to exercise all powers that may be exercised by them with respect to the subject matter of this Agreement and applicable law; and (c) to permit the Board of Directors to exercise all powers that may be exercised by the board of directors of a multijurisdictional housing authority pursuant to Colorado law and by the governing body of a separate legal entity created by contract among the parties pursuant to C.R.S. § 29-1-203.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year set forth below.

(SEAL)

Deputy ~~Clerk to the Board~~ County Clerk

AGREED:

BOARD OF COUNTY COMMISSIONERS
GUNNISON COUNTY, COLORADO

Hap Channell, Chairperson
Date: 6/19/2012

Approved as to form:

David Baumgartner
County Attorney

(SEAL)

City Clerk

CITY OF GUNNISON, COLORADO

Jonathan D. Houck, Mayor
Date: 07/10/12

Approved as to form:

City Attorney

(SEAL)

TOWN OF CRESTED BUTTE, COLORADO

Karen J. Huckstep, Mayor

Date: 6/18/12

Approved as to form:

Town Attorney

TOWN OF MT. CRESTED BUTTE, COLORADO

William Buck, Mayor

Date: 7/3/12

Approved as to form:

Town Attorney