# AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

**Agenda Item:** Ratification of County Manager Signature; Memorand

**Action Requested:** Motion

**Parties to the Agreement:**

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

**Summary:**

Please see the attached.

**Fiscal Impact:** N/A

**Submitted by:** Katherine Haase **Submitter's Email Address:** khaase@gunnisoncounty.org

**Finance Review:** ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

**County Attorney Review:** ◉ Required ○ Not Required

Comments:
Legally sufficient. MRH

Reveiwed by: GUNCOUNTY1\mhoyt Discharge Date: 1/4/2021 Certificate of Insurance Required

Yes ○ No ◉

**County Manager Review:**

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 1/8/2021

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

Agenda Date: 1/12/2021

*Revised April 2015*

# MEMORANDUM OF UNDERSTANDING REGARDING REVIEW OF COUNTY PROJECTS WITHIN CITY LIMITS

This Memorandum of Understanding ("MOU") made effective the 23rd day of December, 2020, is by and between the Board of County Commissioners of the County of Gunnison, Colorado, whose address is 200 East Virginia, Gunnison, CO 81230 ("Gunnison County") and the City of Gunnison, whose address is 201 West Virginia, Gunnison, CO 81230 ("City").

## RECITALS

WHEREAS, THE City of Gunnison ("City), is a Colorado home-rule municipality, organized under the provisions of Section XX of the State Constitution; and,

WHEREAS, Gunnison County, Colorado ("Gunnison County" or "County") is a statutory county and a political subdivision of the State of Colorado.; and,

WHEREAS, Gunnison County owns land within the municipal limits of the City; and,

WHEREAS, Gunnison County has and shall continue to engage in construction, land use and other such projects on land it owns within the municipal limits; and,

WHEREAS, the City and County wish to cooperate to ensure that County projects can proceed without unnecessary expense or delay and at the same time provide a framework for City review to ensure the coordination of access, utilities, and other concerns for the benefit of the residents of the City.

## AGREEMENT

NOW THEREFORE, in consideration of the Recitals and the mutual covenants and obligations hereinafter set forth, the parties agree as follows:

1. TERM.

The term of this MOU shall commence on the date first set forth above and shall be perpetual, unless sooner terminated or replaced as provided herein.

2. LOCATION AND EXTENT REVIEW PROCESS

a. Location, Extent Review - the City and the County will follow for all proposed projects on county-owned land in the City, included but not limited to deadlines for submission by the County and deadlines for the City to complete its review, is attached hereto as **Exhibit A**, and fully incorporated herein by this reference.

b. County Authority to Override Disapproval. The parties agree the County has the authority pursuant to CRS 31-23-209 and other applicable Colorado law to override, by a 2/3 majority vote of the Board of County Commissioners, any disapproval by the

City of a County project application under this MOU.

c. Prospective Application. The parties agree that this MOU and the review process as set forth in **Exhibit A** shall be applied prospectively only, commencing upon the effective date hereof.

3. NOTICES.

Any notice, demand or communication which either party may desire or be required to give to the other party shall be in writing and shall be deemed sufficiently given or rendered if delivered personally or sent by certified first class US mail, postage prepaid, addressed as follows:

Gunnison County: County Manager
Gunnison County 200 E. Virginia
Gunnison, Colorado 81230

City of Gunnison: City Manager
City of Gunnison 201 W. Virginia
Gunnison, Colorado 81230

Either party has the right to designate in writing, served as provided above, a different address to which any notice, demand or communication is to be mailed.

4. TERMINATION.

Either party shall have the right to terminate this MOU at any time, with or without cause, upon thirty (30) days prior written notice to the other.

5. DISPUTE RESOLUTION.

Prior to the initiation of litigation arising under this MOU, the City Manager and the County Manager shall promptly meet and confer to negotiate in good faith to determine whether a compromise can be reached regarding any particular project or issue. The parties shall also commit to at least one mediation session if such informal conferencing is not successful, and are obligated to schedule the same such that neither party's ability to timely file litigation is compromised.

6. MISCELLANEOUS.

a. SEVERABILITY. If any clause or provision of this MOU 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.

b. AMENDMENT. No amendment, alteration, modification of or addition to this MOU shall be valid or binding unless expressed in writing and signed by the

parties to be bound thereby.

c. NO WAIVER OF GOVERNMENTAL IMMUNITY. Nothing in this MOU is, or shall be construed to be, a waiver, in whole or part, by City or Gunnison County of governmental immunity provided by the Colorado Governmental Immunity Act or otherwise.

d. RELATIONSHIP OF THE PARTIES. The City and the County are separate governmental entities and nothing in this agreement should be construed as creating any legal relationship between the City and the County, including but not limited to any joint venture, agency, or partnership.

e. NO WAIVER OF LEGAL POSITION. Nothing in this MOU shall be construed to be an admission or waiver of any argument, contention or position of either party to this MOU regarding their respective rights, duties and authorities.

7. GOVERNING LAW.

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

8. COUNTERPARTS: FACSIMILE TRANSMISSION.

This MOU may be executed by facsimile and/or in any number of counterparts, any or all of which may contain the signatures of less than all the parties, and all of which shall be construed together as but a single instrument and shall be binding on the parties as though originally executed on one originally executed document. All facsimile counterparts shall be promptly followed with delivery of original executed counterparts.

15. ENTIRE AGREEMENT.

This MOU contains the entire agreement between the parties hereto with respect to the matters herein addressed, and supersedes any and all prior agreements, proposals, negotiations and representations pertaining to the obligations to be performed hereunder

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

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By:_____
Matthew Birnie, County Manager

CITY OF GUNNISON

By: _____
Russ Forrest, City Manager

EXHIBIT A
Location and Extent r4eview Process
[attached]

Exhibit A – to MOU Regarding Review of County Projects

**Process and Scope of City of Gunnison Location and Extent Review of Gunnison County Projects under the City of Gunnison Land Development Code**

STEP 1 – PRELIMINARY CONCEPT REVIEW:

- Development Plan Review Pre-Application Conference:
  - This conference is an informal review of the proposed project intended to introduce the project, identify possible significant issues and existing conditions ahead of the plan submittal.
  - Planning, Public Works, and Building department staff will participate and review the site plan or preliminary plans of the project to identify impacts and/or conflicts with City utilities (water, sewer, electric, stormwater), City rights-of-way, and existing adjacent developments. Additional comments from City staff not expressed at the conference must be delivered to the County within 5 working days of the initial conference.

STEP 2 – PERMIT APPLICATION:
Upon completion of Preliminary Concept Review the applicant shall submit the following for City review:

- Location and Extent Review Submittal will include:
  - ✓ Uniform Construction Code Application
  - ✓ Authorization of Agent Form –(if applicant is not property owner)
  - ✓ Site plan including structure footprint(s), parking and access, snow storage, roads, utility connections, stormwater, and all easements
  - ✓ **Existing and proposed topography shown at 1' contour** intervals
  - ✓ Civil Drawings, that include:
    - Existing Conditions;
    - Overall Utility Map and detailed plans for water, sewer and electric;
    - Stormwater Plan, including a table of assumptions, calculations and sizing mitigation measures;
    - Grading Plans; and,
    - Road Plans and Profiles.
  - ✓ Narrative describing utility impacts including flow calculations, electric demand, and wastewater volume
  - ✓ Written narrative describing the project (if necessary to explain project)
  - ✓ Landscape plan
  - ✓ Uniform Construction Plans including exterior elevations and materials of buildings planned for the site
  - ✓ Mechanical, Electric, and Plumbing Engineered Drawings
  - ✓ Fire Suppression and Fire Alarm Plans – shall be submitted directly to the City of Gunnison Fire Department for review and approval. These plans shall be considered deferred submittals and may be accomplished after final Plan Submittal and issuance of a Construction Permit
  - ✓ State or federal agency approval (if applicable). If agency referral by the City is required, (such as CDOT) City staff will work in good faith with the County prior to submittal to refer the project for review
  - ✓ Right-Of-Way Work Permit (if applicable). A Right-of-Way Work Permit is

required for any work within the City Right-of Way (ROW) that does not change the function or use of the ROW. Any ROW work that will change the function or use of a ROW will require a recommendation by the City Planning and Zoning Commission and approval by City Council. Any ROW work shall be completed prior to issuance of a Certificate of Occupancy.

STEP 3 – PLAN SUBMITTAL COMPLETENESS REVIEW:

- Within 5 (five) working days the City will review the County's submittal and notify, in writing to the County of any missing information required.

STEP 4 – PLAN REVIEW (Applicable Uniform Construction Code Compliance):

- The City will review and respond to the Plan Submittal within 15 (fifteen) working days, after the 5 (five) day completeness review. If necessary, the response will include a comprehensive list of comments and questions for clarification as well as a list of deficiencies with justification. Justification for deficiencies must describe the deficiency and support the assertion with data calculations (if applicable), and specific impacts to the City or adjacent properties, and be based on code or regulation-specific references. This review will be comprehensive, anything not addressed in the City's comments or listed as a deficiency will be considered acceptable and not revisited in subsequent reviews, unless new information is provided by the County.

STEP 5 – FINAL SITE PLAN AND CONSTRUCTION PACKAGE SUBMITTAL:

- The County will submit a revised Plan Submittal with a document indicating all changes made to address items that were previously identified by the City in the location and extent review process.

STEP 6 – SITE DEVELOPMENT PLAN AND CONSTRUCTION ISSUANCE:

- The City will respond to the revised submittal within 15 (fifteen) working days with issuance of site plan and construction permit or justification for rejection. Construction permit fees are due at issuance of Construction Permit.

To the extent an issue arises regarding whether a County proposed use is a permitted use, the parties agree to meet and confer in good faith regarding such use and any process regarding such use.