

RESOLUTION 2019-69

APPROVING THE 1ST AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT ESTABLISHING THE GRAND VALLEY REGIONAL TRANSPORTATION COMMITTEE AND ADOPTING RULES AND BYLAWS

WHEREAS, the Grand Valley Regional Transportation Committee (hereinafter referred to as “GVRTC”) was created in 2002 through an Intergovernmental Agreement between the City of Fruita, Mesa County, the City of Grand Junction, and the Town of Palisade, and

WHEREAS, the 2002 Intergovernmental Agreement adopted Rules and Bylaws under which the GVRTC operates, and

WHEREAS, it is necessary to amend the Intergovernmental Agreement and the Rules and Bylaws under which the GVRTC operates to comply with Federal Transit Administration requirements and to provide for better clarity of duties, responsibilities and procedures under which the GVRTC operates.

NOW, THEREFORE, BE IT RESOLVED BY THE FRUITA CITY COUNCIL THAT THE FIRST AMENDED INTERGOVERNMENTAL AGREEMENT CONCERNING THE GRAND VALLEY REGIONAL TRANSPORTATION COMMITTEE AND ADOPTING RULES AND BYLAWS, ATTACHED HERETO AS EXHIBIT A, IS HEREBY APPROVED

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
THIS 3rd DAY OF DECEMBER, 2019**

Attest:

City of Fruita

City Clerk

Joel Kincaid, Mayor

**Resolution 2019-69
EXHIBIT A**

**First Amended Intergovernmental Agreement
Concerning the
Grand Valley Regional Transportation Committee
And Adopting Rules and Bylaws**

THIS FIRST AMENDED INTERGOVERNMENTAL AGREEMENT (this "Agreement") amends that certain Intergovernmental Agreement Creating the Grand Valley Regional Transportation Committee and Adopting Rules and Bylaws dated December 17, 2002 (the "2002 Agreement") that created the GRAND VALLEY REGIONAL TRANSPORTATION COMMITTEE (hereinafter referred to as "GVRTC") and adopted bylaws and process rules. This Agreement is agreed to, made and entered into effective this 16th day of December, 2019, by and between THE COUNTY OF MESA, COLORADO, (hereinafter referred to as "County"), THE CITY OF GRAND JUNCTION, COLORADO, (hereinafter referred to as "Grand Junction"), THE CITY OF FRUITA, COLORADO (hereinafter referred to as "Fruita"), and the TOWN OF PALISADE, COLORADO, (hereinafter referred to as "Palisade"). Each of the County, Grand Junction, Fruita and Palisade are referred to herein as a "Party" and collectively as the "Parties".

RECITALS.

- A. The Federal Transit Act (49 USC 5301 *et seq.*), and federal laws dealing with federal aid for highways (23 USC §§134 and 135) require the County and Grand Junction, as members of the Grand Junction/Mesa County MPO, also known as the Grand Valley Metropolitan Planning Organization, to develop and implement transportation plans within their respective jurisdictions.
- B. The boundaries of the Grand Valley Metropolitan Planning Organization "MPO" include the areas between Fruita, Grand Junction and Palisade and include Whitewater. The boundaries have been determined and will be updated, as required, by the United States decennial Census of Population and Housing.
- C. The Parties conclude that, notwithstanding federally mandated Census tracts and boundaries, and federally directed definitions, the part of the Grand Valley from Palisade to Fruita, including the lands in each municipality (for this Agreement hereinafter referred to as the "Grand Valley"), actually operates and should be treated as one inter-related and integrated whole, at least for transit and transportation planning purposes.
- D. Regardless of the boundary of the federally defined Grand Junction Urbanized

Area, each Party recognizes that its transportation policy and improvement decisions affect the other Parties, and that each Party has a stake in the administration, policies and activities of the MPO.

- E. Both because of federal mandates, and because of the desire to consider the needs and desires of the residents of the Grand Valley, the Parties recognize the need to involve property owners and residents of Mesa County in transportation planning and the priority-setting of which projects should be built and in what sequence, and similar transportation and transit questions.
- F. The Parties agree that it is in their best interests to work together to continue past efforts to meaningfully involve each party and its citizens in transportation planning and management processes.
- G. Currently each Party has been interested in, and has funded at least in part, the management and operations of the Grand Valley's transit system. That transit system, known as Grand Valley Transit ("GVT"), is owned and directed by Mesa County, and operated through a contract between Mesa County and a contractor.
- H. Mesa County desires, and the Parties are willing, "to agree upon the overarching issues and policies that should be addressed by the GVRTC.
- I. The Parties desire that the structure provided for in this Agreement will continue to provide a regional decision-making structure that can implement the federal and state mandated (and as authorized by the GVTRC) planning, coordination, operating and funding "missions," while recognizing that each Party must retain its fiscal decision making and each must continue to comply with its individual constitutional and statutory requirements.
- J. One of the purposes of this Agreement is to create one body and process to meet federal and state requirements and to speak with one "regional voice" regarding the matters arising out of or under this Agreement. The Parties do so with full appreciation that "regional" means different things for different purposes. For MPO purposes, "regional" means the Grand Valley, as defined herein. For state law relating to transportation planning "regional" means all of Mesa County. The Parties hereto desire to delegate to the GVRTC the responsibility for the planning of the Mesa County TPR in coordination with the Mesa County Regional Transportation Planning Office ("RTPO").

- K. The Parties acknowledge that federal law requires that the MPO and other planning efforts require the consideration, if not direct participation, of other entities and businesses involved in the federally mandated “multi-modal” view of modern transportation planning and funding. Examples of other entities whose interests must be considered are railroads, freight carriers, airport, private bus companies, pedestrians and bicyclists.
- L. State law (§ 43-1-1101, *et seq.*, C.R.S.) requires that all regions of the state adopt short- and long-term transportation plans. Mesa County is one of such regions (hereinafter termed the Transportation Planning Region (“TPR”) as further defined in § 43-1-1102(8), C.R.S. and 2 CCR 601-22:1.41). The local government planning for Mesa County’s TPR is being performed by the MPO and the local staff of the RTPO.

AGREEMENT

NOW, THEREFORE, in consideration of their mutual promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, THE PARTIES AGREE as follows:

ARTICLE 1 ORGANIZATION, DEFINITIONS, PURPOSE, AND OBJECTIVES

1.1. INITIAL MATTERS

- A. The Recitals set forth above are incorporated into the Agreement by reference.
- B. The previously established “Grand Valley Regional Transportation Committee” (“GVRTC”) is authorized by §29-1-203, C.R.S. This Agreement is intended to be a contract between governments as described therein.

1.2. THE PURPOSE OF THE GVRTC IS:

- A. To ensure that the TPR represents the Parties' priorities, issues and concerns regarding regional transportation, planning and transit issues, and that such matters are communicated in a unified manner to third parties including, without limitation, the Colorado Department of Transportation (“CDOT”), the Federal Highway Administration (“FHWA”) the Federal Transit Administration (“FTA”), other federal agencies, Mesa County's federal and state legislative delegations and other entities.

- B. To assist the CDOT, the "FHWA" and the "FTA" in prioritizing requests for funding in Mesa County, the Grand Valley, and the local CDOT Region.
- C. To promote active involvement by each Party in the planning, development and implementation of the long-range plan for the TPR.
- D. To promote on-going consultation among the Parties in regional transportation and transit planning from a regional perspective.
- E. To establish a mechanism for the administration of GVT.
- F. To establish a decision-making mechanism for the MPO, in light of the purposes of this Agreement, consistent with federal transportation planning requirements. [23 USC §§134 and 135].
- G. To present a clear regional voice to the public on transportation planning and transit issues. [23 USC §§ 134 and 135; 23 CFR 450.200 and 23 CFR 450.300].
- H. To define the relationship between the GVRTC and the staff of the County that has been doing the work of the MPO including the state required planning for this transportation planning region pursuant to § 43-1-1102, C.R.S. (termed the TPR plan); public transit support and planning [49 USC 5301 *et seq.*] and transportation planning for the Grand Valley. Such staff is termed the RTPO staff.

1.3. THE OBJECTIVES OF THE GVRTC ARE TO:

- A. Consider those differences while continuing the cooperative and comprehensive coordination of transportation planning activities and transportation projects consistent with the different needs, resources and populations of each Party.
- B. Use the forum established by the creation of the GVRTC to achieve maximum benefits from available resources, to reduce duplication of effort and to obtain better overall coordination of transportation planning and management.
- C. Create one decision-making clearinghouse for TPR regional transportation "plans" or "planning", the MPO plans and GVT issues and policies.

- D. Grant sufficient authority to the GVRTC so that the other objectives can be met, without unlawfully usurping the decisions and functions of each individual Party.
- E. Facilitate active communication between and among the Parties and their citizens, and other "stakeholders," regarding transportation, planning and transit issues and policies.
- F. Provide needed policies for the administration of GVT, in accordance with the Regional Transportation Plan.
- G. Collaborate with Parties to secure local funding for regional transportation projects.
- H. Collaborate with Parties to study and initiate regional transportation funding mechanisms.
- I. Through open information sharing, provide regional coordination and funding of transportation projects.

ARTICLE 2 PROCEDURES AND AUTHORITY

2.1. THE PROCEDURES FOR THE GVRTC ARE AS FOLLOWS:

- A. The GVRTC is to act as a regional transportation planning committee that sets and recommends transportation policy for regional initiatives, regional priorities and regional projects, as contemplated by 23 USC §§ 134 and 135.
- B. The GVRTC will seek the advice and technical support of the respective staffs of the Parties, which staffs together are called the Technical Advisory Committee ("TAC"), for technical analysis in decisions as stated in Article 6.
- C. The GVRTC shall adopt:
 - 1. Annual Unified Planning Work Program ("UPWP") and any amendments. [23 CFR 450.308(b)]
 - 2. Annual Transportation Improvement Program. [23 CFR 450.326]

3. The twenty (20) year long-range transportation plans, as required by federal and state law. [23 USC§§ 134 and 135; 43-1-1101 *et seq.* C.R.S.].
- D. The Parties agree to recommend the integration of the work, plans and decisions that are approved by the GVRTC in accordance with this Agreement into the master plans, growth plans, and similar planning efforts of each Party. For example, and without limitation, the 20-year planning that is contemplated by various federal laws and regulations will be the planning efforts (typically evidenced by a master or growth plan) of each Party. Such efforts are intended to make sure that the planning done by the GVRTC is integrated into and with other planning processes in the Grand Valley for each Party.

2.2. THE GVRTC HAS THE AUTHORITY TO:

- A. Recommend to RTPO staff such day-to-day and other administrative decisions and plans that would not usurp the policy and fiscal decisions reserved to the Parties.
- B. Develop and communicate with federal, state and other interested parties regarding the adopted plans and policies of the Parties, such as are listed in 2.1 (C) and (D), above.
- C. Act as the administrative agency and recommending authority for:
 1. Non-policy decisions and work relating to the MPO, TPR, and GVT.
 2. Contracts with CDOT to execute the Consolidated Planning Grant which grant funds the planning functions of the MPO.
 3. The Regional Planning Contracts that fund the execution of the UPWP. [23 CFR 450.200, *et seq.* and 23 CFR Section 450.300 *et seq.*]
- D. Act as the policy-making authority for the GVT including having recommendation authority over budget, operations and administration of the GVT to the Mesa County Board of Commissioners.
- E. Recommend levels of local match for administration, capital projects and operations of the GVT to the Parties.

- F. Recommend to the Parties levels of match for CDOT Consolidated Planning Grant contracts and transit grants.
- G. Adopt policies and procedures for the operation and administration of the GVRTC.

ARTICLE 3 MEMBERS

3.1. MEMBERSHIP AND RELATED RULES:

Each Party to this Agreement is a Party of the GVRTC. The Parties may allow other entities, persons and stakeholders to participate in all or a portion of the activities and functions of the GVRTC, but to add a voting Party, this Agreement must be amended in writing by a majority of the parties.

3.2. MEMBERSHIP RULES:

- A. The GVRTC may impose such conditions upon each new Party as it deems necessary to preserve the structure and integrity of the GVRTC, including, but not limited to, requiring financial support for its continued operation.
- B. A Party may withdraw from the GVRTC (and thereby terminate this Agreement with regard to such Party) upon the giving of not less than sixty (60) days written notice to the Chair of the GVRTC. No such withdrawal shall serve to excuse the payment of any sums or performance of any obligations agreed to be paid prior to the withdrawal.
- C. Each Party shall designate a representative ("Representative") and collectively, the Representatives shall form the Board of Representatives (the "Board"). Each Party may also designate an Alternate Representative to act in place of the Representative when the Representative is not available and such person shall be referred to as the Representative, as applicable, for purposes of this Agreement. Each Party shall determine, pursuant to each Party's own rules and requirements, the qualifications and designations of such Party's Representative and shall provide written notice to the other Parties of who will serve in that role, as well as the role of any Alternative Representative.

ARTICLE 4 OFFICERS

4.1. APPOINTMENT, TERM AND REMOVAL

- A. The officers of the GVRTC shall be selected by the Representatives and must be Representatives themselves. The officers shall consist of a Chair and a Vice Chair and must be natural persons eighteen (18) years of age or older. The Chair and Vice Chair shall not be Representatives of the same Party.
- B. Each officer will serve a term of one (1) year, with the term to run from June 1 through May 31; provided, however, each officer shall continue to serve until elections for new officers are held. Nominations and election of officers will be held during the first meeting held in June. The majority vote of the Representatives present at the time of the vote will determine the officers.
- C. Vacancies in any office may be filled by a majority vote of the Representatives at any regular or special meeting of the GVRTC.

4.2. DUTIES AND AUTHORITY OF OFFICERS

- A. Chair. The Chair shall have general charge and control of all of the business and affairs of the GVRTC and shall perform all duties incident to the office of Chair. He or she shall preside at all meetings of the Representatives and any other meetings held by the GVRTC. Except as otherwise directed by a majority of the Representatives, the Chair will execute all legal instruments of the GVRTC and will represent the GVRTC at any meeting, event, or other activity at which a GVRTC representative is permitted, requested, or required to be in attendance. The Chair will perform such additional duties and have such additional authority as directed by a majority of the Representatives from time to time.
- B. Vice-Chair. Except as otherwise directed by a majority of the Representatives, the Vice-Chair will perform the duties and have the authority of the Chair in the Chair's absence or inability or refusal to perform his/her duties. The Vice-Chair will perform such additional duties and have such additional authority as directed by the Chair or a majority of the Representatives from time to time so long as such duties are not inconsistent with the duties and authority of the Chair. The Vice-Chair will serve as the Chairperson at any Board meeting where the Chair is absent, or is unable or refuses to serve as the Chairperson.

C. Additional Terms.

1. The Chair, Vice-Chair, the Director of the RTPO and/or Alternative Representative will represent the GVRTC on the Statewide Transportation Advisory Committee , which advises CDOT and the Transportation Commission on the needs of the transportation system in Colorado and reviews and comments on all Regional Transportation Plans and the Statewide Transportation Plan. [2 CCR 601-22]
2. The Chair, the Director of the RTPO and/or their designee will advise CDOT on the needs of the transportation system in Colorado.
3. The Chair, or in the Chair's absence, the Vice Chair, may designate another to act in his/her stead if the Vice Chair is also not available.
4. The Director of the RTPO, and his/her staff, shall be responsible for drafting minutes of each Board meeting and maintaining such minutes, as well as for providing notice of meetings as further described herein, but shall not be considered officers for the purposes of this Agreement.

ARTICLE 5 MEETINGS AND VOTING

5.1. Meetings

1. The Representatives from each Party of the GVRTC shall meet at least bi-monthly, at a time and place established at the previous meeting of the GVRTC, or at a time and place determined by the Chair, with reasonable notice to all Representatives and to the public. Public notices for the GVRTC shall be given by the Director of the RTPO on the RTPO website. Representatives may participate in any regular meeting in-person, telephonically or by any other media by which each Representative can hear and be heard by the other Representatives and the audience.
2. Special meetings of the Board may be called by the Chair. Thereupon it will be the duty of the Director to cause notice of such meeting to be given to each Representative not less than 72 hours before the date and time fixed for such meeting. Notice may be delivered in person, by facsimile or by electronic mail at the direction of Director of the RTPO or the Chair. Work/study sessions will constitute a special meeting. Special meetings of the Board will be held at the time and place fixed by the Chair.

Representatives may participate in any special meeting in-person, telephonically or by any other media by which each Representative can hear and be heard by the other Representatives and the audience.

3. Whenever any notice is required to be given to any Representative under the provisions of law or this Agreement, a waiver thereof in writing by such Representative, whether before or after the time stated therein, will be equivalent to the giving of such notice. Attendance of a Representative at any meeting of the Board will constitute a waiver by such Representative of notice of such meeting, except when such Representative attends such meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully convened.
4. All meetings will be open to the public and shall be posted by the GVRTC in conformity with the Colorado Open Meetings Law, § 24-6-401, *et seq.* C.R.S.
5. The GVRTC may vote to go into executive session for any purpose authorized and consistent with the Colorado Open Meetings Law. §24-6-401, *et seq.*, C.R.S.
6. At any meeting of the Parties, Representatives from more than one-half the number of Parties shall constitute a quorum, whether participating in-person, telephonically or by any other media by which each Representative can hear and be heard by the other Representatives and the audience. A Representative who abstains from a vote will still be counted for purposes of determining if a quorum is present.

5.2 VOTING

- A. Final actions or decisions of the Representatives may be taken or made only at regular or special meetings of the Representatives, called upon notice as required herein, at which a quorum is present. Except as otherwise provided in this Agreement, final actions or decisions of the Parties shall be made by the affirmative vote of a majority of the Representatives at a properly-noticed regular or special meeting at which a quorum is present.
- B. Appeals.
 1. Notwithstanding the foregoing, any Party can veto any GVRTC decision or

- action by a majority vote of the Party's governing board if such vote is within thirty (30) business days of the GVRTC decision or action.
2. If a veto occurs, the Representative shall notify the Chair and Director of the RTPO within one (1) business day of the veto, and shall thereafter forthwith consult in good faith with the other Representatives and Parties, to obtain a reasonable remedy or resolution.
 3. Any matter subject to a veto shall not have any force or effect, and the Parties shall vote on any remedy or resolution reached with respect to the veto pursuant to Section B.2 herein. Such vote shall be subject to the veto provisions set forth in Section A herein.
 4. Any other objections to items of consideration by the GVRTC will be handled through the procedures established by the Representatives from time- to-time.

ARTICLE 6 COMMITTEES AND STAFFING

6.1. TECHNICAL ADVISORY COMMITTEE

- A. A TAC comprised of the staff of the Parties, and other experts and persons with expertise, is established. The TAC shall provide technical recommendations and policy advice to the GVRTC. [2 CCR 601-22].
- B. The Parties shall determine from time-to-time, by either formal or informal means, who shall serve and participate as a member of the TAC. Normally, the members of the TAC would include staff from counties, municipalities, state and federal agencies and/or from any public and private entities involved in transportation or transit.
- C. The TAC shall be responsible for reviewing and recommending for approval by the GVRTC the following:
 1. Unified Planning Work Program and amendments. [23 CFR 450.314].
 2. Transportation Improvement Programs and amendments consisting of projects utilizing federal and state funds and reflective of the jurisdiction they

represent.

3. Long range regional transportation and transit plans.
 4. Policies and programs as may be directed by the GVRTC.
 5. Any CDOT requests for ranking of regional transportation projects.
- D. The TAC shall conduct its business within the guidelines established by GVRTC from time-to-time. The TAC shall make its recommendations to the GVRTC, based on a majority of the TAC members attending the TAC meeting.
- E. Meeting locations of the TAC will be determined by the TAC members. Notice thereof shall be given by the Director of the RTPO and shall be posted at the RTPO offices. The TAC shall conduct meetings at least quarterly. The Director of the RTPO, or his or her designee, shall serve as Chair of the TAC.

6.2. SUB-COMMITTEES

- A. The GVRTC may establish working sub-committees as is necessary and shall provide for the appointment of the membership of said committees. These appointments shall be in accordance with state and/or federal requirements.

6.3. STAFFING AND SUPPORT

- A. The administration and coordination of the needs of the GVRTC shall be provided by the RTPO staff.
- B. To provide for the operation of the GVRTC activities, the Director of the RTPO shall act as staff support of the GVRTC. The Director of the RTPO shall appoint and assign titles and duties to the RTPO staff for the completion of GVRTC activities.
- C. The Director of the RTPO will be appointed and supervised by the Mesa County Administrator, or his or her designee.
- D. Mesa County will enter into contracts with CDOT for planning and transit funding and with a transit operator for operations of GVT.

- E. Mesa County shall act as the budget authority for the GVRTC and the RTPO.
- F. The Director of the RTPO shall be the custodian of records for the GVRTC.
- G. Examples of administrative activities of the RTPO are:
 - 1. Maintain and distribute the GVRTC meeting minutes.
 - 2. Make necessary meeting arrangements.
 - 3. Compile information for GVRTC consideration.
 - 4. Prepare applications and contracts for "pass-through" federal and/or state grants.
 - 5. Prepare billings under federal and state grants.
 - 6. Conduct audits as indicated by federal and state laws and regulations.
 - 7. Maintain financial records adequate to sustain such audits.
 - 8. Provide administrative support for the GVRTC in its role as an MPO, TPR and as the contract transit service administrator.
 - 9. Participation in the State Transportation Advisory Committee, as directed by GVRTC.
 - 10. Coordinate information exchange between the Parties and their staff, CDOT, FHWA, FTA, State and federal legislators.
 - 11. Other administrative duties as directed by the GVRTC.
 - 12. Prepare a recommended budget through the Unified Planning Work Program, for review by the GVRTC. The budget year shall follow timelines required by federal and state contracts.
 - 13. Oversee updates of the Regional Transportation Plan and Transportation Demand Model and other transportation studies.

**ARTICLE 7
BUDGET AND FINANCE**

7.1. GVRTC AND RTPO BUDGET

- A. Each year the RTPO shall recommend to the Mesa County Board of Commissioners ("BOCC"), a budget for the operation of the RTPO. The GVRTC

shall determine a local match for transit grant funds through an intergovernmental agreement which will be approved through the annual budget process of each Party.

7.2. ADMINSTRATIVE COSTS

- B. The GVRTC shall recommend to its Parties joint funding for the administrative and operation costs of the RTPO, after appropriate federal and state grants are spent.

7.3. NO INDEPENDENT POWERS

A. The GVRTC is not empowered to contract for, or accept grants, funds, gifts or services from any federal, state, local public or private source or in connection with any program or purpose of which the GVRTC exists.

B. For contracts and purchases made by the RTPO -, the RTPO shall work through the Mesa County Purchasing Department, as approved by the BOCC.

C. GVRTC shall have no power to either borrow any money or pledge any assets.

D. Mesa County shall provide the GVRTC with the financial, auditing and other services including an annual audit of GVRTC's financial- transactions and expenditures, or as otherwise required by law.

E. Project costs not deemed by the GVRTC to be administrative in nature shall be paid by the Party benefiting from the project.

F. The benefiting Parties shall pay any local match required by a state or federal grant. The GVRTC shall decide which Parties benefit by agreement between the GVRTC and the benefiting Parties.

G. Mesa County shall be the financial, human resources, purchasing, and budgetary authority for the GVRTC.

ARTICLE 8 MISCELLANEOUS

8.1. REPEAL OF PRIOR AGREEMENTS AND RESOLUTIONS.

This Agreement supersedes, revokes and replaces all resolutions and agreements by and between any of the Parties that relate to the GVRTC, except that any annual Intergovernmental Agreements concerning GVRTC funding, which IGAs shall remain in full force and effect.

8.2. NOTICES. Except for notice of a special meeting delivered in person, by facsimile or by electronic mail in accordance with this Agreement, any notice, demand or request required by or relating to this Agreement shall be in writing and shall be given by personal delivery, by facsimile, or sent by registered or certified mail, postage prepaid, to each Party at the address set forth on the signature page(s) attached hereto, unless a Party has provided another address to the GVRTC.

8.3. THIRD PARTY BENEFICIARIES. Nothing in this Agreement shall be deemed to create any third-party benefits or beneficiaries, or create a right or cause of action for the enforcement of its terms, in any entity or person not a Party to this Agreement.

8.4. AMENDMENTS. This Agreement may be amended either by a written document approved by formal consent of the governing bodies of all of the Parties at the time of the amendment or in accordance with Section 5.2 above. Course of conduct, no matter how long, shall not constitute an amendment to this Agreement.

8.5. NO ASSIGNMENT. This Agreement may not be assigned by any Party.

8.6. SEVERABILITY. In the event that any of the terms, covenants or conditions of this Agreement, or their application, shall be held invalid by any court having competent jurisdiction, the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect.

8.7. GOVERNMENTAL IMMUNITY. This Agreement is not intended, and shall not be construed, as a waiver of the limitations on damages or any of the privileges, immunities, or defenses provided to, or enjoyed by, the Parties, and their past and present directors, officers, council members, employees and volunteers, under federal or state constitutional, statutory or common law, including but not limited to the Colorado Governmental Immunity Act, § 24-10-101, C.R.S., *et seq.*

8.8. GOVERNING LAW, JURISDICTION AND VENUE. Colorado law governs this Agreement. Jurisdiction and venue shall lie in the District Court for the county in which all of the disputing Parties are located. If one or more of the disputing Parties are located in different counties, the Parties agree that jurisdiction and venue shall lie in the District

Court for Mesa County. Under no circumstances may a civil action be removed to a federal court.

8.9. WAIVER OF BREACH. A Party's waiver of another Party's breach of any term or provision of this Agreement will not operate or be construed as a waiver of any subsequent breach by any Party.

8.10. DISPUTE RESOLUTION. Any dispute or claim arising under or relating to this Agreement shall be submitted first to the Representatives for possible resolution. If the Representatives are unable to resolve the dispute or claim, or if one or more of the Parties to the dispute or claim is not satisfied with the proposed resolution, the dispute or claim shall be submitted to mediation. The Parties to the dispute or claim shall share equally the cost of the mediation, provided that each Party shall pay its own attorneys' fees, costs and expenses incurred in preparing for and participating in the mediation. If the Parties are unable to resolve their dispute or claim through mediation, any Party to the dispute or claim may bring a civil action. Each Party waives its right to a jury trial.

8.11. EXECUTION. This Agreement may be executed in several counterparts, and by facsimile or electronic pdf, each of which will be an original, and all of which together will constitute one in the same instrument.

8.12. STATUTORY AMENDMENTS. All statutory references in this Agreement shall include any subsequent statutory amendments or reenactments.

8.13 TABOR. The parties understand and acknowledge that the Parties are subject to Article X, Section 20 of the Colorado Constitution ("TABOR"). The Parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, all payment obligations of the Parties are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the Parties' current fiscal period ending upon the next succeeding December 31. Financial obligations of Parties payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of the Parties, and other applicable law. Upon the failure to appropriate such funds, this Agreement shall be terminated.

IN WITNESS WHEREOF, this Agreement has been executed the day and year first above written.

The County of Mesa, Colorado
By:

The City of Fruita, Colorado
By:

Rose Pugliese, Chair, Mesa County Board of
County Commissioners

Joel Kincaid, Mayor
Fruita City Council

Attest:

Attest:

The City of Grand Junction, Colorado
By:

The Town of Palisade, Colorado
By:

J. Merrick Taggart, Mayor
Grand Junction City Council

Roger Granat, Mayor
Palisade Board of Trustees

Attest:

Attest:
