



GUNNISON COUNTY, COLORADO

RESOLUTION NO. 2019-25

A RESOLUTION AUTHORIZING THE LEASING OF CERTAIN EQUIPMENT AND THE EXECUTION AND DELIVERY BY THE COUNTY OF A MASTER EQUIPMENT LEASE PURCHASE AGREEMENT AND RELATED SCHEDULES, AN ESCROW AGREEMENT, A THIRD PARTY CUSTODIAN AGREEMENT, AND OTHER RELATED DOCUMENTS AND CERTIFICATES; SETTING FORTH CERTAIN PARAMETERS AND RESTRICTIONS WITH RESPECT TO THE LEASING OF SUCH EQUIPMENT; AUTHORIZING OFFICIALS OF THE COUNTY TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY; RATIFYING ACTIONS PREVIOUSLY TAKEN; AND PROVIDING FOR OTHER MATTERS RELATED THERETO.

WHEREAS, Gunnison County, Colorado (the "County"), is a duly organized and existing county, existing as such under and by virtue of the Constitution and laws of the State of Colorado; and

WHEREAS, the County has the power, pursuant to Sections 30-11-101(b) and (c) and 30-11-104.1, of the Colorado Revised Statutes, as amended, to lease, as lessor or as lessee, equipment to be used for governmental purposes, and to enter into lease-purchase agreements for the purpose of financing such equipment; and

WHEREAS, the Board of County Commissioners of the County (the "Board") has determined and hereby determines that it is in the best interest of the County and its inhabitants to acquire certain equipment generally described in Schedule I attached hereto (collectively, the "Equipment"); and

WHEREAS, the Board has determined and hereby determines to finance the cost of acquiring the Equipment by entering into one or more lease purchase financings with Sterling National Bank (the "Lender"); and

WHEREAS, the Board hereby determines that in order to finance the acquisition of the Equipment it is in the best interest of the County and its inhabitants that: (a) the County (in its name and/or the name of the Board) enter into a Master Equipment Lease Purchase Agreement, together with related Schedules permitting the sequential leasing of all or any portion of the Equipment, with the Lender (collectively, the "Lease"), which Lease contains certain options to purchase the financed Equipment; (b) an Escrow Agreement (the "Escrow Agreement") among the County, the Lender, and Sterling National Bank, as escrow agent (the "Escrow Agent"), whereby the Lender will from time to time deposit proceeds necessary to purchase the Equipment in escrow with the Escrow Agent until such funds are disbursed to purchase the Equipment in the Lender's name (subject to the terms of the Lease); and (c) a Third



Party Custodian Agreement (the “Custodial Agreement”) between the County and Sterling National Bank, as custodian, relating to the deposit of public funds related to the acquisition price of the Equipment with the Lender; and

WHEREAS, pursuant to the Lease, and subject to the right of the County to terminate the Lease and other limitations as therein provided, the County will pay certain Rental Payments (as such term is defined in the Lease) and other incidental payments in consideration for the right of the County to use the Equipment; and

WHEREAS, the County’s obligation under the Lease to pay Rental Payments and other incidental payments shall be from year to year only; shall constitute currently budgeted expenditures of the County; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or other indebtedness or multiple fiscal year financial obligation of the County within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligation, nor a mandatory payment obligation of the County in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect; and

WHEREAS, Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, C.R.S., as amended (the “Supplemental Act”), provides that a public entity, including the County, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act; and

WHEREAS, there have been presented to the Board and are recorded at the offices of the County Clerk and Recorder, the following: (i) the proposed form of the Lease; (ii) the proposed form of the Escrow Agreement; and (iii) the proposed form of the Custodial Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO:

Section 1. Recitals Incorporated. The foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Board.

Section 2. Ratification and Approval of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Board or the officers, agents or employees of the County relating to the Lease, the Escrow Agreement, the Custodial Agreement, and the leasing of the Equipment, is hereby ratified, approved and confirmed.

Section 3. Finding of Best Interests. The Board hereby finds and determines pursuant to the Constitution and laws of the State of Colorado that the leasing of the Equipment pursuant to the terms set forth in the Lease, is in the best interest of the County and serves a valid public purpose and the Board hereby authorizes and approves the same.

Section 4. Supplemental Act; Parameters. The Board hereby elects to apply all of the provisions of the Supplemental Act to the Lease and in connection therewith delegates to each of the Chair of the Board and the County Manager the independent authority to make any



determination delegable pursuant to Section 11-57-205(1)(a-i) C.R.S., as amended, in relation to the Lease, and to execute a sale certificate (the "Sale Certificate") setting forth such determinations, including without limitation, the term of the Lease (as indicated in each Schedule thereto) and the rental amount to be paid by the Trustee pursuant to the Lease (as indicated in each Schedule thereto):

(a) the term of the Lease, as indicated in each Schedule thereto, shall not extend beyond December 31, 2036;

(b) the aggregate principal amount of the Rental Payments payable by the County pursuant to the Lease and all related Schedules shall not exceed \$2,500,000;

(c) the maximum interest rate on the interest component of the Rental Payments shall not exceed 2.672% per annum, provided that such interest rate may be increased in the event that it is determined that any of the interest components of Rental Payments for the Lease may not be excluded from gross income for purposes of federal income taxation; and

The delegation set forth in this Section 4 shall be effective for one year following the date hereof. It is expressly acknowledged that the Equipment is intended to be acquired over a period of not more than one year following the date hereof through the execution of certain Schedules to the Master Equipment Lease Agreement that collectively comprise the Lease. Provided such Schedules, when aggregated, do not exceed the parameters set forth in this Section 4, such Schedules are expressly authorized to be executed by the Chair of the Board or the County Manager pursuant to the authorization granted by this Resolution.

Section 5. Approval of Documents. The Lease (including all related Schedules), the Escrow Agreement, and the Custodial Agreement, in substantially the forms presented to the Board and on file with the County, are in all respects approved, authorized and confirmed, and the Chair of the Board or the County Manager is hereby authorized and directed for and on behalf of the County to execute and deliver the Lease (including all related Schedules), the Escrow Agreement, and the Custodial Agreement in substantially the forms and with substantially the same contents as presented to the Board, provided that such documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Resolution.

Section 6. Authorization to Execute Collateral Documents. The County Clerk and Recorder (the "County Clerk") is hereby authorized and directed to attest all signatures and acts of any official of the County in connection with the matters authorized by this Resolution and to place the seal of the County on any document authorized and approved by this Resolution. The Chair of the Board, the County Clerk, the County Manager, and other employees and officials of the County are hereby authorized and directed to execute and deliver for and on behalf of the County any and all additional certificates, documents and other papers, and to perform all other acts that they may deem necessary or appropriate in order to implement and carry out the transactions and other matters authorized by this Resolution. The approval hereby given to the various documents referred to above includes an approval of such additional details therein as may be necessary and appropriate for their completion, deletions therefrom and additions thereto as may be approved by the County Manager prior to the execution of the



documents. The execution of any instrument by the appropriate officers of the County herein authorized shall be conclusive evidence of the approval by the County of such instrument in accordance with the terms hereof.

Section 7. No General Obligation Debt. No provision of this Resolution, the Lease, the Escrow Agreement, or the Custodial Agreement shall be construed as creating or constituting a general obligation or other indebtedness or multiple fiscal year financial obligation of the County within the meaning of any constitutional, or statutory, nor a mandatory charge or requirement against the County in any ensuing fiscal year beyond the then current fiscal year. The Rental Payments may be terminated by the County in accordance with the provisions of the Lease. None of the Lease, the Escrow Agreement, or the Custodial Agreement shall constitute a mandatory charge or requirement of the County in any ensuing fiscal year beyond the then current fiscal year or constitute or give rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the County within the meaning of any constitutional, or statutory debt limitation and shall not constitute a multiple fiscal year direct or indirect debt or other financial obligation whatsoever. No provision of the Lease, the Escrow Agreement, or the Custodial Agreement shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the County within the meaning of Sections 1 or 2 of Article XI of the Colorado Constitution. None of the Lease, the Escrow Agreement, or the Custodial Agreement shall directly or indirectly obligate the County to make any payments beyond those budgeted and appropriated for the County's then current fiscal year.

Section 8. Reasonableness of Rentals. The Board hereby determines and declares that the Rental Payments due under the Lease (including the Schedules thereto), in the maximum amounts authorized pursuant to Section 4 hereof, constitute the fair rental value of the Equipment and do not exceed a reasonable amount so as to place the County under an economic compulsion to renew the Lease or to exercise its option to purchase the Lender's interest in the Equipment pursuant to the Lease. The Board hereby determines and declares that the period during which the County has an option to purchase the Lender's interest in the Equipment (i.e., the entire maximum term of the Lease) does not exceed the useful life of the Equipment.

Section 9. Bank Qualification. The County hereby delegates to the County Manager the determination as to whether the Lease or any portion thereof constitutes a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Internal Revenue Code, as amended.

Section 10. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Board, or any officer or agent of the County acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the Rental Payments. Such recourse shall not be available either directly or indirectly through the Board or the County, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By executing and delivering the Lease, the Lender and its successors and assigns specifically waive any such recourse.



Section 11. Repealer. All bylaws, orders, and resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, or resolution, or part thereof, heretofore repealed.

Section 12. Severability. If any section, subsection, paragraph, clause or other provision of this Resolution for any reason is held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this Resolution, the intent being that the same are severable.

Section 13. Effective Date. This resolution shall be in full force and take effect immediately upon its passage and approval.

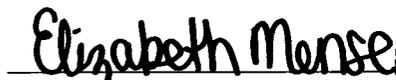
PASSED, ADOPTED AND APPROVED this November 19, 2019.



Chair of the Board of
County Commissioners

(SEAL)

Attest:



DEPUTY County Clerk





SCHEDULE I

DESCRIPTION OF LEASED EQUIPMENT

Installation of LED tubes, lamps and fixtures to retrofit or replace existing inefficient lighting at the following Gunnison County buildings:

Site
ARFF Building
Blackstock Building
Public Safety Building
Public Works

Installation of photovoltaic (PV) electric power generation systems on the rooftops of the following buildings with the scope for each as identified herein.

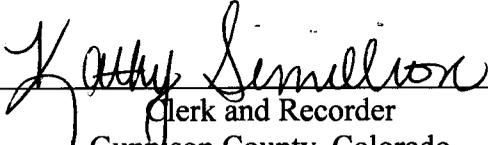
Site
Blackstock Building
County Courthouse
Family Services Center
Public Safety
Public Works

Installation of necessary equipment to replace the HVAC system in the Blackstock building with a ground source heat pump and geothermal well field.



WITNESS my hand and the seal of the County affixed this 5th day of November,
2019.





Clerk and Recorder
Gunnison County, Colorado



EXHIBIT A

(Attach copy of notice given prior to the November 19, 2019 meeting)

**GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING & WORK SESSION AGENDA**

DATE: Tuesday, November 19, 2019

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PLACE: Board of County Commissioners' Meeting Room at the Gunnison County Courthouse

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS REGULAR MEETING:

- 8:30
 - Call to Order
 - Agenda Review
 - Minutes Approval:
 - 1. Draft Special and Regular Meeting Minutes; 10/22/2019
 - Consent Agenda: These items will not be discussed unless requested by a Commissioner or citizen. Items removed from consent agenda for discussion may be rescheduled later in this meeting, or at a future meeting.
 - 1. Memorandum of Agreement between the Board of County Commissioners of the County of Gunnison, Colorado, the Board of Trustees of Gunnison Valley Hospital, and the Regional Transportation Authority Regarding Senior Transportation; 1/1/20 – 12/31/20; \$230,000
 - 2. Funding Agreement; Gunnison County Metropolitan Recreation District; Shady Island Project; \$30,000
 - 3. ClearPoint Strategy Software & Support Agreement with Gunnison County, CO; 1/1/20 - 12/31/26; \$217,300
 - 4. CDHS Certification of Compliance – Year 2020; County Personnel and Merit System
 - 5. Application for Colorado Liquor Sales Room; Buckel Family Wine, LLC; 1018 Highway 135, Gunnison, CO 81230; 6/1/20 from 10:00 am to 8:00 pm
 - 6. Sale and Purchase Agreement; Runbeck Election Services, Inc.; AgilisDuo Vote-By-Mail Processing System; 1/3/20 – 1/2/24; \$81,000
 - 7. Policy 5.1.3, Surplus Property Disposition
 - 8. Contract Amendment #1; Colorado Department of Public Health and Environment; Contract #CT 2020*248; 7/1/19 – 6/30/20; \$23,152
 - Scheduling
 - 1. Draft 2020 BOCC Meeting Calendar
- 8:40
 - County Manager's Report
- 8:50
 - Deputy County Manager's Report
 - 1. Letter of Support; Crystal Mill
- 9:00
 - Public Hearing; Petition to Vacate Certain Streets & Alleys in the Townsite of Ohio City, Colorado; Portion of First Street from the Intersection with County Road 771, Gold Creek Road (aka Broadway Street) towards the West Adjacent to Lots 12-15, Block 11 and Lots 1, 41-43, Block 16 including Adjacent North/South Alleys; Robert Lyle Carver
- 9:15
 - Plat Approval; LUC-19-00044, Western Sky Townhomes
- 9:20
 - Vouchers and Transfers
- 9:25
 - Renewal of Lease Purchase Agreements, 2010 and 2013 Bonds
- 9:30
 - Treasurer's Reports
- 9:35
 - Grant Application; Department of Local Affairs; HVAC/Geothermal Project at Blackstock; \$600,000

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NOTE: This agenda is subject to change, and all times are approximate. The County Manager and Deputy County Manager's reports may include administrative items not listed. Regular Meetings, Public Hearings, and Special Meetings are recorded and **ACTION MAY BE TAKEN ON ANY ITEM**. Work Sessions are not recorded and formal action cannot be taken. For further information, contact the County Administration office at 641-0248. If special accommodations are necessary per ADA, contact 641-0248 or TTY 641-3061 prior to the meeting.

**GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING & WORK SESSION AGENDA**

DATE: Tuesday, November 19, 2019

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PLACE: Board of County Commissioners' Meeting Room at the Gunnison County Courthouse

- 9:40
- Energy Services Agreement; Johnson Controls, Inc.; Design, Construction and Performance Guarantee of Solar PV Systems and Lighting Retrofit to LED in Select Facilities; \$1,818,189 (maximum contract price)
 - Equipment Lease Purchase; Sterling National Bank
 1. Resolution Authorizing the Leasing of Certain Equipment and the Execution and Delivery by the County of a Master Equipment Lease Purchase Agreement and Related Schedules, an Escrow Agreement, a Third Party Custodian Agreement, and Other Related Documents and Certificates; Setting Forth Certain Parameters and Restrictions with Respect to the Leasing of Such Equipment; Authorizing Officials of the County to Take All Action Necessary to Carry Out the Transactions Contemplated Hereby; Ratifying Actions Previously Taken; and Providing for Other Matters Related Thereto
 2. Master Equipment Lease Purchase Agreement; Sterling National Bank
 3. Third Party Custodian Agreement
 4. Schedule of Equipment
 - Unscheduled Citizens: Limit to 5 minutes per item. No formal action can be taken at this meeting.
 - Commissioner Items: Commissioners will discuss among themselves activities that they have recently participated in that they believe other Commissioners and/or members of the public may be interested in hearing about.
 - Adjourn

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS WORK SESSION:

- 10:15 am
- Strategic Performance Updates:
 1. Gunnison-Crested Butte Regional Airport
 - Adjourn

Please Note: Packet materials for the above discussions will be available on the Gunnison County website at <http://www.gunnisoncounty.org/meetings> no later than 6:00 pm on the Friday prior to the meeting.

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