

RESOLUTION NO. 68-20

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE GRAND JUNCTION RURAL FIRE PROTECTION DISTRICT AND THE GRAND JUNCTION RURAL FIRE PROTECTION SUBDISTRICT FOR THE PROVISION OF EMERGENCY SERVICE BY THE CITY OF GRAND JUNCTION

Recitals:

The City currently and for many years has contracted for fire suppression and related investigatory activities, fire prevention and public education services, fire code enforcement, hazardous materials services, emergency medical and ambulance services, emergency rescue and extrication services, and related emergency services through its Fire Department to the Grand Junction Rural Fire Protection District and the Grand Junction Rural Fire Protection Subdistrict, both of which Fire Districts are outside of the City's corporate boundary.

The Fire Districts are political subdivisions of the State of Colorado, organized pursuant to the Colorado Special Districts Act, C.R.S. § 32-1-101, *et seq.*, to provide emergency services within its jurisdiction. The Fire Districts do not provide the emergency services directly; rather, the Fire Districts have contracted with the City to provide those services pursuant to a 2008 Agreement and amendment dated November 12, 2019.


Colorado law permits and encourages local governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other local governments in order to provide any lawfully authorized function, service, or facility, and consistent with that authority the Fire District and the City desire to amend and restate the 2008 Agreement on the terms and conditions provided in the attached agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO, AS FOLLOWS:

That term, promises, and undertakings set forth in the attached agreement are adopted and approved with the understandings stated therein.

Passed and adopted this 2nd day of December 2020.


C.E. "Duke" Wortmann
President of the Council

ATTEST:

Wanda Winkelmann
City Clerk



**AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT
FOR THE PROVISION OF EMERGENCY SERVICES**

This Amended and Restated Intergovernmental Agreement For The Provision Of Emergency Services ("**2020 Agreement**") is entered into this 5th day of DECEMBER, 2020 ("**Effective Date**") by and between the Grand Junction Rural Fire Protection District ("**Fire District**"), the Grand Junction Rural Fire Protection District Redlands Subdistrict ("**Redlands Subdistrict**"), and the City of Grand Junction ("**City**"). The Fire District, Redlands Subdistrict, and City are referred to collectively as the "**Parties**" or individually as a "**Party**".

RECITALS

WHEREAS, the City is a Colorado home rule municipality providing fire suppression and related investigatory activities, fire prevention and public education services, fire code enforcement, hazardous materials services, emergency medical and ambulance services, emergency rescue and extrication services, and related emergency services (collectively, "**Emergency Services**") through its Fire Department, both within the City's corporate boundaries and, in some cases, outside of the City's corporate boundaries by contract with the jurisdictional authority;

WHEREAS, the Fire District is a political subdivision of the State of Colorado, organized pursuant to the Colorado Special Districts Act, C.R.S. § 32-1-101, *et seq.*, to provide Emergency Services within its jurisdiction. The Fire District does not provide the Emergency Services directly; rather, the Fire District has contracted with the City to provide the Emergency Services within the Fire District's jurisdiction, pursuant to that certain 2008 Agreement Regarding Fire Protection Services dated July 1, 2008, as amended by the First Amendment to 2008 Agreement Regarding Fire Protection Services dated November 12, 2019 (collectively, the "**2008 Agreement**");

WHEREAS, pursuant to C.R.S. § 32-1-1101(1)(f), on September 10, 2002, the Board of Directors of the Fire District ("**Fire District Board**") approved Resolution No. 2002-0910A, establishing the Redlands Subdistrict for the purpose of providing financial assistance to the City for the costs of operating and maintaining a Fire Station 5, to be used primarily to provide Emergency Services to persons and property within the Redlands Subdistrict. The Redlands Subdistrict is wholly located within the boundaries of the Fire District, and is also provided with Emergency Services by the City pursuant to the 2008 Agreement;

WHEREAS, C.R.S. § 29-1-203 permits and encourages local governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other local governments in order to provide any lawfully authorized function, service, or facility; and

WHEREAS, the Parties desire to amend and restate the 2008 Agreement on the terms and conditions provided herein, and further intend and desire that this 2020 Agreement shall supersede and replace, in all respects, the 2008 Agreement and that, as of the Effective Date, the 2008 Agreement shall be terminated and of no further force and effect.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and undertakings set forth in this 2020 Agreement, the Parties mutually agree as follows:

**ARTICLE I
Emergency Services**

1. **Provision of Emergency Services.** On and after the Effective Date, the City shall provide Emergency Services to the citizens and property within, and the visitors to, the Fire District's and

Redlands Subdistrict's jurisdictions, on the terms and conditions provided in this 2020 Agreement. The Emergency Services to be provided by the City include all Emergency Services provided by the City within its own jurisdiction and boundaries. The level of Emergency Services provided by the City to the Fire District and Redlands Subdistrict pursuant to this 2020 Agreement shall be reasonably equivalent to the level of Emergency Services provided by the City to comparable areas within its own jurisdiction. Similarly, the level of staffing at the Redlands Subdistrict Fire Station 5 shall be reasonably equivalent to the level of staffing provided by the City at comparable fire stations within its own jurisdiction.

2. Fire District and Redlands Subdistrict Boundaries.

a. Inclusions. Throughout the term of this 2020 Agreement, the City shall provide Emergency Services to all areas within the Fire District's and Redlands Subdistrict's jurisdictions. Accordingly, the Fire District and Redlands Subdistrict shall obtain the City's approval as an express condition of including any property into the Fire District or Redlands Subdistrict, as applicable, on and after the Effective Date. This condition shall be contained in any Resolution for inclusion of real property adopted by the Fire District Board or the Board of Directors of the Redlands Subdistrict ("**Subdistrict Board**"). In granting or denying approval, the City may consider the additional property taxes that the proposed inclusion is expected to generate for the Fire District or Redlands Subdistrict and whether the proposed inclusion will negatively affect the Emergency Services that the City is able to provide within the rest of its jurisdiction and service area, including within the Fire District and Redlands Subdistrict. Within 60 calendar days of receiving a request to approve a proposed inclusion, the City shall grant or deny the request in writing. The City's failure to grant or deny the request in writing with the 60 day period shall be deemed an approval of the proposed inclusion.

b. Exclusions. The City may, from time to time, annex property to the City that is, at the time of such annexation, within the boundaries of the Fire District, or within the boundaries of the Fire District and the Redlands Subdistrict. The City shall petition for exclusion of such annexed properties from the Fire District's boundaries, or the boundaries of the Fire District and Redlands Subdistrict, pursuant to C.R.S. § 32-1-502, and the Fire District and/or Redlands Subdistrict, as appropriate, shall reasonably cooperate in the execution of such statute. Such City petitions for exclusion shall be filed annually and apply to all properties annexed to the City during the prior year.

3. Ambulance Fees and Charges. The City may, to the extent authorized by law, seek to recover costs from third parties for any ambulance and emergency medical services it provides within the Fire District's and/or Redlands Subdistrict's jurisdiction pursuant to this 2020 Agreement, including billing the patient and/or patient's insurance carrier, or Medicare/Medicaid, for such ambulance and emergency medical services at the City's normal billing rates and in accordance with the City's normal billing procedures.

4. City Insurance. In connection with the Emergency Services to be provided by the City to the Fire District and the Redlands Subdistrict, the City shall procure and maintain, at its sole expense, the insurance policies described below. All such insurance policies will name the Fire District and the Redlands Subdistrict as additional insureds; however, the City shall be solely responsible for any deductible losses under such insurance policies. The Fire District and Redlands Subdistrict acknowledge and agree that the City is self-insured and is a member of the Colorado Intergovernmental Risk Sharing Agency (CIRSA) and that those coverages meet the requirements set forth in subsections 4(a) through 4(d) below.

a. General liability insurance with policy limits not less than the monetary limits of liability established by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*;

b. Comprehensive automobile casualty and liability insurance covering all City owned or hired vehicles used in providing the Emergency Services in an amount not less than \$1,000,000

combined single limit bodily injury and property damage, and comprehensive casualty insurance covering all City owned or leased equipment used in providing the Emergency Services;

c. Comprehensive casualty and liability insurance covering the Redlands Subdistrict Fire Station 5 in amounts equivalent to the casualty and liability insurance coverage maintained by the City for its other fire stations; and

d. Comprehensive professional liability and workers' compensation insurance in such amounts as the City determines appropriate for its business needs.

5. **No Assumption of Liability for the Intentional or Negligent Acts or Omissions of the Fire District or Redlands Subdistrict.** The Parties expressly agree that the Fire District and Redlands Subdistrict shall each remain solely responsible for the intentional or negligent acts or omissions of the Fire District or Redlands Subdistrict, as applicable, and their directors, officers, and agents, that occur in the performance of this 2020 Agreement, and that, notwithstanding anything to the contrary herein, the City is not assuming responsibility or liability for such intentional or negligent acts or omissions.

6. **No Assumption of Liability for the Intentional or Negligent Acts or Omissions of the City.** The Parties expressly agree that the City shall remain solely responsible for the intentional or negligent acts or omissions of the City, and its council members, officers, employees, volunteers, and agents, that occur in the performance of this 2020 Agreement, and that, notwithstanding anything to the contrary herein, neither the Fire District nor Redlands Subdistrict is assuming responsibility or liability for such intentional or negligent acts or omissions.

ARTICLE II

The Fire District's and Redlands Subdistrict's Financial Contribution

1. Payment for Services.

a. Fire District Payment. Each year, the Fire District shall pay to the City all revenues received by the Fire District from the assessment and collection of its general operational mill levy (property tax), specific ownership tax, and interest earnings on such tax collections (collectively, the "**Fire District Annual Contribution**"); except that the Fire District shall be entitled to retain (a) an amount up to Twenty-Five Thousand Dollars (\$25,000) annually ("**Fire District Retained Funds**") for the purpose of paying the Fire District's continuing costs of administration, including, but not limited to, insurance, administrative assistance, elections, statutory compliance, legal services, accounting and audit services, and all other administrative duties and obligations; and (b) such amount as the Fire District is required to retain pursuant to Article X, Section 20 of the Colorado Constitution for declared emergencies only ("**TABOR Reserves**"). The amount of the Fire District Retained Funds may be increased at any time and from time to time upon the Parties' mutual written agreement.

b. Redlands Subdistrict Payment. Each year, the Redlands Subdistrict shall pay to the City all revenues received by the Redlands Subdistrict from the assessment and collection of its general operational mill levy (property tax), specific ownership tax, and interest earnings on such tax collections (collectively, the "**Redlands Subdistrict Annual Contribution**"); except that the Redlands Subdistrict shall be entitled to retain (a) an amount up to Zero Dollars (\$0) annually ("**Redlands Subdistrict Retained Funds**") for the purpose of paying any Redlands Subdistrict costs of administration not otherwise being paid and provided for by the Fire District, which may include, but are not limited to, insurance, administrative assistance, elections, statutory compliance, legal services, accounting and audit services, and all other administrative duties and obligations; and (b) such amount as the Redlands Subdistrict is required to retain as TABOR Reserves. The amount of the Redlands Subdistrict Retained Funds may be increased at any time and from time to time upon the Parties' mutual written agreement.

2. **Annual Contribution Payment Dates.** The Fire District Annual Contribution payments and Redlands Subdistrict Annual Contribution payments shall be due to the City each year on July 31 and January 31, beginning January 31, 2021. The amount of such payments shall include all portions of the Fire District Annual Contribution and Redlands Subdistrict Annual Contribution received by the Fire District or Redlands Subdistrict, as applicable, during the immediately preceding January 1 – June 30 period for the July 31 payment, and during the immediately preceding July 1 – December 31 period for the January 31 payment. Notwithstanding the foregoing, the full amounts of the Fire District Retained Funds, the Redlands Subdistrict Retained Funds, and the required TABOR Reserve amounts, shall be retained by the Fire District and Redlands Subdistrict, as applicable, prior to remitting any amount of their respective property tax and specific ownership tax collections to the City.

3. **Certification of Mill Levies.**

a. Fire District Certification. On or before December 15 of each year, the Fire District shall certify its maximum authorized mill levy, less applicable refunds and abatements, and any other adjustments required or permitted by law.

b. Redlands Subdistrict Certification. On or before December 15, 2020, the Redlands Subdistrict shall certify a property tax of 3.246 mills in assessment year 2020, for collection of revenue in 2021. To the extent permitted by law, on or before December 15, 2021, the Redlands Subdistrict shall certify a property tax of no less than 4.075 mills in assessment year 2021, for collection of revenue in 2022. Following the Effective Date, the Parties or their representatives shall meet to discuss, in good faith, the mill levy, if any, to be certified by the Redlands Subdistrict in assessment year 2022 and thereafter ("**Subsequent Mill Levy**"). The Parties shall memorialize their mutual agreement on the Subdistrict's Subsequent Mill Levy, if any, in a writing signed by all Parties prior to December 1, 2022. Notwithstanding the foregoing, if for any reason all Parties have not signed such a writing prior to December 1, 2022, then, to the extent permitted by law, the rate of the Subdistrict's Subsequent Mill Levy shall be no less than 4.075, unless otherwise agreed in writing by the Parties and permitted by law.

c. Dissolution of Redlands Subdistrict. The Fire District Board and the Redlands Subdistrict Board intend to seek dissolution of the Redlands Subdistrict and to establish uniform taxation across the Fire District's jurisdiction in election and dissolution proceedings conducted in calendar year 2022. The City shall provide the Fire District Board and Redlands Subdistrict Board with such information and data, including financial, administrative, and operational information and data related to the City's Fire Department, as are reasonably requested by the Fire District Board and the Redlands Subdistrict Board to assist them in preparing for such intended election and dissolution proceedings. If the Fire District Board and the Redlands Subdistrict Board determine in their sole discretion that conducting an election and filing dissolution proceedings in calendar year 2022 are not in the best interests of the Fire District and Redlands Subdistrict, the Boards shall notify the City in writing on or before December 31, 2021. Such notice may be cause for Termination as provided in Article IV, Paragraph 3 hereof; except that if the City gives notice of Termination as the result of the Fire District and Redlands Subdistrict determining not to conduct election and dissolution proceedings in calendar year 2022, then such Termination shall require written notice given only 12 months in advance of the date of termination.

4. **Other Fire District and Redlands Subdistrict Funds.** Nothing in this 2020 Agreement shall be construed as limiting or restricting in any way the Fire District's or Redlands Subdistrict's ability to apply for, receive, retain, or spend revenues from any source other than its general operational mill levy (property tax), specific ownership tax, and interest earnings on such tax collections, including, but not limited to, bond mill levy(ies), state or federal reimbursements, grant funds, gifts and donations, or revenues from any other source.

ARTICLE III
Fire District Fire Code

1. **Fire Code Enforcement.** Pursuant to C.R.S. § 32-1-1002(1)(d), the Fire District is authorized to adopt and enforce fire codes, provided that no fire code may be enforced within the unincorporated portion of Mesa County lying within the Fire District's jurisdiction, unless the fire code also has been approved by the Mesa County Board of County Commissioners. As of the Effective Date, the Fire District and Mesa County each have adopted the same edition of the International Fire Code, with corresponding local amendments ("**Fire Code**"). The City's Fire Marshal shall be responsible for enforcing the Fire Code within the Fire District's jurisdiction, and the City's Fire Marshal shall refer a Fire Code violation to the District Attorney for prosecution in the Mesa County District Court. If the Fire Code violation is not satisfactorily resolved, or will not be satisfactorily resolved, through prosecution in District Court, the Fire District may bring a civil action to enforce the Fire Code, utilizing the Fire District's legal counsel.

2. **Fire Code Modification.** After the Effective Date, the Fire District may adopt modifications to the fire code in effect within its jurisdiction or may adopt a different fire code, with or without local amendments. To the extent that the fire code adopted by the Fire District is inconsistent in any respect with the fire code adopted by Mesa County, only those provisions of the fire code adopted by Mesa County shall be enforceable within the unincorporated portion of Mesa County lying within the Fire District's jurisdiction.

3. **Arson Investigations.** The City shall investigate and determine the cause and origin of all fires within the Fire District's jurisdiction. Immediately upon determining that a fire is of suspicious origin, the City shall preserve the scene and shall present the facts of its investigation to the Mesa County Sheriff's Office or District Attorney of the 21st Judicial District, as appropriate, which shall have primary responsibility for investigation of the case from that point.

4. **Plan Reviews.** The Fire District shall promptly refer to the City all applications for modification to or renovation of existing properties, facilities, or buildings, and any new construction or development, within the Fire District's jurisdiction and that includes review under the Fire Code. The City shall endeavor to complete its review within 60 calendar days of receipt of the referral, unless the size or complexity of the project requires additional time. The City shall state in writing whether the application is "approved without condition or comments", "approved with conditions or comments", or "disapproved". If the City states that an application is "disapproved", it shall provide citation(s) to the applicable Fire Code provision(s) upon which the disapproval is based.

5. **Fees and Charges.** The City may impose reasonable fees and charges as authorized by it, the Fire Code, and other applicable laws, rules, and regulations, including but not limited to, reasonable fees and charges for plan reviews, permits, inspections, false alarm inspections, etc., provided that such fees and charges shall be charged at the City's uniform rates and in accordance with the City's procedures. The City shall be solely responsible for assessing and collecting such fees and charges.

ARTICLE IV Additional Provisions

1. **Relationship of the Parties.** By entering into this 2020 Agreement, the Parties are not creating, and shall not be construed as creating, a joint venture, partnership, authority, or any other type of legal relationship, and each Party shall remain a separate and distinct entity for all purposes under this 2020 Agreement. Neither the fact of this 2020 Agreement nor the Parties' performance of this 2020 Agreement shall in any manner alter each Party's constitutional, statutory, and common law rights, powers, duties, and authority, except to the extent expressly set forth in this 2020 Agreement. Any City employee, volunteer, or agent who provides Emergency Services to the Fire District and/or Redlands Subdistrict pursuant to this 2020 Agreement shall at all times remain an employee, volunteer, or agent of

the City, and shall not be considered an employee, volunteer, or agent of the Fire District or Redlands Subdistrict.

2. Legal Compliance. In performing the terms of this 2020 Agreement, the Parties shall comply fully with all federal, state, and local laws, ordinances, resolutions, operating procedures, rules, and/or regulations.

3. Term and Termination. The term of this 2020 Agreement shall commence on the Effective Date and shall continue until terminated as provided herein. This 2020 Agreement may be terminated at any time upon the mutual written agreement of all Parties. Either the City, or the Fire District and Redlands Subdistrict acting together (or only the Fire District if the Redlands Subdistrict is dissolved), may terminate this 2020 Agreement for any reason or no reason upon written notice given at least 24 months in advance of the date of termination. Within 60 calendar days of the date of the notice of termination, each Party's governing body, or their authorized representatives, shall promptly meet and discuss, in good faith, the smooth transfer and continuation of Emergency Services within the Fire District's jurisdiction and Redlands Subdistrict's jurisdiction (if not dissolved), whether by the transfer of Emergency Services to another third party or the assumption of Emergency Services by the Fire District.

4. Dispute Resolution. Any and all disputes or claims arising from or related to this 2020 Agreement shall be submitted first to mediation. The City shall pay one-half the mediator's fees and costs, and the Fire District and Redlands Subdistrict, acting together (or only the Fire District if the Redlands Subdistrict is dissolved), shall pay the other half of the mediator's fees and costs. Each Party shall pay its own fees, costs, and expenses related to the mediation. If the dispute or claim is not resolved by mediation, any Party may commence a Court proceeding, with jurisdiction and venue residing exclusively in the Mesa County District Court. Each Party waives its right to have such dispute or claim decided by jury trial. The prevailing Party shall be awarded its reasonable attorneys' fees, costs, and expenses, including any attorneys' fees, costs, and expenses incurred in collecting or executing upon any judgment, order, or award.

5. Governmental Immunity. Nothing in this 2020 Agreement shall 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 under common law or pursuant to statute, including, but not limited to, the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

6. Notice. Any notice permitted or required by this 2020 Agreement shall be in writing and shall be given by hand delivery or certified or registered mail, postage prepaid, return receipt requested, to:

Grand Junction FPD
Grand Junction FPD Redlands Subdistrict
Attn: Board President
625 Ute Avenue
Grand Junction, CO 81501

City of Grand Junction
Attn: Fire Chief
625 Ute Avenue
Grand Junction, CO 81501

With Copy to:
City Attorney
250 N. 5th Street
Grand Junction, CO 81501

If sent by certified or registered mail, the notice shall be deemed given when deposited in the United States mail and shall be deemed effective 72 hours after having been given.

7. Non-Appropriation. All direct and indirect financial obligations of a Party under this 2020 Agreement are subject to appropriation, budgeting, and availability of funds to discharge such obligations.

If a Party's governing body fails to appropriate funds for that Party's obligations under this 2020 Agreement, this 2020 Agreement shall terminate on January 1 of the year for which the non-appropriation occurred, and no Party shall have any further obligation to any other Party under this 2020 Agreement beyond the financial obligations for which it previously appropriated funds.

8. Indemnification. To the extent permitted by law, each Party shall indemnify and defend the other Parties and their past and current Directors, council members, officers, employees, volunteers, and/or agents (collectively, "**Party Agents**") from and against any and all claims, causes of action, losses, liability, damages, costs (including, without limitation, attorneys' fees and costs), or expenses of any kind or nature whatsoever arising in whole or in part out of the intentional or negligent act or omission of the indemnifying Party or its Party Agents in connection with this 2020 Agreement or the Emergency Services to be provided by the City hereunder. The indemnified Parties shall have the right to select legal counsel of their choice, notwithstanding the indemnifying Party's obligation to pay for the reasonable fees, costs, and expenses incurred by such legal counsel.

9. 2008 Agreement Terminated. As of the Effective Date, this 2020 Agreement supersedes and replaces, in all respects, the 2008 Agreement and the 2008 Agreement is terminated and of no further force or effect.

10. Additional Terms. Colorado law governs this 2020 Agreement. This 2020 Agreement constitutes the entire agreement between the Parties, and all prior and contemporaneous conversations, negotiations, possible alleged agreements, representations, covenants, and warranties concerning the subject matter hereof are merged herein. This 2020 Agreement may be amended only by a document signed by the Parties. Course of performance, no matter how long, shall not constitute an amendment to this 2020 Agreement. If any provision of this 2020 Agreement is held invalid or unenforceable, all other provisions shall continue in full force and effect. Waiver of a breach of this 2020 Agreement shall not be construed as a waiver of any subsequent breach of this 2020 Agreement. This 2020 Agreement shall inure to the benefit of and be binding upon the Parties and their legal representatives and successors. This 2020 Agreement shall not be assigned by any Party without the written consent of the other Parties, which consent shall not be unreasonably withheld. This 2020 Agreement is not intended to, and shall not, confer rights on any person or entity not named as a party to this 2020 Agreement. This 2020 Agreement may be executed in several counterparts and by facsimile or electronic PDF, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

[SIGNATURE PAGE IMMEDIATELY FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this 2020 Agreement.

CITY OF GRAND JUNCTION,
a Colorado home rule municipality

By: 
Greg Caron, City Manager

Date: December 4, 2020

ATTESTED:


Wanda Winklemann, City Clerk

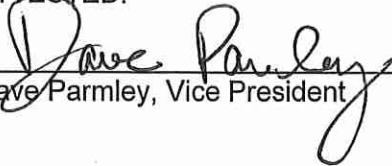


GRAND JUNCTION RURAL FIRE PROTECTION DISTRICT, a political subdivision of the State of Colorado

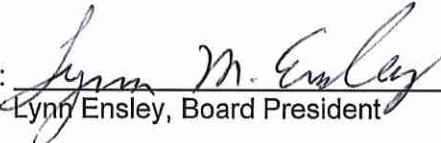
By: 
Lynn Ensley, Board President

Date: 7/08/2020

ATTESTED:


Dave Parmley, Vice President

GRAND JUNCTION RURAL FIRE PROTECTION DISTRICT REDLANDS SUBDISTRICT, a political subdivision of the State of Colorado

By: 
Lynn Ensley, Board President

Date: 12/08/2020

ATTESTED:


Dave Parmley, Vice President