AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Correspondence; Office of Economic Development and International Trade; Community Development Block Grant for the Business Loan Fund Administered by Region 10 Economic Assistance and Planning, Inc.; Excessive Force Policy

Action Requested: Motion

Parties to the Agreement:

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

Summary:
Attached are additional items needed for the IGA that was approved and signed as part of the 7/15/14 Consent Agenda. The Assurances document was signed on 7/23/14 by Chairperson Swenson after verbal approval of the Board. The letter concerning excessive force will need to be signed on 8/5/14.

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:

ok db 7/28/14

Reviewed by: GUNCOUNTY1\atrezise Discharge Date: 7/24/2014 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 7/25/2014

◉ Consent Agenda ○ Regular Agenda ○ Worksession Time Allotted:

Agenda Date: 8/5/2014 Follow Up Agenda Date:

Revised April 2013

August 5, 2014

Robert Todd
Office of Economic Development and International Trade
1625 Broadway, Suite 2700
Denver, CO 80202

RE: Excessive Force Policy for Gunnison County

Dear Mr. Todd,

Relative to the application for a new Community Development Block Grant to fund the Business Loan Fund administered by Region 10 League for Economic Assistance and Planning, Inc., enclosed is a copy of Gunnison County Resolution #2009-40. This resolution was passed by the Gunnison County Board of County Commissioners on September 15, 2009 and is still being enforced.

If you need any further information, please do not hesitate to contact us at (970) 641-0248.

Sincerely,

Paula Swenson, Chairperson	Phil Chamberland, Commissioner	Jonathan Houck, Commissioner

Encl: Resolution #2009-40, a Resolution Concerning Excessive Force

DRAFT

APPLICANT STATEMENT OF ASSURANCES AND CERTIFICATIONS FOR COMMUNITY DEVELOPMENT BLOCK GRANT BUSINESS LOAN FUNDS

The applicant hereby assures and certifies that:

(a) It:

(1) Possesses legal authority to apply for the grant and to execute the proposed project, and its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the applicant's chief executive officer and/or other designated official representatives to act in connection with the application and to provide such additional information as may be required; and

(2) Has developed its application, including its projected use of funds, so as to give maximum feasible priority to activities which will benefit low and moderate income persons or aid in the prevention or elimination of slums or blight. (The requirement for this certification will not preclude the State from approving an application where the applicant certifies and the State determines, that all or part of the proposed project activities are designed to meet other community development needs that have arisen during the preceding twelve-month period and have particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and where other financial resources are not available to meet such needs.) Furthermore:

(A) With respect to activities it claims benefit low and moderate income persons, it has determined and documented that not less than fifty-one percent (51%) of the beneficiaries of the activity are low and moderate income persons; and

(B) With respect to activities it claims aid in the elimination of slums or blight, it has determined and documented:

(i) For activities to address slums or blight on an area basis:

(I) The area meets a definition of a slum, blighted, deteriorated or deteriorating area under State or local law;

(II) Throughout the area, at least twenty-five percent (25%) of the buildings are in a state of deterioration or two or more types of public improvements are in a state of deterioration;

(III) Documentation is being maintained on the boundaries of the area and the condition which qualified the area at the time of its designation;

(IV) The assisted activity addresses one or more of the conditions which contributed to the deterioration of the area; and

(V) Rehabilitation will only be undertaken on residential structures which are not occupied by low and moderate income persons if such structures are substandard under local definition, and provided that all deficiencies making such structure substandard must be corrected before less critical work on the structure may be undertaken.

(ii) For activities to address slum or blight on a spot basis, the activities must be designed to eliminate specific conditions of blight or physical decay and must be limited to acquisition, clearance, relocation, historic preservation and rehabilitation of buildings, but only to the extent necessary to eliminate specific conditions detrimental to public health and safety.

(b) It is following a detailed citizen participation plan which:

(1) Provides for and encourages citizen participation with particular emphasis on participation by persons of low and moderate income who are residents of slum and blight areas and of areas in which Community Development Block Grant (CDBG) funds are proposed to be used;

(2) Provides citizens with reasonable and timely access to local meetings, information, and records relating to its proposed and actual use of CDBG funds;

(3) Provides for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the applicant;

(4) Provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;

(5) Provides for a timely written answer to written complaints and grievances, within 15 working days where practicable; and

(6) Identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

In the case of a multi-jurisdictional application, all directly participating jurisdictions are required to have a Citizen Participation Plan and to submit it with the application.

(c) It has provided for and encouraged citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blight areas and of areas in which CDBG funds are proposed to be used, by:

(1) Furnishing citizens information concerning the amount of funds available for proposed community development and housing activities and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income and its plans for minimizing displacement of persons as a result of activities assisted with CDBG funds and to assist persons actually displaced as a result of such activities;

(2) Publishing a proposed project plan/application in such a manner to afford citizens an opportunity to examine its content and to submit comments on the proposed project plan/application and on the community development performance of the jurisdiction(s);

(3) Holding one or more public hearings, as indicated below, to obtain citizen views and to respond to proposals and questions related to community development and housing needs, proposed activities and past CDBG performance. All hearings will be held no

sooner than five days after notice, at times and locations convenient to potential or actual beneficiaries and with accommodation for the handicapped and for the needs of non-English speaking residents where a significant number of such residents may reasonably be expected to participate.

Applicant's Public Hearing	Date	Time	Location
Montrose County	August 18, 2014	9:00 am	Montrose County Building 317 South 2nd Street, Montrose, 81401

(4) As applicable, providing citizens with reasonable and timely access to local meetings, information and records regarding its proposed and past use of CDBG funds;

(5) In preparing its project plan/application, considering any such comments and views and, if deemed appropriate, modifying the proposed project plan/application;

(6) Making the final project plan/application available to the public; and

(7) Identifying its community development and housing needs, including the needs of low and moderate income persons, and the activities to be undertaken to meet such needs.

In the case of a multi-jurisdictional application, all directly participating jurisdictions are required to have a Citizen Participation Plan and to submit it with the application.

(d) In the event it is awarded CDBG funds by the State it will:

(1) Follow a residential anti-displacement and relocation assistance plan which shall:

(A) In the event of such displacement, provide that:

(i) Governmental agencies or private developers shall provide within the same community comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low and moderate income dwelling units demolished or converted to use other than for housing for low and moderate income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under Section 8 of the United States Housing Act of 1937;

(ii) Such comparable replacement dwellings shall be designed to remain affordable to persons of low and moderate income for 10 years from the time of initial occupancy;

(iii) Relocation benefits shall be provided for all low or moderate income persons who occupied housing demolished or converted to a use other than for low or moderate income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and, in the case of displaced persons of low and moderate income, provide either:

(I) compensation sufficient to ensure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or

(II) if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under sub-clause (I) to permit the household to secure participation in a housing cooperative or mutual housing association.

(iv) Persons displaced shall be relocated into comparable replacement housing that is:

(I) decent, safe, and sanitary;

(II) adequate in size to accommodate the occupants;

(III) functionally equivalent; and

(IV) in an area not subject to unreasonably adverse environmental conditions.

(B) Persons displaced shall have the right to elect, as an alternative to the benefits under this subsection to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 if such persons determine that it is in their best interest to do so; and

(C) Where a claim for assistance under subparagraph (A)(iv) is denied by grantee, the claimant may appeal to the State, and that the decision of the State shall be final unless a court determines the decision was arbitrary and capricious.

In the case of a multi-jurisdictional application, all directly participating jurisdictions are required to have a Residential Anti-displacement and Relocation Assistance Plan and to submit it with the application.

(2) Comply with the provisions of the above paragraph (1) except that paragraphs (A)(i) and (A)(ii) shall not apply in any case in which the Secretary of the U.S. Department of Housing and Urban Development finds, on the basis of objective data, that there is available in the area an adequate supply of habitable affordable housing for low and moderate income persons. A determination under this paragraph is final and non reviewable.

(3) Provide citizens with reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of CDBG funds from one eligible activity to another by following the same procedures required in paragraph (c) for the preparation and submission of the final project plan/application.

(e) It will:

(1) Minimize displacement of persons as a result of activities assisted with CDBG funds and provide for reasonable benefits to any person involuntarily and permanently displaced as a result of the use of CDBG funds to acquire or substantially rehabilitate property.

(2) Affirmatively further fair housing in addition to conducting and administering its project in conformity with Public Law 88-352 and Public Law 90-284 as certified in paragraph (h) hereinafter.

In the case of a multi-jurisdictional application, all directly participating jurisdictions are required to affirmatively further fair housing.

(3) Not attempt to recover any capital costs of public improvements assisted in whole or part with CDBG funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

(A) CDBG funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than the CDBG program, or

(B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income who are not persons of low income, it certifies that it lacks sufficient CDBG funds to comply with the requirements of subparagraph (A).

(f) Its chief executive officer or other officer of the applicant approved by the State:

(1) Consents to assume the status of responsible Federal official under the National Environmental Policy Act of 1969 (NEPA) and other provisions of Federal law, as specified in 24 CFR Part 58, which further the purposes of NEPA, insofar as the provisions of such Federal law apply to the Colorado Community Development Block Grant (CDBG) Program; and

(2) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such an official.

(g) It will comply with the financial management regulations, policies, guidelines and requirements set forth in the CDBG Direct Economic Development Projects and Business loan funds' Guidebook.

(h) It will comply with:

(1) **Section 110 of the Housing and Community Development Act of 1974**, as amended, and any State regulations regarding the administration and enforcement of labor standards.

(2) **Davis-Bacon Fair Labor Standards Act (40 USC 276a - 276a-5)** requiring that, on all prime contracts which exceed $2,000 for federally-assisted construction, alteration or rehabilitation, laborers and mechanics employed by contractors or subcontractors shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor. (This requirement applies to the rehabilitation of residential property only if such property is designed for use of eight or more families.)

(3) **Contract Work Hours and Safety Standards Act of 1962 (40 USC 327 et seq.)** requiring that mechanics and laborers employed on federally-assisted contracts which exceed $2,000 be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty in a work week.

(4) **Copeland "Anti-Kickback" Act of 1934 (40 USC 276 (c))** prohibiting and prescribing penalties for "kickbacks" of wages in federally- financed or assisted

construction activities.

(i) It will comply with:

(1) **Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 USC 2000 (d))** prohibiting discrimination on the basis of race, color, religion or religious affiliation, or national origin in any program or activity receiving federal financial assistance.

(2) **The Fair Housing Act (42 USC 3601-20)**, as amended, prohibiting housing discrimination on the basis of race, color, religion, sex, national origin, handicap, and familial status.

(3) **Section 109 of the Housing and Community Development Act of 1974 (42 USC 5309)**, as amended, providing that no person shall be excluded from participation (including employment), denied program benefits or subjected to discrimination on the basis of race, color, national origin or sex under any program or activity funded in whole or in part under Title I (Community Development) of the Housing and Community Development Act.

(4) **Executive Order 11063 (1962)**, as amended by Executive Order 12259, requiring equal opportunity in housing by prohibiting discrimination on the basis of race, color, religion, sex or national origin in the sale or rental of housing built with federal assistance.

(5) **Executive Order 11246 (1965)**, as amended by Executive Order 11375, prohibiting discrimination on the basis of race, color, religion, sex or national origin in any phase of employment during the performance of federal or federally-assisted contracts in excess of $2,000.

(6) **Section 3 of the Housing and Community Development Act of 1968 (12 USC 1701 (u))**, as amended, providing that, to the greatest extent feasible, opportunities for training and employment that arise through HUD-financed projects, will be given to lower-income persons in the project area, and that contracts be awarded to businesses located in the project area or to businesses owned, in substantial part, by residents of the project area.

(7) **Section 504 of the Rehabilitation Act of 1973 (29 USC 793)**, as amended, providing that no otherwise qualified individual shall, solely by reason of a handicap, be excluded from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal funds. Effective communication with persons of all types of disabilities must be ensured.

(8) **Age Discrimination Act of 1975, (42 USC 6101)**, as amended, providing that no person shall be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funds.

(j) It will comply with:

(1) **Section 104(d) of the Housing and Community Development Act of 1974, as amended (42 USC 5301)**, known as the **"Barney Frank Amendment," and the HUD implementing regulations at 29 CRF Part 570**, requiring that local grantees follow a residential anti-displacement and relocation assistance plan which provides for the replacement of all low/moderate-income dwelling units that

are demolished or converted to another use as a direct result of the use of CDBG funds, and which provides for relocation assistance for all low/moderate-income households so displaced.

(2) **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended -- Title III, Real Property Acquisition (Pub. L. 91-646 and HUD implementing regulations at 49 CFR Part 24)**, providing for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by federal or federally- assisted programs and establishing uniform and equitable land acquisition policies for federal assisted programs. Requirements include bona fide land appraisals as a basis for land acquisition, specific procedures for selecting contract appraisers and contract negotiations, furnishing to owners of property to be acquired a written summary statement of the acquisition price offer based on the fair market price, and specified procedures connected with condemnation.

(3) **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended -- Title II, Uniform Relocation Assistance (Pub. L. 91-646 and HUD implementing regulations at 49 CFR Part 24)**, providing for fair and equitable treatment of all persons displaced as a result of any federal or federally-assisted program. Relocation payments and assistance, last-resort housing replacement by displacing agency, and grievance procedures are covered under the Act. Payments and assistance will be made pursuant to state or local law, or the grant recipient must adopt a written policy available to the public describing the relocation payments and assistance that will be provided. Moving expenses and up to $22,500 or more for each qualified homeowner or up to $5,250 or more for each tenant are potential costs.

(k) It will comply with:

(1) **National Environmental Policy Act of 1969 (42 USC 4321 et seq.)**, as amended, and the implementing regulations of HUD (24 CFR Part 58) and of the Council on Environmental Quality (40 CFR Parts 1500 - 1508) providing for establishment of national policy, goals, and procedures for protecting, restoring and enhancing environmental quality.

(2) **National Historic Preservation Act of 1966 (16 USC 470 et seq.)**, as amended, requiring consideration of the effect of a project on any district, site, building, structure or object that is included in or eligible for inclusion in the National Register of Historic Places.

(3) **Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.)** requiring that federally-funded projects contribute to the preservation and enhancement of sites, structures and objects of historical, architectural or archaeological significance.

(4) **The Archaeological and Historical Data Preservation Act of 1974, amending the Reservoir Salvage Act of 1960 (16 USC 469 et seq.)**, providing for the preservation of historic and archaeological data that would be lost due to federally-funded development and construction activities.

(5) **Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951 et seq.)** prohibits undertaking certain activities in flood plains unless it has been determined that there is no practical alternative, in which case notice of the action must be provided and the action must be designed or modified to minimize potential damage.

(6) **Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et seq.)** requiring review of all actions proposed to be located in or appreciably affecting a wetland. Undertaking or assisting new construction located in wetlands must be avoided unless it is determined that there is no practical alternative to such construction and that the proposed action includes all practical measures to minimize potential damage.

(7) **Safe Drinking Water Act of 1974 (42 USC 201, 300 f et seq., 7401 et seq.)**, as amended, prohibiting the commitment of federal financial assistance for any project which the Environmental Protection Agency determines may contaminate an aquifer which is the sole or principal drinking water source for an area.

(8) **The Endangered Species Act of 1973 (16 USC 1531 et seq.)**, as amended, requiring that actions authorized, funded, or carried out by the federal government do not jeopardize the continued existence of endangered and threatened species or result in the destruction or modification of the habitat of such species which is determined by the Department of the Interior, after consultation with the State, to be critical.

(9) **The Wild and Scenic Rivers Act of 1968 (16 USC 1271 et seq.)**, as amended, prohibiting federal assistance in the construction of any water resources project that would have a direct and adverse affect on any river included in or designated for study or inclusion in the National Wild and Scenic Rivers System.

(10) **The Clean Air Act of 1970 (42 USC 1857 et seq.)**, as amended, requiring that federal assistance will not be given and that license or permit will not be issued to any activity not conforming to the State implementation plan for national primary and secondary ambient air quality standards.

(11) **HUD Environmental Criteria and Standards (24 CFR Part 51)** providing national standards for noise abatement and control, acceptable separation distances from explosive or fire prone substances, and suitable land uses for airport runway clear zones.

(l) It will:

(1) Comply with **The Lead-Based Paint Poisoning Prevention Act -- Title IV (42 USC 4831)** prohibiting the use of lead-based paint in residential structures constructed or rehabilitated with federal assistance, and requiring notification to purchasers and tenants of such housing of the hazards of lead-based paint and of the symptoms and treatment of lead-based paint poisoning.

(2) Comply with the **Armstrong/Walker "Excessive Force" Amendment, (P.L. 101-144) & Section 906 of Cranston-Gonzalez Affordable Housing Act of 1990**, which requires that a recipient of HUD funds must certify that they have adopted or will adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within their jurisdiction against individuals engaged in nonviolent civil rights demonstrations; or fails to adopt and enforce a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstration within its jurisdiction.

(3) Comply with the **"Government-wide Restriction on Lobbying, (P.L. 101-121)**, which prohibits spending CDBG funds to influence or attempt to influence federal officials; which requires the filing of a disclosure form when non-CDBG funds are used for such purposes; which requires certification of compliance by the state;

and which requires the state to include the certification language in grant awards it makes to units of general local government at all tiers and that all sub-recipients shall certify accordingly as imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than $10,000 and not more than $100,000 for each failure.

(4) Comply with the **Department of Housing and Urban Development Reform Act of 1989 (24 CFR part 12)** requiring applicants for assistance for a specific project or activity from HUD, to make a number of disclosures if the applicant meets a dollar threshold for the receipt of covered assistance during the fiscal year in which an application is submitted. An applicant must also make the disclosures if it is requesting assistance from HUD for a specific housing project that involves assistance from other governmental sources.

(5) Give the State, the U.S. Department of Housing and Urban Development (HUD), and any authorized representatives access to and the rights to examine all records, books, papers or documents related to the application and grant.

(m) It will comply with all parts of Title 1 of the Housing and Community Development Act of 1974, as amended, which have not been cited previously as well as with other applicable laws and regulations.

SIGNATURE PAGE
APPLICANT STATEMENT OF ASSURANCES AND CERTIFICATIONS
FOR COMMUNITY DEVELOPMENT BLOCK GRANT
BUSINESS LOAN FUNDS

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first above written.

BOARD OF COUNTY COMMISSIONERS
DELTA COUNTY

_____
Signature, Chair/Chief Elected Official

BOARD OF COUNTY COMMISSIONERS
GUNNISON COUNTY

_____
Signature, Chair/Chief Elected Official

BOARD OF COUNTY COMMISSIONERS
HINSDALE COUNTY

_____
Signature, Chair/Chief Elected Official

BOARD OF COUNTY COMMISSIONERS
MONTROSE COUNTY

_____
Signature, Chair/Chief Elected Official

BOARD OF COUNTY COMMISSIONERS
OURAY COUNTY

_____
Signature, Chair/Chief Elected Official

BOARD OF COUNTY COMMISSIONERS
SAN MIGUEL COUNTY

_____
Signature, Chair/Chief Elected Official

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO. 2009-40

A RESOLUTION CONCERNING EXCESSIVE FORCE

WHEREAS, Region 10 League for Economic Assistance and Planning, Inc. through Montrose County, State of Colorado, has made application for a Community Development Block Grant (CDBG) funds from the State of Colorado for communities including Gunnison County; and

WHEREAS, in accordance with Section 519 of Public Law 101-144, the HUD Appropriations Act requires certain statements of assurance and certifications;

NOW THEREFORE, BE IT RESOLVED that pursuant to Region 10 through Gunnison County being granted CDBG funds by the State; the Board of County Commissioners of Gunnison County, Colorado with support from the Gunnison County Sheriff hereby adopts a statement of policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individual(s) engaged in non-violent civil rights demonstrations.

INTRODUCED by Commissioner Starr, seconded by Commissioner Channell, and adopted this 15th day of September, 2009.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

By _____
Paula Swenson, Chairperson

By _____
Jim Starr, Vice Chairperson

By _____
Hap Channell, Commissioner

ATTEST:

_____
Deputy County Clerk

GUNNISON COUNTY SEAL COLORADO