AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Consent 04 - Memorandum of Agreement; Office for Resource Efficiency; Operational Costs; 1/1/15 thru 12/31/15; $12,000

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:
Attached is the annual service contract for the Office for Resource Efficiency.

Fiscal Impact: $12,000

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

Finance Review: (●) Required ( ) Not Required

Comments:

Included in the 2015 budget

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 1/7/2015

County Attorney Review: (●) Required ( ) Not Required

Comments:

Reviewed by: GUNCOUNTY1\atrezise Discharge Date: 1/8/2015

Certificate of Insurance Required

Yes (●) No ( )

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 1/8/2015

(●) Consent Agenda ( ) Regular Agenda ( ) Worksession Time Allotted:

Agenda Date: 3/3/2015 Follow Up Agenda Date:

Revised April 2013

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement ("MOA") made effective the 1st day of January, 2015, is by and between the Board of County Commissioners of the County of Gunnison, Colorado, whose address is 200 East Virginia, Gunnison, CO 81230 ("Gunnison County") and Office for Resource Efficiency, 109 Kelley Hall, 600 N. Adams Street, Gunnison, CO 81231 ("ORE").

RECITALS

WHEREAS, ORE has requested assistance from Gunnison County in financing a portion of operational costs; and

WHEREAS, Gunnison County is supportive of the objectives of ORE in terms of assisting those in need of services in Gunnison County; and

WHEREAS, Gunnison County feels it is in the public's interest to provide financial assistance to ORE.

AGREEMENT

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

1. TERM.

The term of this Agreement shall commence on the 1st day of January, 2015 and shall terminate on December 31, 2015, unless sooner terminated or replaced as provided herein.

2. COMPENSATION, BONUS AND EXPENSES.

(a) Gunnison County agrees to provide $12,000 in funds to ORE. It is understood and recognized that these funds must be used for financing a portion of operational costs.

(b) The quarterly payments will be distributed by the County upon submittal of appropriate documentation, although such requests for payments and presentation of documentation do not need to occur quarterly.

(c) This Agreement is subject to Gunnison County making an annual budget appropriation in an amount sufficient to fund this Agreement. If Gunnison County fails or refuses to make such an appropriation, Gunnison County reserves the right to terminate this Agreement without penalty to ORE pursuant to paragraph 11 of this Agreement.

(d) Gunnison County reserves the right to amend this agreement to reduce the contribution stated herein if the 2014 Gunnison County audit should result in a significantly lower fund balance than projected.

3. STRATEGIC RESULT.

Execution of this MOA will assist Gunnison County with its Promote Healthy Communities strategy, as outlined in the Gunnison County Strategic Plan. ORE agrees to submit a final written project report by October 1, 2015 that will include performance metrics (i.e., number of clients served, result percentages, etc.) and other pertinent information. The County's receipt of this final project report by the October 1, 2015 deadline will serve as a condition for future funding eligibility.

4. INDEMNIFICATION.

(a) ORE agrees to indemnify, defend and hold harmless Gunnison County, its Commissioners, agents and employees of and from any and all liability, claims, liens, demands, actions and causes of action whatsoever (including reasonable attorney's and expert's fees and costs) arising out of or related to any loss, cost, damage or injury, including death, of any person or damage to property of any kind caused by the misconduct or negligent acts, errors or omissions of ORE or its employees, sub-contractors or agents in connection with this Agreement.

(b) This provision shall survive any termination or expiration of this Agreement with respect to any liability, injury or damage occurring prior to such termination.

5. INSURANCE.

ORE agrees that at all times during the Term of this Agreement that ORE shall carry and maintain, in full force and effect and at its sole cost and expense, the following insurance policies. Within thirty (30) days of the execution of this Agreement, ORE will provide insurance certificates to Gunnison County, listing Gunnison County as an additional insured, for the coverage's required herein which shall state that such policies shall not be materially changed or cancelled without thirty (30) days prior notice to Gunnison County.

(a) Worker's Compensation Insurance in accordance with Colorado and Federal law which adequately protects all labor employed by ORE during the term of this Agreement.

(b) Comprehensive automobile liability insurance on all vehicles used in the Services, in an amount no less than $350,000 for any injury to one person in any single occurrence and in an amount no less than $990,000 for any injury to two or more persons in any single occurrence.

6. INDEPENDENT CONTRACTOR.

(a) In carrying out its obligations and activities under this Agreement, ORE is acting as an independent contractor and not as an agent, partner, joint venture or employee of Gunnison County. ORE does not have any authority to bind Gunnison County in any manner whatsoever.

(b) ORE acknowledges and agrees that ORE is not entitled to: (i) unemployment insurance benefits; or (ii) Workers Compensation coverage, from Gunnison County. Further, ORE is obligated to pay federal and state income tax on any moneys paid it related to the services.

7. AUTHORITY TO AUDIT RECORDS.

Gunnison County has the authority to audit ORE's financial records, said audit to be performed by an employee, agent or designee of Gunnison County and at the expense of ORE, upon seven days' notice to ORE.

8. DELEGATION AND ASSIGNMENT.

This is a personal services contract with ORE and, therefore, ORE shall not delegate or assign its duties under this Agreement without the prior written consent of Gunnison County which consent Gunnison County may withhold in its discretion. Subject to the foregoing, the terms, covenants and conditions of this Agreement shall be binding on the successors and assigns of either party.

9. IMMIGRATION COMPLIANCE CERTIFICATION.

(a) ORE certifies that ORE does not and will not knowingly contract with or employ illegal aliens to work under this Agreement.

(b) ORE certifies that ORE has required its subcontractors to certify that they do not knowingly contract with or employ illegal aliens to work under this Agreement.

(c) ORE certifies that it has attempted to verify the eligibility of its employees and subcontractors to work through the Basic Pilot Employment Verification Program administered by the Social Security Administration and Department of Homeland Security.

(d) ORE agrees to comply with all reasonable requests made in the course of an investigation under C.R.S. 8-17.5-102 by the Colorado Department of Labor and Employment.

(e) ORE agrees to comply with the provisions of C.R.S. 8-17.5-101 et seq.

10. NOTICES.

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

Gunnison County: County Manager
Gunnison County
200 E. Virginia
Gunnison, Colorado 81230
Phone: 970-641-0248

With a copy to: Board of County Commissioners
of the County of Gunnison, Colorado
200 E. Virginia
Gunnison, Colorado 81230

ORE: Office for Resource Efficiency
109 Kelley Hall
600 N. Adams Street
Gunnison, CO 81231

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

11. TERMINATION.

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

12. MISCELLANEOUS.

(a) SEVERABILITY. If any clause or provision of this Agreement shall be held to be invalid in whole or in part, then the remaining clauses and provisions, or portions thereof, shall nevertheless be and remain in full force and effect.

(b) AMENDMENT. No amendment, alteration, modification of or addition to this Agreement shall be valid or binding unless expressed in writing and signed by the parties to be bound thereby.

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

13. ATTORNEYS FEES.

If any party hereto shall bring any suit or action against another for relief, declaratory or otherwise, arising out of this Agreement, the prevailing party shall have and recover against the other party, in addition to all court costs and disbursements, such sum as the court may adjudge to be reasonable attorneys fees and expert witness fees.

14. GOVERNING LAW.

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

15. ENTIRE AGREEMENT.

This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof, and supersedes any and all prior agreements, proposals, negotiations and representations pertaining to the obligations to be performed hereunder.

16. COUNTERPARTS: FACSIMILE TRANSMISSION.

This Agreement may be executed by facsimile and/or in any number of counterparts, any or all of which my contain the signatures of less than all the parties, and all of which shall be construed

together as but a single instrument and shall be binding on the parties as though originally executed on one originally executed document. All facsimile counterparts shall be promptly followed with delivery of original executed counterparts.

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

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Matthew Birnie, County Manager

ATTEST:

_____
Deputy Clerk

OFFICE FOR RESOURCE EFFICIENCY

By: _____
Ryan Atwell, Executive Director

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 2/20/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

Henry Ham Agency
645 E. Evans Ave.
Denver CO 80250

CONTACT NAME: Christine Simmons
PHONE (A/C, No, Ext): 303-744-1341
FAX (A/C, No): 303-744-0654
E-MAIL ADDRESS: christine@henryham.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Auto-Owners Insurance Company	18988
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED

OFFIC-1

Office for Resource Efficiency
202 E Georgia
Gunnison CO 81224

COVERAGES **CERTIFICATE NUMBER:** 506932096 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	**GENERAL LIABILITY**			74032108	9/1/2014	9/1/2015	EACH OCCURRENCE	$1,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$300,000
	CLAIMS-MADE X OCCUR						MED EXP (Any one person)	$10,000
							PERSONAL & ADV INJURY	$1,000,000
							GENERAL AGGREGATE	$4,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	$2,000,000
	X POLICY PRO-JECT LOC							$
A	**AUTOMOBILE LIABILITY**			4775077501	10/26/2014	10/26/2015	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$
	DED RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						WC STATU-TORY LIMITS / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

To Whom It May Concern
***If you need to be listed here,
please contact our office***
303-744-1341 00 00000

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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