# AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

**Agenda Item:** Temporary Road Use Agreement; Quartz Creek Improve

**Action Requested:** Board of County Commissioners' Signature

**Parties to the Agreement:** Gunnison County and Quartz Creek Imnprovement Association

**Term Begins:** August 8, 2015 **Term Ends:** 8/8/2015 **Grant Contract #:**

**Summary:**

Quartz Creek Improvement Assoc has requested closure of a portion of CR #771 on August 8, 2015 from 8:30 - Noon for their benefit race event.

**Fiscal Impact:** None to the County

**Submitted by:** Marlene D. Crosby **Submitter's Email Address:** mcrosby@gunnisoncounty.org

**Finance Review:** ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

**County Attorney Review:** ◉ Required ○ Not Required

Comments:
ok db 6/11/15

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 6/11/2015 Certificate of Insurance Required Yes ◉ No ○

**County Manager Review:**

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 6/11/2015

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: DCM Report

Agenda Date: 6/16/2015

*Revised April 2015*

# TEMPORARY ROAD USE AGREEMENT

THIS TEMPORARY ROAD USE AGREEMENT (hereinafter "Agreement") is made and entered into on this _____ day of _____, 2015, by and between the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO, a political subdivision of the State of Colorado, whose address is 200 E. Virginia, Gunnison, Colorado 81230 ( herein "Gunnison County" ) and the QUARTZ CREEK IMPROVEMENT ASSOCIATION, a Colorado non-profit corporation, whose address is 115 Miners Avenue, Ohio City, Colorado 81237 (herein "QCIA").

FOR AND IN CONSIDERATION of the mutual covenants and promises hereinafter set forth, the parties hereto agree as follows:

1. GRANT OF PERMISSION TO USE.

Gunnison County grants to QCIA temporary permission to use a certain portion of County Road 771, (the "Property") only as set forth herein.

2. TERM OF USE.

QCIA shall temporarily use a portion of County Road 771 on Saturday, August 8, 2015 from 8:30 a.m. to Noon, 12:00 p.m.

3. QCIA'S USE LIMITED.

QCIA's use of County Road 771 shall be for and limited to a single special fundraising event for the benefit of the public specifically limited to use of the Property for a 5K/10K Walk/Run race event.

4. OBLIGATIONS OF THE RESPECTIVE PARTIES.

   A. QCIA shall ensure closure of that portion of County Road 771 from the Ohio City Fire Department to approximately the 4 mile marker to vehicle traffic, with the exception of event staff vehicles, emergency vehicles and law enforcement.

   B. QCIA agrees to indemnify, defend and hold harmless Gunnison County, its 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 QCIA or its employees, sub-consultants or agents in connection with QCIA's use of the Property pursuant to this Agreement. This provision 4.B shall survive any termination or expiration of the Term of Use period or this Agreement with respect to any liability, injury or damage caused or occurring prior to such termination.

C. QCIA shall ensure that Gunnison County is named as an additional insured, or has the named benefit of, general liability insurance coverage with limits no less than:

1. For any injury to one person in any single occurrence, Three Hundred Fifty Thousand and No/100 U.S. Dollars ($350,000.00); and

2. For an injury to two or more persons in any single occurrence, the sum of Nine Hundred Ninety Thousand and No/100 U.S. Dollars ($990,000.00).

QCIA shall furnish to Gunnison County current certificates of such insurance no later than July 1, 2015.

Nothing in this Agreement, including but not limited to the required or the existence of the insurance required hereunder, is or shall be deemed a waiver by the QCIA or Gunnison County of any defense or claim of sovereign immunity, nor a waiver of any other provision of law relating to the liability of governmental units or the limits thereof.

This provision 4.C shall survive any termination or expiration of this Agreement with respect to any liability, injury or damage caused or occurring prior to such termination.

D. QCIA shall be responsible for, and shall promptly pay to Gunnison County, all reasonable costs to repair any damage to County Road 771 caused by QCIA's use of the Property under this Agreement.

E. QCIA will need to keep emergency access routes open during the closure.

F. Should any damage happen to adjacent fences or guard rail, caused by QCIA's use of the Property under this Agreement, QCIA will be responsible for fixing the damage and/or paying for the repair of the damages depending on severity and complexity of the damage.

G. QCIA shall conduct the special event strictly according to the terms and conditions identified in Appendix "A" attached hereto and incorporated herein by reference.

5. <u>NON-WAIVER.</u>

No covenant or condition of this Agreement may be waived except by the written consent of the parties hereto. Forbearance or indulgence by either party in any regard whatsoever

whatsoever shall not constitute a waiver of the term or condition to be performed by the other party to which the same may apply, and, until complete performance of said term or condition, the parties shall be entitled to invoke any remedy available under this Agreement or by law or in equity despite said forbearance or indulgence.

6. NOTICES.

Service of all notices under this Agreement shall be sufficient if sent via hand delivery or certified registered mail as follows:

Gunnison County:

Board of County Commissioners
of the County of Gunnison, Colorado
c/o Matthew Birnie, County Manager
200 East Virginia Avenue
Gunnison, CO 81230

QCIA: Quartz Creek Improvement Association
115 Miners Avenue
Ohio City, CO 81237

7. SEVERABILITY.

In the event any term, condition or provision contained in this Agreement is held by any court of competent jurisdiction to be invalid, the invalidity of such term, condition or provision shall in no way affect any other covenant, condition or provision herein contained. Provided, however, that if the invalidity of such term, condition or provision causes material prejudice to either party hereto with respect to its respective rights and obligations contained in the remaining valid portions of this Agreement, then at the option of such party, this Agreement may be declared to be terminated.

8. GOVERNING LAW - BINDING AGREEMENT.

This Agreement shall be deemed to have been made in and be construed in accordance with the laws of the State of Colorado and be binding upon the parties hereto, their successors and assigns.

9. ENTIRE AGREEMENT.

This instrument constitutes the entire Agreement between Gunnison County and QCIA, and it shall not be amended, altered, or changed except by a written agreement signed by the parties hereto.

10. VENUE.

Venue for any and all legal actions regarding this Agreement shall lie in the District Court in and for the County of Gunnison and State of Colorado.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first set forth above.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Paula Swenson, Chairperson

ATTEST:

_____
Deputy County Clerk

QUARTZ CREEK IMPROVEMENT ASSOCIATION

By: Annette Nicholl
Annette Nicholl, Chairperson

ATTEST:
Patri Reinmund
Secretary

## APPENDIX "A"

The race will commence at the Ohio City Firehouse and travel up County Road 771 to approximately the 4 mile marker. Residents of Ohio City will be provided as volunteers. There will a resident or volunteer at all occupied residential driveways within that portion of the road closure. Emergency volunteers from the Ohio City and Pitkin Fire Departments will be present at the race to provide for at least 6 certified First Responders with radios and an additional 10 Fire Department volunteers. At least 2 First Responders will be monitoring the race by ATV's. We anticipate approximately 25 volunteers to assist with the race. We are hoping for 60 participants in the race.

A single lane will be open for emergency traffic and First Responder monitoring of the race. Stop and Go paddles and vests will be provided for direction.

There will be 3 First Aid stations with First Aid supplies, snacks and water at the beginning, the middle turn around and at the end of the race. Signage of the road closure will be provided at the beginning and end of the raceway. Sanitary facilities will be provided for with the outhouses at the Ohio City Town Hall, the restroom at the Ohio City Fire Department along with an additional porta-potty.