AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Agreement; John Pickering; Professional Services R

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: John Pickering dba Weed Busters

Term Begins: July 31, 2015 **Term Ends:** 10/31/2016 **Grant Contract #:** NA

Summary:

Contract for noxious weed management. Funding for this work will come from the Soap Creek sub-account of the Weed Management Program budget.

Fiscal Impact: $7000

Submitted by: Jon Mugglestone **Submitter's Email Address:** jmugglestone@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:
No concerns, included in 2016 adopted budget. ln

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 6/16/2016

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

Comments:
ok - gs

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 6/14/2016 Certificate of Insurance Required Yes (●) No ( )

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\khaase Discharge Date: 6/16/2016

(●) Consent Agenda ( ) Regular Agenda ( ) Worksession Time Allotted: 0

Agenda Date: 6/21/2016

Revised April 2015

AGREEMENT

This Agreement ("Agreement") made effective the _____ day of _____, 2016, 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 John Pickering ("Contractor").

RECITALS

Contractor provides professional services regarding application of herbicide to control noxious weeds mandated for control within Gunnison County. Gunnison County desires to engage Contractor to provide Services according to this Agreement.

AGREEMENT

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

1. SCOPE OF SERVICES.

Contractor shall furnish all labor, supervision, supplies and equipment to commence, diligently pursue, and complete the services as more specifically set forth on Exhibit A, attached hereto and incorporated herein by this reference, regarding application of herbicide to control noxious weeds mandated for control within the Gunnison River Watershed . All Services shall be performed in a timely manner and in accordance with generally accepted standards for Contractor's profession and all applicable federal, state and local laws and regulations affecting the Services or the subject matter thereof. Contractor acknowledges that this is a non-exclusive Agreement, and Gunnison County may contract with additional or other Contractors able to furnish the same or similar services as it deems appropriate to do so.

2. TERM.

The term of this Agreement shall commence on the date first set forth above and shall terminate on October 30, 2016, unless sooner terminated or replaced as provided herein.

3. STRATEGIC RESULT.

Execution of this Agreement will assist the County with its noxious weed management strategy, as outlined in the Gunnison County Strategic Plan.

4. COMPENSATION, BONUS AND EXPENSES.

(a) In exchange for Contractors performance of the Services, during the Term, Gunnison County shall pay Contractor a rate of $85.00 per hour for weed treatments. Specific areas to be treated are:

i. Soap Creek area drainages off of Gunnison CR 721. Specific treatment sites will be outlined by Danguole Bockus of the National Park Service. Fees for this treatment are not to exceed $5000.

ii. East side of Blue Creek off of US Forest Service Road 867. Specific treatment sites will be outlined by Jon Mugglestone of the Gunnison County Weed Management Program. Fees for this treatment are not to exceed $2000.

At both sites, the primary target weed will be oxeye daisy, however other state listed noxious weeds encountered may be treated as well.

b. The Compensation shall compensate Contractor for all charges, expenses, overhead, payroll costs, employee benefits, insurance subsistence, and profits, except as specifically set forth herein.

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 Contractor pursuant to paragraph 11 of this Agreement.

5. INDEMNIFICATION.

Contractor 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 Contractor or its employees, subcontractors or agents in connection with this Agreement.

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

6. INSURANCE.

Contractor agrees that at all times during the Term of this Agreement that Contractor shall carry and maintain, in full force and effect and at its sole cost and expense, the following insurance policies. Contractor has provided insurance certificates to Gunnison County (Exhibit B attached hereto and incorporated herein by this reference), listing Gunnison County as an additional insured, for the coverages 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 Contractor during the term of this Agreement.

(b) Comprehensive General Liability Insurance or the equivalent in an amount not less than $1,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury Liability and $500,000 for Property Damage Liability.

(c) Comprehensive automobile liability insurance on all vehicles used in the Services, in an amount no less than $150,000 for any injury to one person in any single occurrence and in an amount no less than $600,000 for any injury to two or more persons in any single occurrence.

7. INDEPENDENT CONTRACTOR.

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

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

8. DELEGATION AND ASSIGNMENT.

This is a personal services contract with Contractor and, therefore, Contractor 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. 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

Contractor: John Pickering

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.

10. IMMIGRATION COMPLIANCE CERTIFICATION.

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

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

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

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. Upon termination, Contractor shall be entitled to compensation for Services performed prior to the date of termination as outlined in Section 4 of this Agreement.

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. 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.

14. 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.

15. 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 below to be effective as of the date first above written.

BOARD OF COUNTY COMMISSIONERS OF
THE COUNTY OF GUNNISON, COLORADO

Date: _____ By: _____
Paula Swenson, County Commissioner

JOHN PICKERING

Date: _____ By: _____
John Pickering

EXHIBIT A

SCOPE OF SERVICES

Contractor shall perform and provide the following services:

RESPONSIBILITIES OF ECO-RIGHT SOLUTIONS.

The application of herbicides in Gunnison County, Colorado, as more specifically directed by the Gunnison County Weed Management Program and/or the Gunnison County Public Works Department.

EXHIBIT B

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/03/2016

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
Allee Agency Inc.
9005 Overlook Blvd. 1st. Floor
Brentwood TN 37027

CONTACT NAME: Allee Agency Inc.
PHONE (AC, No, Ext): 6153867153 FAX (AC, No): 6152361107
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Hartford Insurance Co.	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Eco Right Solutions
167 Redstone BLVD
Redstone CO 81623

COVERAGES CERTIFICATE NUMBER: 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 ☑ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☑ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC	Y		20SBATU8571	6/14/2015	6/14/2016	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 15,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
								$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					☐ WC STATU-TORY LIMITS ☐ OTH-ER	
							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

Gunnison County

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

ACORD 25 (2010/05)

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Binder of Insurance

Pending issuance and delivery of a policy pursuant to the application of the insured and to all the terms and conditions of the policy issued by the company the

State Farm Mutual Automobile Insurance Company

Does hereby insure: JOHN A PICKERING & LYNDA
ALEXANDER
18541 G RD
DELTA, CO 81416-3075

Policy Number: 048 2303-E01-06J

Year	Make	Vehicle Identification Number (VIN)
1999	FORD F350 SD FLAT BED	1FDWX37F9XED07760

Coverages

Liability	Comprehensive	Collision Ded
1M/1M/1M	$500	$500

Effective June 10, 2016, expiring not to exceed thirty (30) days hence and to become void immediately upon the issuance of a policy in place hereof.

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND SUBJECTS SUCH PERSON TO CRIMINAL AND CIVIL PENALTIES.

Date 6/10/16, _____ _____
Authorized Representative