AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Acknowledgement of County Managers Signature; Bear

Action Requested:

Parties to the Agreement:

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

Summary:

The attached contract was signed by the County Manager for the Local Marketing District on 3/17/17. Has already been reviewed by the County Attorney

Fiscal Impact: $19,500

Submitted by: Josh Ost **Submitter's Email Address:** jost@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:
Will request a budget amendment for the cost of this contract. No concern, ending available resources sufficient to cover the cost.

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 3/20/2017

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

Comments:
ok - gs

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 3/23/2017 Certificate of Insurance Required Yes ( ) No (●)

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 3/23/2017

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

Agenda Date: 4/4/2017

Revised April 2015

Bear Cloud

STR Helper Software License Agreement

For

Gunnison River Valley Local Marketing District

Bear Cloud Software STR Helper Software License Agreement

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3. TECHNICAL SUPPORT AND UPGRADES AND UPDATES.

3.1 Technical Support. Bear Cloud Software agrees to provide Customer with technical support services which include periodic distribution of bug fixes and minor enhancements as Updates scheduled by Bear Cloud Software. All registered users of the then-current release of STR Helper and the previous release of Bear Cloud Software are eligible for free limited technical support. Installation support inquiries by telephone will be accepted by Bear Cloud Software during normal business hours. Technical support email inquiries are accepted at any time and will be answered during normal Bear Cloud Software business hours. Bear Cloud Software will attempt to respond to inquiries within the same business day.

3.2 Updates and Upgrades. To receive and use an Upgrade, Customer must pay the applicable annual fees for that Upgrade and agree to Bear Cloud Software standard terms and conditions governing the use of that Upgrade.

4. TERM AND TERMINATION.

4. TERM AND TERMINATION.

4.1 Term. Customers with a fixed-term License Period, this Agreement shall commence on the Effective Date and shall Continue in effect until the software renewal date.

4.2 Termination. Customer may terminate this agreement before the software renewal date.

4.3 Effect of Expiration or Termination. Upon expiration or termination of this Agreement, (i) the rights and licenses granted to Customer pursuant to this Agreement shall automatically and immediately terminate and (ii) Customer shall immediately cease using the Licensed Software. In addition, for a fixed-term License Period, upon expiration of the License Period, the User Account or User ID will expire and the Licensed Software will cease to function.

5. FEES AND PAYMENT.

Fees and Payment Terms. Customer licenses the Licensed Software from Bear Cloud Software. This Agreement is between Customer and Bear Could Software solely. The applicable license fee is specified and set forth in Exhiblt A.

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6. IMPLEMENTATION.

Customer agrees to supply Bear Cloud Software with city property data for software implementation.

7. CONFIDENTIALITY.

Customer and Bear Cloud Software agree to maintain the confidentiality of any confidential or proprietary information of one party (the "disclosing party") received by the other party (the "receiving party") during the term of, or prior to entering into, this Agreement that the receiving party should know is considered confidential or proprietary by the disclosing party based on the circumstances surrounding the disclosure, including, without limitation, non-public technical and business information ("Confidential Information"). The Licensed Software is copyrighted and shall be deemed Bear Cloud Software Confidential Information. The Documentation is copyrighted material of Bear Cloud Software. This section shall not apply to any information that is or becomes publicly available through no breach of this Agreement by the receiving party or is independently developed by the receiving party without access to or use of the Confidential Information of the disclosing party. The foregoing confidentiality obligations will not restrict either party from disclosing Confidential Information of the other party pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the party required to make such a disclosure gives reasonable notice to the other party to enable the other party to seek a protective order or otherwise limit such disclosure. The receiving party of any Confidential Information of the disclosing party agrees not to use the disclosing party's Confidential Information for any purpose except as necessary to fulfill its obligations and exercise its rights under this Agreement. The receiving party shall protect the secrecy of and avoid disclosure and unauthorized use of the disclosing party's Confidential Information with no less than reasonable care. All the disclosing party's information remains the property of the disclosing party.

8. LIMITATION OF LIABILITY.

8.1 Consequential Damages Waiver. IN NO EVENT SHALL BEAR CLOUD SOFTWARE OR ITS LICENSORS HAVE ANY LIABILITY FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE FORM OF THE ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY, OR OTHERWISE, EVEN IF ANY REPRESENTATIVE OF BEAR CLOUD SOFTWARE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF THIS AGREEMENT OR ANY LIMITED REMEDY HEREUNDER.

8.2 Limitation of Damages. IN NO EVENT SHALL BEAR CLOUD SOFTWARE'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED: (I) IF THE LICENSED SOFTWARE IS LICENSED FROM BEAR CLOUD SOFTWARE DIRECTLY, THE LICENSE FEES PAID BY CUSTOMER TO BEAR CLOUD SOFTWARE FOR THE LICENSED SOFTWARE, OR (II) IF THE LICENSED SOFTWARE IS LICENSED THROUGH AN AUTHORIZED RESELLER, THE LICENSE FEES PAID BY CUSTOMER TO THE APPLICABLE AUTHORIZED RESELLER, AS APPLICABLE. IN NO EVENT WILL BEAR CLOUD SOFTWARE LICENSORS HAVE ANY LIABILITY FOR ANY CLAIM ARISING IN CONNECTION WITH THIS AGREEMENT.

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8.3 Limitation of Remedies. THE PARTIES AGREE THAT THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF THIS AGREEMENT OR ANY LIMITED REMEDY HEREUNDER.

9. U.S. GOVERNMENT CUSTOMERS.

The Licensed Software under this Agreement is "commercial computer software" as that term is described in DFAR 252.227-014(a)(1). If acquired by or on behalf of a civilian agency, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms and this Agreement as specified in 48 C.F.R. 12.212 (Computer Software) and 12.111(Technical Data) of the Federal Acquisition Regulations ("FAR") and its successors. If acquired by or on behalf of any agency within the Department of Defense ("DOD"), the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement as specified in 48 C.F.R. 227.7202 of the DOD FAR Supplement and its successors.

Exhibit A

Standard Implementation Fee ($3,000.00) – This is a one-time fee changed to implement STR Helper's standard features. Some minor customizations to STR Helper are covered in the implementation fee.

Enhanced Implementation Validation Listing Confirmation After standard implementation fee the first batch of up to 2300 validate listings will be done by a STR Helper Validation Technician. The cost is a one-time fee of ($6,500).

Annual Software Fee ($10,000.00) – This fee is charged after the software is placed into production and is paid annually. Two account licenses are included with the annual software fee. Each license should be used by one person; however, the user can run STR Helper on multiple devices. For example, the user may choose to use STR Helper on a desktop, laptop and tablet.

Standard Implementation Fee per City ($3,000.00) – This is a one-time fee charged to implement STR Helper's standard features. Some minor customizations to STR Helper are covered in the implementation fee.

Annual Software Fee per City ($1750.00) – This fee is charged for additional incorporated cities or towns located in Gunnison River Valley Local Marketing District. One account licenses are included with the annual software fee. Each license should be used by one person; however, the user can run STR Helper on multiple devices. For example, the user may choose to use STR Helper on a desktop, laptop and tablet.

Optional Calendar Function Annual Fee ($5,000) –STR Helper provides Calendar data monthly which is based on the dates that have been blocked out on the calendar of the various platform websites. STR Helper's tax reports are useful tools to act on property owners that failed to make tax payments or grossly under report taxes paid.

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Optional STR Helper Complaint Hotline phone service ($2000 per year) STR Helper's Online complaint feature is included at no additional cost

Additional Account Licenses ($300.00 optional per year) – We recommend that every user has their own license. This way when notes, action items, or tasks are created, STR Helper will log the updates to the correct user.

Custom Development ($140 per hour optional) – Since we are a software company we can create custom features for our clients. For example, If you need STR Helper to export data to a third-party application, then we can assign resources to engineer that request.

On-site Training ($700 per day + travel expenses optional) – We do offer internet trainings for free but some clients prefer one to two days of on-site training to help expedite production rollout.

3-17-17

John Spuhler, CEO Bear Cloud Software — Date

Manager — 3-17-17

Gunnison River Valley Local Marketing District — Title — Date: