AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Contractor Agreement; Mark Lucas; Installation of

Action Requested: County Manager Signature

Parties to the Agreement: Mark Lucas Construction

Term Begins: October 20, 2020 **Term Ends:** 4/30/2021 **Grant Contract #:**

Summary:

This extension is part of the larger DOE project, but is the residence with the poorest water quality.

Fiscal Impact: $12,470.00

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

Finance Review: (●) Required ( ) Not Required

Comments:
no concerns, kw

Reviewed by: GUNCOUNTY1\kweak Discharge Date: 10/29/2020

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

Comments:
ok db 10/28/20

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 10/28/2020 Certificate of Insurance Required Yes (●) No ( )

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 11/6/2020

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

Agenda Date: 11/10/2020

Revised April 2015

CONTRACTOR AGREEMENT

THIS CONTRACTOR AGREEMENT ("Agreement") made effective the 16 day of October, 20 20, by and between the Board of County Commissioners of the County of Gunnison, Colorado, whose address is 200 East Virginia, Gunnison, CO 81230 (herein "Gunnison County") and Mark Lucas, whose address is 601 S. 12th St., Ste A Gunnison, CO 81230 (herein "Contractor").

RECITALS

The Contractor desires to provide professional services regarding installation of a water service line to the residence at 572 Camino Del Rio, Dos Rios Homesites, west of Gunnison (herein "Services").

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. SERVICES.

Contractor shall furnish all materials, labor, supervision, supplies and equipment to commence, diligently pursue, and complete the Services as more specifically set forth on the Special Conditions and Sections 100, 200 and 400 of the Gunnison County Construction Standards for the Utility Department dated February, 2020. All Services shall be performed in a timely manner and with the care and skill ordinarily exercised by members of Contractor's profession practicing under similar circumstances at the same time and in the same locality and strive to comply with 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 providers 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 April 30, 2021, unless sooner terminated or replaced as provided herein.

3. STRATEGIC RESULT.

Execution of this Agreement is tied to a special project that is not necessarily a part of our plan but initiated by the Department of Energy to provide domestic water to remaining Dos Rios residences within the Institutional Control Boundaries.

4. COMPENSATION, BONUS AND EXPENSES.

In consideration and exchange for Contractor's performance of the Services, during the Term, Gunnison County shall pay Contractor fees as more specifically not to exceed $12,470.00 and No/100 U. S. Dollars ($00.00). Payment shall be made by Gunnison County to Contractor within 45 days of receipt of an invoice.

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

5. 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. Within thirty (30) days of the execution of this Agreement, Contractor 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 includes coverage for all labor employed by Contractor during the term of this Agreement.

b. Comprehensive General Liability Insurance or the equivalent for any injury to one person in any single occurrence, Three Hundred Eighty-Seven Thousand and No/100 U.S. Dollars ($387,000.00); and for an injury to two or more persons in any single occurrence, the sum of One Million Ninety-Three Thousand and No/100 U.S. Dollars ($1,093,000.00).

c. Comprehensive automobile liability insurance on all vehicles used in the Services, in an amount no less than Three Hundred Eighty-Seven Thousand and No/100 U.S. Dollars ($387,000.00) for any injury to one person in any single occurrence and in an amount no less than One Million Ninety-Three Thousand and No/100 U.S. Dollars ($1,093,000.00) for any injury to two or more persons in any single occurrence.

6. 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.

7. INDEMNIFICATION.

Contractor agrees to indemnify 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 negligent acts, errors or omissions of Contractor or its employees, subcontractors 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.

8. SOLE SOURCE CONTRACTS.

If the Contractor has entered into a sole source contract or contracts with the State of Colorado or any of its political subdivisions as defined in Article XXVIII of the Colorado Constitution which including this contract in the aggregate on an annual basis are equal to or exceed the amount of $100,000, then the following provisions apply:

a. Because of a resumption of impropriety between contributions to any campaign and sole source government contracts, Contractor, on behalf of itself, any person who controls ten percent or more of the shares of or interest in the Contractor, and the Contractor's officers, directors and trustees (collectively, the "Contract Holder") shall contractually agree, for the duration of the contract and for two years thereafter, to cease making, causing to be made, or inducing by any means, a contribution, directly or indirectly, on behalf of the Contractor Holder or on behalf of his or her immediate family member and for the benefit of any political party or for the benefit of any candidate for any elected office of the state or any of its political subdivisions.

b. The parties further agree that if a Contract Holder makes or causes to be made any contribution intended to promote or influence the result of an election on a ballot issue, the Contract Holder shall not be qualified to enter into a sole source government contract relating to that particular ballot issue.

c. The parties agree that if a Contract Holder intentionally violates sections 15 or 17(2) of Article XXVIII of the Colorado Constitution, as contractual damages that Contract Holder shall be ineligible to hold any sole source government contract, or public employment with the state or any of its political subdivisions, for three years.

d. These provisions shall not apply to the extent they have been enjoined or invalidated by a court of competent jurisdiction.

9. DISCRIMINATION.

The Contractor agrees not to discriminate against any person or class of persons by reason of age, race, color, sex, creed, religion, disability, national origin, sexual orientation or political affiliation in providing any services or in the use of any facilities provided for the public in any manner prohibited by Part 21 of the Regulations of the Office of the Secretary of Transportation. Contractor shall further comply with the letter and spirit of the Colorado Anti-Discrimination Act of 1957, as amended, and any other laws and regulations respecting discrimination in unfair employment practices. Additionally, Contractor shall comply with such enforcement procedures as any governmental authority might demand that Gunnison County take for the purpose of complying with any such laws and regulations.

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 does not now knowing employ or contract with an unauthorized immigrant who will perform work under this Agreement, and that Contractor will participate in either (i) the "E-Verify Program", jointly administered by the United States Department of Homeland Security and the Social Security Administration, or (ii) the "Department Program" administered by the Colorado Department of Labor and Employment in order to confirm the employment eligibility of all Contractor's employees who are hired to perform work under this Agreement.

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. ADA COMPLIANCE.

The Contractor assures Gunnison County that at all times during the performance of this Agreement no qualified individual with a disability shall, by reason of such disability, be exclude from participation in, or denied benefits of the service, programs, or activities performed by the Contractor, or be subjected to any discrimination by the Contractor upon which assurance Gunnison County relies.

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. 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.

14. 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, per the compensation terms outlined in Exhibit A.

15. 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:	Deputy County Manager Gunnison County 195 Basin Park Drive Gunnison, Colorado 81230 Phone: 970-641-0044
With a copy to:	Board of County Commissioners of the County of Gunnison, Colorado 200 E. Virginia Gunnison, Colorado 81230
Contractor:	Name

Address
Gunnison, CO 81230

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.

16. 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 of Colorado District Court, Gunnison County, Colorado.

17. COUNTERPARTS: FACSIMILE TRANSMISSION.

This Agreement may be executed by electronic means and/or in any number of counterparts, any or all of which may 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.

18. 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.

19. MEDIATION.

Any dispute between Gunnison County and Contractor arising out of or relating to this Agreement or services provided under this Agreement, (except for unpaid invoices which are governed by Section III), shall be submitted to nonbinding mediation as a precondition to litigation unless the parties mutually agree otherwise. Mediation shall occur within 60 days of a written demand for mediation unless Contractor and Gunnison county mutually agree otherwise.

20. LIABILITY.

Gunnison County hereby agrees that to the fullest extent permitted by law, Contractor's total liability to Gunnison County for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to the project or this Agreement from any cause or causes including, but not limited to, Contractor's negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not exceed five hundred thousand dollars ($500,000). In the event Gunnison County desires limits of liability on excess of those provided in this paragraph, Gunnison County shall advise Contractor in writing and agree that Contractor's fee shall increase by 1% for each additional five hundred thousand dollars of liability limits, up to a maximum limit of liability of five million dollars ($5,000,000).

Neither party shall be liable to the other for consequential damages, including, without limitation, lost rentals, increased rental expenses, loss of use, loss of income, lost profit, financing, business and reputation and for loss of management or employee productivity, incurred by one another or their subsidiaries or successors, regardless of whether such damages are foreseeable and are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.

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

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Matthew Birnie, County Manager

ATTEST:

_____
Deputy Clerk

CONTRACTOR

By: _____

APPENDIX "A"

SCOPE OF SERVICES

Contractor shall perform and provide the following services:

Installation of a water service line to residence at 572 Camino Del Rio, Dos Rios Homesites, west of Gunnison.

CONTRACTOR'S BID PROPOSAL

DATE: 10 - 16 - 20

TO: Gunnison County Public Works Department
195 Basin Park Drive
Gunnison, CO 81230

Gunnison County has solicited bids for the installation of one water service line to the residence at 572 Camino Del Rio, Dos Rios Homesites, west of Gunnison. The work is located within private property approximately two miles west of Gunnison.

Pursuant to your "Invitation to Bid" the undersigned submits the following bid:

Item	Contract Item Description	Unit	Quantity	Unit Price	Amount
01	Mobilization, permits, bonds, insurance and agreement	LS	Lump Sum	$ 1000.00	$ 1000.00
02	Install 1 inch diameter water service line from the corp stop in Camino Del Rio to the residence	EA	200 LF	$ 44.85	$ 8,970
03	Install water service line inside residence and connect to the plumbing system and testing of the system	LS	Lump Sum	$ 1500.00	$ 1500.00
04	For cleaning, site restoration, repair of outside sprinkler system and revegetation	LS	Lump Sum	$ 1000.00	$ 1000.00

TOTAL BID $ 12,470.00

The date of substantial completion shall be December 4, 2020. Substantial completion is defined as the completion of all work in Items 01, 02 and 03 above.

The date of final completion shall be April 30, 2020, which allows the Contractor time to complete any work in Items 04 above.

The undersigned acknowledges the receipt of the following addendum

_____

The undersigned agrees that this bid proposal may not be withdrawn for a period of thirty (30) days from the opening thereof. In submitting this bid proposal, it is understood that the right is reserved by Gunnison County to waive any informality in, or to reject any or all bids.

By _____

Title Owner/GM

Company Mark Lucas Const. LLC.

Address 601 South 12th ST. Gunnison

Phone 970-209-6056

MARKLUC-01

DESIREEG

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/15/2020

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 have ADDITIONAL INSURED provisions or 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
Mountain West In & Fin Serv LLC
100 E Victory Way
Craig, CO 81625

CONTACT NAME:
PHONE (A/C, No, Ext): (970) 824-8185 FAX (A/C, No): (970) 824-8188
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Employer's Mutual Casualty Company	21415
INSURER B : Pinnacol Assurance	41190
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Mark Lucas Construction, LLC
601 South 12th Street Suite A
Gunnison, CO 81230-3227

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR			4X96448	7/8/2020	7/8/2021	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO			4X96448	7/8/2020	7/8/2021	BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR			4X96448	7/8/2020	7/8/2021	EACH OCCURRENCE	$ 1,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$
	DED X RETENTION $ 10,000						Aggregate	$ 1,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: Y	N / A		4055097	7/1/2020	7/1/2021	E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Re: 572 Camino Del Rio, Dos Rios Homesites, West of Gunnison water service line.
The umbrella follows form over the general liability and auto liability. Certificate holder is included as additional insured on the general liability and umbrella liability as their interests appear in written contract or agreement.

CERTIFICATE HOLDER

Gunnison County
200 East Virginia
Gunnison, CO 81230

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
Desiree J. Gribble

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