AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Consultant Agreement; Shaner Life Safety; Fire Safety Assessment of Risks Associated with Riverland Industrial Park and the Requirement of the 2003 International Fire Code; 11/19/13 thru 12/31/13; $6,500

Action Requested: County Manager Signature

Parties to the Agreement: Shaner Life Safety

Term Begins: now **Term Ends:** 12/31/2013 **Grant Contract #:**

Summary:
Consultant Agreement with Shaner Life Safety to assess risks associated with Riverland Industrial Park and the requirements of the 2003 International Fire Code

Fiscal Impact: 6500

Submitted by: CAO for Russ Forrest **Submitter's Email Address:** rforrest@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:

Will add this to the projections for 2013 in the 2014 proposed budget

Reviewed by: GUNCOUNTY1\LNIENHUESER Discharge Date: 11/13/2013

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

Comments:

Reviewed by: GUNCOUNTY1\ATREZISE Discharge Date: 11/8/2013 Certificate of Insurance Required Yes (●) No ( )

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\MBIRNIE Discharge Date: 11/15/2013

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

Agenda Date: 11/19/2013 Follow Up Agenda Date:

Revised April 2013

CONSULTANT AGREEMENT

THIS CONSULTANT AGREEMENT ("Agreement") made effective the ___ day of _____, 2013, by and between the Board of County Commissioners of the County of Gunnison, Colorado, whose address is 200 East Virginia, Gunnison, CO 81230 (hereinafter "Gunnison County") and Shaner Life Safety, whose address is PO Box 1073, Frisco, CO 80443 (hereinafter "Consultant").

RECITALS

The Consultant desires to provide professional services regarding a fire safety assessment of risks associated with Riverland Industrial Park and the requirements of the 2003 International Fire Code, and amendments thereto, adopted by Gunnison County by Resolution No. 2008-47, attached hereto and incorporated herein by reference as Appendix "A ("Services").

Gunnison County desires to engage Consultant 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.

Consultant shall furnish all materials, labor, supervision, supplies and equipment to commence, diligently pursue, and complete the Services as more specifically set forth on Appendix "A". All Services shall be performed in a timely manner and in accordance with generally accepted standards for Consultant's profession and all applicable federal, state and local laws and regulations affecting the Services or the subject matter thereof. Consultant 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 December 31, 2013, unless sooner terminated or replaced as provided herein.

3. STRATEGIC RESULT.

Execution of this Agreement will assist the County with its strategic result which states: "Gunnison County will provide economic development leadership", as outlined in the Gunnison County Strategic Plan.

4. COMPENSATION, BONUS AND EXPENSES.

In consideration and exchange for Consultant's performance of the Services, during the Term, Gunnison County shall pay Consultant fees as more specifically not to exceed Six Thousand Five Hundred and No/100 U. S. Dollars ($6,500.00). The applicable billing rates for Shaner Life Safety for this project are: Professional Engineer Services - $125 per hour.

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

5. INSURANCE.

Consultant agrees that at all times during the Term of this Agreement that Consultant 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, Consultant 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 Consultant 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 Ninety Thousand and No/100 U.S. Dollars ($350,000.00); and

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

c). 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.

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

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

7. INDEMNIFICATION.

Consultant 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 Consultant 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.

8. DISCRIMINATION.

The Consultant 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. Consultant 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, Consultant 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.

9. IMMIGRATION COMPLIANCE CERTIFICATION.

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

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

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

10. ADA COMPLIANCE.

The Consultant 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 Consultant, or be subjected to any discrimination by the Consultant upon which assurance Gunnison County relies.

11. 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.

12. DELEGATION AND ASSIGNMENT.

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

13. 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,

Consultant shall be entitled to compensation for Services performed prior to the date of termination, per the compensation terms outlined in Exhibit A.

14. 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
Consultant:	Shaner Life Safety Attn: Deborah L. Shaner, P.E. PO Box 1073 Frisco, CO 80443 (970) 409-9082

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.

15. 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.

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.

17. 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.

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

SHANER LIFE SAFETY

By: _____
Deborah L. Shaner, P.E.

EXHIBIT A
SCOPE OF SERVICES

The purpose of the agreement is for a professional fire engineer to provide recommendations to the following questions:

1) Is there an unacceptable fire/life safety risk associated with the Riverland industrial development in relationship to the 2003 IFC as amended in the 2008 Resolution approved by Gunnison County?

2) If there is an unacceptable risk at Riverland, what are short-term solutions, if any, to facilitate development on the final six undeveloped lots and improve life safety for the development?

3) What are long term solutions to provide a more permanent solution for life safety for the Riverland Industrial development?

The Scope of the contract includes

1) Reviewing background materials provided by Gunnison County regarding construction in Riverland and correspondence with the Crested Butte Fire District.

2) Site Visit to meet with both Riverland and Mount Crested Butte Fire District to fully understand the issues related to Fire Protection in Riverland

3) Develop an assessment of Fire Safety issues as it relates to adopted Fire Codes and develop draft recommendations for short-term and long term recommendations , if deemed necessary by the consultant, to improve compliance to the applicable amended IFC and which would be achievable within a reasonable budget.

4) Provide a draft report to Gunnison County project manager Russell Forrest within three weeks of initiating the project (October 31st) .

5) Conduct a 2nd site visit to attempt to facilitate a compromise solution to fire protection based on the draft report

6) Complete the draft report addressing comments provided by Gunnison County and submit that final report to Gunnison County project manager within 5 weeks of the initiation of the project.

7) A final presentation to the BOCC may also be necessary

Cost shall not exceed $6500 and an itemized bill shall be provided to the County at the completion of this project.