AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Lease Agreement; Office for Resource Efficiency; Office Space at 202 E. Georgia, Gunnison, CO 81230; 1/1/13 thru 12/31/13; $6,877.45

Action Requested: Motion

Parties to the Agreement: Gunnison County / ORE

Term Begins: 1/1/2013 **Term Ends:** 12/31/2013 **Grant Contract #:**

Summary:
2013 office space lease agreement with ORE.

Fiscal Impact: $6,877.45

Submitted by: Katherine Haase **Submitter's Email Address:** khaase@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:

This amount is in the 2013 budget projections.

Reviewed by: GUNCOUNTY1\LNIENHUESER Discharge Date: 11/5/2013

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

Comments:

Reviewed by: GUNCOUNTY1\ATREZISE Discharge Date: 11/4/2013 Certificate of Insurance Required Yes (●) No ( )

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\MBIRNIE Discharge Date: 11/8/2013

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

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

Revised April 2013

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into on this ___ day of _____, 2013, 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 (hereinafter "Lessor") and the OFFICE FOR RESOURCE EFFICIENCY, whose address is P.O. Box 2967, Crested Butte, Colorado 81224. (hereinafter "ORE").

WHEREAS, Lessor owns the real property known as the Gunnison County Housing Authority Offices located at 202 E. Georgia, Gunnison, CO 81230 (hereinafter the "Blue House"); and

WHEREAS, Lessor has determined that it would be in the best interest of the public if a portion of the Blue House, consisting of approximately 705 sq. feet (the "Leased Space"), were leased to ORE for office space; and

WHEREAS, ORE desires to lease from Lessor the Leased Space, and Lessor desires to lease to the ORE the Leased Space; and

NOW, THEREFORE, for and in consideration of the mutual covenants, terms and conditions herein contained, Lessor and ORE do hereby agree as follows:

1. <u>GRANT OF LEASE.</u>

Lessor hereby leases to the ORE the Leased Space as an office space and to occupy and use the same only as set forth in this Lease Agreement.

2. <u>TERM OF LEASE.</u>

The term of this Lease Agreement shall commence on January 1, 2013 and terminate on December 31, 2013, unless otherwise terminated or extended under the terms of this Lease Agreement or mutual agreement of the Lessor and ORE.

3. <u>LEASE IS NONEXCLUSIVE.</u>

Lessor expressly reserves the right to enter and use the Blue House, and construct improvements on it, for any and all purposes that will not substantially interfere with ORE's use.

4. <u>CONSIDERATION.</u>

In full and complete consideration of the rights granted herein, ORE shall pay Lessor Six Thousand Eight Hundred Seventy-Seven Dollars and 45 cents ($6,877.45) per year. Said payment shall be payable to the "Gunnison County Finance" and forwarded by US mail to 200 East Virginia, Gunnison, CO 81230. Payments shall be made in a timely manner and received no later than the 15th of every month.

5. <u>UTILITIES.</u>

Lessor shall provide for utilities for heating, water and electric for the Leased Space in the Blue House. ORE shall be responsible for telephone, internet and any and all other costs not identified herein that may be associated with ORE's use of the Leased Space.

6. USE OF PROPERTY.

ORE shall use the Leased Space exclusively and only for an office space. ORE agrees to conduct its uses of the Leased Space in an orderly and good workmanlike manner. ORE, its agents, and employees, will not discriminate against any person or class of person by reason of race, age, religion, gender, creed, sexual preference or national origin in providing any use of the Leased Space. There shall be no alcohol allowed in the Blue House or Leased Space.

7. FURTHER ORDERS, RULES AND REGULATIONS.

Lessor and ORE agree that, during the term of this Lease Agreement, in addition to or notwithstanding any terms of this Lease Agreement, Lessor may adopt and enforce such orders, rules or regulations as in the discretion of the Lessor which is reasonably necessary for the administration, protection or maintenance of the Blue House and Leased Space.

8. OPERATIONS.

ORE agrees to secure all necessary licenses, permits and other approval required by Gunnison County, the State of Colorado, or the United States of America that may be necessary or associated with ORE's business and use of the Leased Space.

9. MAINTENANCE, REPAIRS AND IMPROVEMENTS.

During the term of this Lease Agreement, Lessor, at Lessor's discretion, shall provide for the maintenance, repairs and necessary improvements to the Blue House and Leased Space.

ORE shall not modify, alter or reconstruct the Blue House or Leased Space without the prior written consent of Lessor.

All equipment placed by ORE at its expense in, on or about the Leased Space, including all fixtures temporarily affixed to the Leased Space but which may be removed without damage thereto, shall remain the items of ORE and ORE shall have the right at any time during the term hereof or at its termination, to remove all such equipment.

10. TAXES.

Lessor shall keep the Blue House and Leased Space free and clear of all levies, liens, and encumbrances and shall pay all license fees, registration fees, assessments, charges, and taxes (municipal, county, state and federal) which may now or hereafter be imposed.

11. DAMAGE TO OR DESTRUCTION OF PROPERTY.

During the term of this Lease Agreement notwithstanding anything herein to the contrary, in the event the Blue House or any portion of it or any improvements to it are damaged or

destroyed, partially or wholly, by fire or otherwise, Lessor shall be under no obligation whatsoever to repair, replace or rebuild the same or to provide substitute Leased Space or improvements.

12. STRATEGIC RESULT.

Execution of this Agreement will assist the County with its Protect the Environment strategy, as outlined in the Gunnison County Strategic Plan.

13. LIABILITY

ORE agrees to obtain and keep in force, throughout the term of this Lease Agreement, comprehensive general public liability insurance, including personal injury protection:

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

b. 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).

Additionally, ORE agrees to obtain and keep in force, throughout the term of this Lease Agreement, personal property insurance coverage on any and all of ORE's personal property in the Blue House or Leased Space (i.e. Furniture, fixtures, computer equipment, etc.).

ORE shall provide Lessor with copies of appropriate insurance policies, as described above, within thirty (30) days after the execution of this Lease Agreement, listing Gunnison County as an additional insured. The insurance coverage required pursuant to this paragraph 12 shall remain in force during the term of this Lease Agreement and no cancellation or reduction may be made without thirty (30) days prior, written notice to Lessor. ORE shall not allow the placement of any lien or other claim against the Blue House by reason of any improvements placed upon the Blue House, and shall indemnify, hold harmless and defend Lessor against any claim upon the premises, the Blue House, Leased Space or whatsoever.

Lessor shall maintain in effect fire, casualty and extended coverage from the Colorado Counties Casualty and Property Pool (CAPP) on the structures and improvements of the Blue House during the term of this Lease Agreement. ORE agrees to pay the deductable for each claim for which ORE is responsible.

Nothing in this Lease Agreement, including but not limited to the required insurance or the existence of the insurance required hereunder, is or shall be construed to be a waiver, in whole or in part, by the Lessor of any defense or claim of governmental immunity, or a waiver of any other provision of law relating to the liability of governmental units or the limits thereof, provided by the Colorado Governmental Immunity Act or otherwise.

14. INDEMNIFICATION.

During the term of this Lease Agreement, ORE shall indemnify, hold harmless and defend Lessor, its Board of County Commissioners, its officers, agents and employees, against any

claim for injury or damage caused by any act or omission of ORE or any other person arising from the use of the Leased Space.

15. WARRANTIES.

Lessor makes no warranties, either express or implied, as to any matter whatsoever, including but not limited to, the condition of the Blue House.

16. OWNERSHIP.

The Blue House is, and shall at all times be and remain, the sole and exclusive property of Lessor, and ORE shall have no right, title, or interest therein or thereto.

17. DEFAULT

ORE shall be considered to be in default of this Lease Agreement upon failing to keep, perform and observe each and every other covenant, term or condition set forth in this Lease Agreement which failure continues for a period of more than 30 days after written notice from the Lessor of such breach or default.

No waiver of default by either party of any of the terms or conditions herein to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms or conditions herein contained to be performed, kept and observed by the other party.

18. TERMINATION.

This Lease Agreement shall be terminated if:

A. ORE is determined to be in default as set forth in paragraph 16 above; or

B. Lessor determines that the Leased Space is not being used for the purposes as set forth in this Lease Agreement or an alternative use of said Leased Space would be more beneficial to the best interest of the public.

If this Lease Agreement is terminated, it is agreed that Lessor may retake possession of the premises upon thirty (30) days written notice to ORE and that ORE shall surrender and return the Leased Space to Lessor in good condition, normal wear and tear excepted.

19. NOTICES

Service of all notices under this Lease Agreement shall be sufficient if sent via certified mail return receipt requested to the following address:

Lessor: Board of County Commissioners
of the County of Gunnison, Colorado
c/o County Manager's Office
200 East Virginia Avenue

Gunnison, CO 8123O

ORE: Office for Resource Efficiency
P.O. Box 2967
Crested Butte, CO 81224

20. PROHIBITION UPON ASSIGNMENT.

Without the prior written consent of Lessor, ORE shall not (a) assign, transfer, pledge, or hypothecate this Lease Agreement, or any part thereof, or any interest therein, or (b) convey, sublet or lend the Blue House or Leased Space or any part thereof.

21. NON-WAIVER.

The failure of either party to insist in any one or more instances upon compliance with any of the covenants, terms or conditions agreed upon and herein contained, or the failure of either party to exercise any option, privilege or right agreed upon and herein contained shall not be construed as constituting a waiver of such right, option or the right to demand compliance with such covenant, term or conditions.

22. SEVERABILITY

In the event any term, condition or provision contained in this Lease 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 Lease Agreement, then at the option of such party, this Lease Agreement may be declared to be terminated.

23. GOVERNING LAW, JURISDICTION AND VENUE

This Lease Agreement is entered into in the County of Gunnison, State of Colorado, and it is agreed that the proper jurisdiction and venue of any legal action regarding the interpretation and/or enforcement of this Lease Agreement, or any document related hereto, shall be the County or District Court of the County of Gunnison, State of Colorado and this Lease 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.

24. ENTIRE AGREEMENT

Lessor and ORE agree that the provisions contained herein constitute the entire agreement and that all representations made by any officer, agent or employee of the respective parties unless included herein are null and void and of no effect. No alterations, amendments, changes or modifications, unless expressly reserved herein, shall be valid unless executed by an instrument in writing by Lessor and ORE with the same formality as this Lease Agreement.

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: _____
Matthew Birnie, Manager

ATTEST:

_____
Deputy County Clerk

OFFICE FOR RESOURCE EFFICIENCY

By: _____
Kristen VanHoesen, Executive Director

STATE OF COLORADO)
)ss.
County of Gunnison)

Acknowledged before me this ____ day of _____, 2013, by Kristen VanHoesen of ORE.

Witness my hand and seal.
My commission expires:_____.

_____
Notary Public