AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Lease Agreement; Trio Investment Enterprises, LLC; State Court and Judge Office Space; 108 E. Georgia, Gunnison, CO 81230; 12/1/13 thru 4/30/15; $42,500

Action Requested: County Manager Signature

Parties to the Agreement: Trio Investment Enterprises, LLC

Term Begins: 12/1/13 **Term Ends:** 4/30/2015 **Grant Contract #:**

Summary:
Lease Agreement with Trio Investment Enterprises, LLC for 3100sq.ft. of office space located at 108 E. Georgia for state court judges and associated staff

Fiscal Impact: 2500 per month

Submitted by: CAO for Facilities Maintenance **Submitter's Email Address:** bwiseman@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:

Cost included in total project

Reviewed by: GUNCOUNTY1\LNIENHUESER Discharge Date: 11/18/2013

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

Comments:

Reviewed by: GUNCOUNTY1\ATREZISE Discharge Date: 11/19/2013

Certificate of Insurance Required

Yes (●) No ( )

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\MBIRNIE Discharge Date: 11/19/2013

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

Agenda Date: 11/26/2013 Follow Up Agenda Date:

Revised April 2013

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into on this 13 day of November, 2013, by and between Trio Investment Enterprises, LLC, whose address is 1141 CR 818, Gunnison, Colorado, 81230 (hereinafter "Lessor") and 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 "Gunnison County").

WHEREAS, Lessor owns the real property located at 108 E. Georgia, Gunnison, CO 81230; and

WHEREAS, Gunnison County has determined that, pursuant to its statutory obligation to provide state court judges and associated staff with office space, it would be in the best interest of the public if a space at 108 E. Georgia, Gunnison, Colorado, consisting of approximately 3100 sq. feet (the "Leased Space"), were leased to Gunnison County for state court administration and facilities; and

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

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

1. GRANT OF LEASE.

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

2. TERM OF LEASE.

The term of this Lease Agreement shall commence on December 1, 2013 and terminate on April 30, 2015, unless otherwise terminated or extended under the terms of this Lease Agreement or by mutual agreement of the Lessor and Gunnison County.

3. LEASE IS NONEXCLUSIVE.

Lessor expressly reserves the right to enter and use the Leased Space, and construct improvements on it, for any and all purposes that will not substantially interfere with Gunnison County's use.

4. CONSIDERATION.

In full and complete consideration of the rights granted herein, Gunnison County shall pay Lessor Two Thousand Five Hundred Dollars and no cents ($2,500.00) per month. Said

payment shall be sent payable to, and by, US mail to Trio Investment Enterprises, LLC, 1141 CR 818, Gunnison, CO 81230. Payments shall be made in a timely manner and received no later than the 15th of every month.

5. UTILITIES.

Gunnison County all be responsible for all utilities, including, but not limited to gas, electric, water, telephone, internet, and all other costs not identified herein that may be associated with Gunnison County's use of the Leased Space.

6. USE OF PROPERTY.

Gunnison County shall use the Leased Space exclusively and only for court administration purposes and associated functions. Gunnison County agrees to conduct its uses of the Leased Space in an orderly and good working manner.

7. FURTHER ORDERS, RULES AND REGULATIONS.

Lessor and Gunnison County 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 Leased Space.

8. OPERATIONS.

Gunnison County 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 Gunnison County's business and use of the Leased Space.

9. MAINTENANCE, REPAIRS AND IMPROVEMENTS.

During the term of this Lease Agreement, Lessor shall provide for the maintenance, repairs and necessary improvements to the Leased Space.

Gunnison County or state-court occupants shall not modify, alter or reconstruct the Leased Space without the prior written consent of Lessor.

All equipment placed by Gunnison County or state-court occupants 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 property of Gunnison County or the state-court occupants, and Gunnison County and the state-court occupants 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 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 Leased Space 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. LIABILITY.

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

(a) Worker's Compensation Insurance in accordance with Colorado and Federal law which adequately protects all labor employed by Gunnison County 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).

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

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 Gunnison County 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.

13. OWNERSHIP.

The Leased Space is, and shall at all times shall be and remain, the sole and exclusive property of Lessor, and Gunnison County shall have no right, title, or interest therein or thereto.

14. DEFAULT.

Gunnison County 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.

15. TERMINATION.

This Lease Agreement shall be terminated if:

A. Gunnison County 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 Gunnison County and that Gunnison County shall surrender and return the Leased Space to Lessor in good condition, normal wear and tear excepted.

16. 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: John Messner
Trio Investment Enterprises, LLC
1141 CR 818
Gunnison, CO 81230

Gunnison County: Board of County Commissioners
of the County of Gunnison, Colorado
c/o County Manager's Office
200 East Virginia Avenue
Gunnison, CO 81230

17. PROHIBITION UPON ASSIGNMENT.

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

18. 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.

19. 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.

20. 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.

21. ENTIRE AGREEMENT.

Lessor and Gunnison County 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 Gunnison County 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

TRIO INVESTMENT ENTERPRISES, LLC

By: _____
John Messner, Managing Partner