AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Consultant Agreement; RPI Consulting, LLC; Update the Transportation and Law Enforcement Impact Fees Study and Report; 5/6/14 thru 12/31/14; $12,400

Action Requested: County Manager Signature

Parties to the Agreement: Gunnison County and RPI Consulting

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

Summary:
Authorization for County Manager to sign contract with RPI Consulting to update the 2009 Gunnison County Road and Bridge and Law Enforcement Impact Fee studies.

Fiscal Impact: $12,400

Submitted by: Neal Starkebaum **Submitter's Email Address:** nstarkebaum@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:

Can be covered in 2014 budget

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 4/16/2014

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

Comments:

Reviewed by: GUNCOUNTY1\atrezise Discharge Date: 4/14/2014 Certificate of Insurance Required Yes (●) No ( )

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 4/17/2014

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

Agenda Date: 5/6/2014 Follow Up Agenda Date:

Revised April 2013

CONSULTANT AGREEMENT

This Consultant Agreement ("Agreement") made effective the ___ day of _____, 2014, is by and between the Board of County Commissioners of the County of Gunnison, Colorado, whose address is 200 East Virginia, Gunnison, CO 81230 ("Gunnison County") and RPI Consulting, LLC whose address is 1911 Main Avenue, Durango, CO 81301 ("Consultant").

RECITALS

Consultant provides services to the Gunnison County Community Development Office to update the Transportation and Law Enforcement Impact Fees study and report (hereinafter "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. SCOPE OF 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 Exhibit A, attached hereto and incorporated herein by this reference. 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 when the scope of services is complete, but not later than December 31, 2014, unless sooner terminated or replaced as provided herein.

3. STRATEGIC RESULT.

   Execution of this Agreement will assist the County with its strategy to Ensure Sound Infrastructure, A.1. By December 2014, Gunnison County will implement a transportation improvement impact fee for new building permits, as outlined in the Gunnison County Strategic Plan, revised June 4, 2013.

4. COMPENSATION, BONUS AND EXPENSES.

(a) In exchange for Consultants performance of the Services, during the Term, Gunnison County shall pay Consultant fees as more specifically set forth in Exhibit A.

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

(c) This Agreement is subject to Gunnison County making an annual budget appropriation in an amount sufficient to fund this Agreement. If Gunnison County fails or refuses to make such an appropriation, Gunnison County reserves the right to terminate this Agreement without penalty to Consultant pursuant to paragraph 13 of this Agreement.

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 Fifty 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 Ninety 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: RPI Consulting LLC
Attn: Gabe Preston
1911 Main Avenue
Durango, CO 81301
Phone: 970-382-9886 Email: gabe@rpiconsulting.org

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. ATTORNEYS FEES.

If any party hereto shall bring any suit or action against another for relief, declaratory or otherwise, arising out of this Agreement, the prevailing party shall have and recover against the other party, in addition to all court costs and disbursements, such sum as the court may adjudge to be reasonable attorneys fees and expert witness fees.

17. 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.

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.

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

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Matthew Birnie, County Manager

ATTEST:

_____
Deputy Clerk

RPI CONSULTING, LLC

By: _____
Gabe Preston, Owner

EXHIBIT A

To: Matthew Birnie, Gunnison County Manager
Date: REVISED March 25, 2014
Subject: **Impact Fees Update**

As you know RPI completed two impact fee support studies for Gunnison County in 2009, one for Road and Bridge and another for Law Enforcement. We would be glad to be part of the effort to help implement the county's strategic plan by updating the impact fee reports and assisting with the process of implementing these fees. Economic circumstances and growth projections have changed since 2008-09 when RPI originally conducted the impact fee studies. The county has also accomplished some major capital improvements such as the new law enforcement center and public works facility and is now underway with a courthouse upgrade. In order for the impact fees to be defensible and have the credibility needed by the county commissioners to implement them, the impact fees and the support study need to be updated.

Following is a description of the scope of work to update both the Road and Bridge and Law Enforcement impact fee support studies and cost quote. The cost quote includes a total fee of $12,400 for a full-update of the road and bridge and law enforcement impact fee as described in the scope of work. This represents an update of all information and capital facilities planning including re-framing the law enforcement fee component as a buy-in based on the recently constructed facility.

We have also included optional tasks that expand on the methodology in the 2009 impact fee report to provide an additional level of precision for evaluating impact fees based on the location of the development (i.e. highway access vs. county road access) and to address background traffic on county roads serving as recreational access. We also included an option for providing alternative impact fee amounts based on capital facility planning scenarios as well as an option for a public forum leading up to the review of the formal draft.

Please feel free to contact me anytime to discuss this further.

Sincerely,

Gabe Preston
RPI Consulting, Owner
970-382-9886 gabe@rpiconsulting.org

Scope of Work

Phase 1 - Update Development Inventory and Growth Projections (Utilized for both Road and Bridge and Law Enforcement)

1. Meet with county staff to refine methodology and collect up-to-date information
2. Development Inventory (housing units, non-residential sq. ft.)
3. Updated growth projections (population, housing units, non-residential sq. ft.)

Phase 2 - Road and Bridge Impact Fee Update

4. Road and bridge districts current and projected traffic
5. Updated road and bridge improvements plan (in partnership with county staff)
6. Updated road improvement cost estimates (in partnership with county staff)
7. Updated road and bridge impact fee including:
    - Road and bridge capital improvement plan based component
    - Buy-in component for new public works facility
    - Incremental expansion of other road and bridge major assets (heavy equipment, other facilities)
    - Credits

Phase 3 - Law Enforcement Impact Fee Update

8. Updated residential/non-residential proportionate share calculation based on calls/cases data
9. Updated law enforcement impact fee including:
    - Buy-in component for new public works facility
    - Credits

Phase 4 - Present Draft Impact Fees

10. Presentation of draft impact fee in slide show format (up to 2 presentation during one two-day trip, preceded by staff review of draft report). Get direction on add alternate tasks.

Phase 5 - Final Reports and Presentations

11. Submit final impact fee reports in electronic format.

Optional Tasks

Note- Tasks 1-11 will fulfill the fundamentals of updating the 2009 impact fee report with current numbers and capital facilities realities. We have also included optional tasks that expand on the methodology in the 2009 impact fee report to provide an additional level of precision and a option for a well-advertised public forum leading up to the impact fee draft review and approval process.

12. Impact fee adjustment for direct highway access development - Establish an adjustment t for development that will directly access a state or federal highway or a municipal street without utilizing county roads or county intersections. This would apply to the road and bridge fee component, but may apply to law enforcement as well.

- Accounts for levels of impacts based on location, for example direct highway access development vs. county road access development.
- GIS-based land use analysis will estimate traffic generated on county roads by development with direct highway access.
- Assigns fair share impacts on overall system, equipment, and maintenance/storage facilities based on other vehicle trip destinations in the county.

13. Impact fee adjustment for public lands recreation traffic - Estimate background traffic generated on county roads by recreational traffic that is not directly related to physical development in the unincorporated county and assign the fair-share costs of upgrading recreational corridors to physical development accordingly.

15. Establish impact fee options vs. a single recommended fee. This optional service would provide alternative impact fee dollar amounts based on capital facility planning scenarios. This will be an opportunity to broaden or narrow the types of improvements to include in the impact fee capital improvements plan as a rational basis for adjusting the dollar amount of impact fees. Other factors considered in options 12. and 13. above could also affect impact fee prices, adding additional flexibility into bottom line impact fee.

14. Public forum leading up to draft review and adoption - Advertise and host a public forum leading up to the draft review process to educate the community about the impact fee and gain feedback before the impact fee is in the formal review/approval process (i.e. before tasks 10 and 11 above). This will include an on-site presentation by RPI Consulting and Q&A/discussion.

15. RPI is available for additional on-site meetings on a cost per trip basis.

Timeline

RPI can complete the impact fee support fees update in 4-5 months from the start date. This schedule assumes an early April start date. If add alternates are selected at a later phase in the project, this will likely extend the timeline, and the timeline for the add-alternates can be agreed upon were the county to procure RPI's services for these optional tasks.

	April	May	June	July	Aug
Phase 1 - Update and Inventory of Growth Projections	■	■			
Phase 2 - Road and Bridge Impact Fee Update		■	■		
Phase 3 - Law Enforcement Impact Fee Update			■	■	
Phase 4 - Present Draft Impact Fee				■	
Phase 5 - Final Report					■

Project Budget

Tasks 1-11 will fulfill the fundamentals of updating the 2009 impact fee report with current numbers and current capital facilities planning for not to exceed **$12,400**. We have also included optional 'add - alternate' tasks that expand on the methodology in the 2009 impact fee report that provide an additional level of precision and an option for a well-advertised public forum leading up to the impact fee draft review and approval process. Add alternate tasks can be selected individually, with add alternate tasks 12-15 totaling an additional **$6,250** and additional on-site meetings for $1,500 each.

	Hours	Consulting Fees	Expenses	Total
Phase 1 - Update Development Inventory and Growth Projections				
1. Meet with county staff, confirm methodology & collect info	8	$1,000	$400	$1,400
2. Development Inventory	10	$1,250		$1,250
3. Updated growth projections	4	$500		$500
Phase 2 - Road and Bridge Impact Fee Update				
4. Road and bridge districts current and projected traffic	4	$500		$500
5. Updated road and bridge improvements plan (based on staff data)	8	$1,000		$1,000
6. Updated road improvement cost estimates (based on staff data)	8	$1,000		$1,000
7. Updated road and bridge impact fee	10	$1,250		$1,250
Phase 3 - Law Enforcement Impact Fee Update				
8. Updated residential/non-residential proportionate share	4	$500		$500
9. Updated law enforcement impact fee (buy-in)	12	$1,500		$1,500
Phase 4 - Present Draft Impact Fee				
10. Presentation of impact fee report and draft fee schedule	12	$1,500	$500	$2,000
Phase 5 - Final Report				
11. Submit final impact fee report in electronic format.	12	$1,500		$1,500
Subtotal	**92**	**$11,500**	**$900**	**$12,400**
Add Alternates				
12. Impact fee adjustment for direct highway access development	12	$1,500		$1,500
13. Impact fee adjustment for public lands recreation traffic	8	$1,000		$1,000
14. Establish impact fee options vs. a single recommended fee	16	$2,000		$2,000
15. Public forum leading up to draft review and adoption	10	$1,250	$500	$1,750
16. Additional on-site meetings (per meeting cost)	8	$1,000	$500	$1,500