AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Acknowledgment of County Manager Signature; Contract to Auction; Ritchie Bros. Auctioneers; Surplus Public Works Department Equipment; 4/30/14

Action Requested: County Manager Signature

Parties to the Agreement: Ritchie Bros. Auctioneers (America) Inc.

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

Summary:
Public Works equipment to be auctioned off on 4/30/14.

Fiscal Impact:

Submitted by: B. Lucero for M. Crosby **Submitter's Email Address:** Mcrosby@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:

ok db 4/15/14 Please initital handwritten addition on page 1

Reviewed by: GUNCOUNTY1\dBaumgarten Discharge Date: 4/15/2014 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

RITCHIE BROS. Auctioneers

Ritchie Bros. Auctioneers (America) Inc.
4000 Pine Lake Road, Lincoln, NE USA 68516

402.421.3631 / rbauction.com

CONTRACT TO AUCTION

To: RITCHIE BROS. AUCTIONEERS (AMERICA) INC.

A. The undersigned (the "Owner") instructs Ritchie Bros. Auctioneers (America) Inc. (the "Auctioneer") to sell, as its agent, the items set out in Clause G below together with any additional items delivered to the site of the auction by Owner (the "Equipment") at an unreserved public auction to be held at RBA-Grand Junction, CO on or about April 30th, 20 14 or at such other place or date as Auctioneer may, at its sole discretion deem appropriate;

B. The Owner, Guarantor and Auctioneer agree that the terms and conditions of this Contract to Auction shall be those set out hereafter and on page 2 hereof and by executing this Contract Owner and Guarantor extend to Auctioneer the representations and warranties herein;

C. Owner shall at its cost, deliver the Equipment in a safe condition, in good running order and free of hazardous materials, to the site of the auction as determined by Auctioneer on or before April 25th, 20 14; [ ] (Owner Initials)

D. Owner authorizes Auctioneer to supply such glass and parts and to carry out such welding, steam cleaning, sandblasting, painting and other refurbishing and incur expense for the moving, hauling and storage of the Equipment as Auctioneer at its sole discretion determines and all costs plus a surcharge equal to 10% of such amount shall be at the expense of and paid by Owner, provided however, that the liability of Owner pursuant to this paragraph shall not exceed the sum of Zero dollars ($ 0);

E. Owner authorizes Auctioneer to supply fuel, batteries and tire repair as Auctioneer determines necessary for the demonstration and sale of the Equipment and all costs incurred shall be at the expense of and paid by Owner.

F. Owner represents and warrants: the equipment is not warranted as to condition or use for any purpose whatsoever

~~(a) the Equipment is in a safe condition, in good running order, free of hazardous materials and has never been contaminated by any hazardous material whatsoever;~~

(b) the Equipment is completely and accurately described as set out in Clause G below;

(c) Owner is, and on the date of the auction will be, the owner of record and beneficial owner of the Equipment and the Equipment is not, and will not on the date of the auction be, subject to any claim by any person or to any registered or unregistered charges, liens, or interests of any nature excepting only as fully set out in Clause G below

(d) the Equipment is not subject to the collection or attraction of any taxes, liens or claims of any authority of competent jurisdiction of any kind and nature, notwithstanding any past, present or future use to which the Equipment may have been, presently is or hereafter may be put;

G. Complete and accurate description of the Equipment and any encumbrances and liens thereon or contrary interests therein are as follows:

#	Item Description — Year, Manufacturer, Model, Serial Number, Description	Encumbrance Holder (if none, state 'nil')	Amount Owing on Encumbrance
1	See Schedule A Master for a list of equipment.	Nil	$0

H. Owner agrees to pay Auctioneer an auction commission based on the gross sale price of the Equipment or any part thereof as follows:

(a) for any lot realizing more than **$2,500, ~~15%~~**; 10%WH

(b) for any lot realizing **$2,500** or less but with a minimum **$100** fee per lot, **25%**; and

(c) A **$65** document administration fee for each item of Equipment requiring title or registration documents.

I. In consideration of Auctioneer agreeing to enter into this Contract, the undersigned Guarantor guarantees and agrees with Auctioneer to duly pay any monies which may become due by Owner to Auctioneer, to be bound by and duly perform and observe, punctually, each and every provision of this Contract (including the terms and conditions printed on page 2 hereof); provided, however, that the liability of Guarantor shall not be affected by any extension of time, indulgence or any act whatsoever of Auctioneer done either with or without notice to Guarantor.

THIS CONTRACT TO AUCTION SIGNED ON April 11th, 20 14

AT RB DENVER

Accepted by
RITCHIE BROS. AUCTIONEERS (AMERICA) INC.
WH

Witness as to Owner's and Guarantor's Signatures:

Business Type: 09-Gov't

Industry: 10025 Road/Bridge

MODE OF PAYMENT

[x] Check

[ ] Electronic Transfer (complete attached Direction to Pay)

OWNER:

Company Name: Gunnison County (Please Print)

Address: 195 Basin Park Dr. Gunnison, CO 81230

Authorized Person: Matthew Birnie Title: County Manager

Signature: ✓

NOTE: Equipment remains at your risk – see paragraph 1(f) on page 2 hereof.

Telephone: Business: 970-641-0044 Fax:

Residence: Mobile:

Email: LPartch@gunnisoncounty.org

GUARANTOR:

Signature: ✓

Note: Declaration on page 2 must be completed

Prefer communication by: [x] Email [ ] Fax [ ] Mail

Cust. # NEW

OWNER CODE:

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TERMS AND CONDITIONS OF THE CONTRACT TO AUCTION

1. Owner and Auctioneer agree:
   (a) Owner authorizes Auctioneer to (i) carry out title searches in respect of the Equipment at the expense of Owner, but in no case shall Auctioneer have a duty to conduct, nor be responsible for the results of any such title search; (ii) contact creditors to determine amounts claimed against the Equipment;
   (b) Auctioneer may carry out the auction in accordance with its usual procedures, and in particular may group various parts of the Equipment into such lots as it sees fit.
   (c) Auctioneer is constituted as an agent only of Owner and not a principal in the sale of the Equipment;
   (d) Neither Owner, nor any person, or corporation affiliated with, acting as agent for, or for the benefit of, Owner shall bid on the Equipment at the auction; in the event Owner is in violation of this provision, the equipment shall be deemed not sold, the provisions of paragraph 1 (k) shall apply and in addition to any other remedies hereunder the Owner shall pay to Auctioneer as commission upon resale, an amount equal to twenty percent (20%) of the bid price;
   (e) Owner shall deliver to Auctioneer ten (10) days prior to the date of the auction: all documents evidencing Owner's title to the Equipment, all documents required to transfer title to the Equipment to any purchaser, properly endorsed and, where ownership of the Equipment or any part thereof is capable of, or required to be, registered, all properly endorsed documents necessary to permit purchaser to register ownership. Owner acknowledges that without such documents the sale price of the Equipment is expected to be less than that obtained if the documents were provided. Should the Auctioneer be required to purchase titles on the Owner's behalf, the Auctioneer shall be entitled to interest on advanced amounts at a rate of US Bank prime plus 2%. Owner nominates and appoints Auctioneer its true and lawful Attorney to sign, execute and deliver on its behalf all documents required to transfer title and permit registration of ownership of the Equipment by purchaser thereof in the event that such documents have not been delivered as required;
   (f) Owner shall:
      (i) be responsible for any loss or damage to the Equipment until the earliest of
         (A) the removal of the Equipment from the auction site by the purchaser, or
         (B) receipt by Owner of all proceeds from the sale of the Equipment;
      (ii) insure the Equipment to its full insurable value against all perils so that in the event of damage to or destruction of the Equipment or any part thereof, all insurance proceeds shall be credited to the gross proceeds of the auction and payment made to Auctioneer forthwith for
         (A) commission, based on the fair market value as determined by Auctioneer of the damaged or destroyed Equipment immediately prior to such damage or destruction,
         (B) repayment of all cash advances, if any, made by Auctioneer to or on behalf of Owner together with interest thereon, and
         (C) reimbursement of all out-of-pocket costs for refurbishing or repairs done by Auctioneer prior to the damage or destruction; Auctioneer shall not be liable to Owner for the loss, damage or destruction to or of the Equipment, and Owner hereby releases Auctioneer from any claim for costs, damage or expense arising out of such event howsoever caused;
   (g) (i) Auctioneer may make payments on account of any registered or unregistered charges, liens, taxes or other interests claimed by any person or authority in respect of the Equipment, whether or not disclosed on page 1 hereof, in order to clear title to the Equipment, and
      (ii) Owner shall indemnify and save harmless Auctioneer and any purchasers of the Equipment against any and all loss, costs (including attorney's fees) or damages occasioned by such claims;
   (h) Owner shall not withdraw the Equipment or any part thereof from the auction sale. If Owner is in breach of this provision, in addition to other damages which may be assessed, Owner shall pay to Auctioneer all amounts Auctioneer would otherwise be entitled to pursuant to paragraph 2 hereof, based upon the fair market value of the withdrawn Equipment (as determined by Auctioneer). If such breach occurs within 40 days of the auction it may damage Auctioneers business reputation and customer relations and Auctioneer will not be made whole by monetary recompense. In such event Auctioneer may, at its' sole option, obtain an order for specific performance and Owner will not object;
   (i) Owner authorizes Auctioneer to utilize any part of the Equipment in setting up the auction;
   (j) Owner indemnifies and saves harmless Auctioneer against all suits, actions, costs or charges whatsoever arising from any representations contained herein or from any breach of Owner's obligations, including but not limited to, any inaccuracy in the description of the Equipment or any contamination resulting from any leakage, spills or malfunction of the Equipment;
   (k) Auctioneer may, if it deems necessary, re-auction any part of the Equipment not sold or not paid for at the auction and Owner hereby acknowledges that no monies shall be payable by Auctioneer in respect of any part of the Equipment until such part of the Equipment has been paid for in full by the purchaser thereof;
   (l) the auction will be without reserve, the Equipment will be sold to the highest bidder and there will be no guarantee whatsoever by Auctioneer as to the gross proceeds to be realized from the sale of the Equipment;
   (m) Owner will comply with all laws relating to the sale of the Equipment;
   (n) Auctioneer shall have a lien and charge upon the Equipment and shall be entitled, in addition to all its rights under law, to seize and retain possession of the Equipment as security for, and/or sell the Equipment to recover, all sums owing to Auctioneer hereunder. Auctioneer shall have the right, at its sole option, to register such lien under any personal property security or other laws as may be in effect;
   (o) Auctioneer may, at its sole discretion, in conjunction with the unreserved public auction, offer certain lots to registered bidders using its proprietary online bidding service, or through its silent "timed auction lot" system; however Auctioneer shall not be liable for any claims or costs arising from its decision to utilize such technologies or from its failure to do so.
2. Owner irrevocably assigns to Auctioneer all amounts due pursuant to this Contract and Auctioneer shall apply all amounts collected from the sale of the equipment as follows:
   (a) As payment to, and reimbursement of, the Auctioneer for those amounts allowed by this Contract;
   (b) For payments to lien holders or others as allowed by 1(g)(i) and/or 1(g)(ii) above;
   (c) Balance, if any, will be mailed to the Owner, by prepaid post or as otherwise instructed in writing, on or before the **twenty-first (21st)** day following the auction.
3. The Auctioneer shall have the right, at its discretion, to (i) withdraw from this Contract and its obligations hereunder shall be unenforceable by Owner, or (ii) rescind the sale of the Equipment to a purchaser in whole or in part if there is insufficient equity in the Equipment to pay those amounts allowed by this Contract or the Owner is in breach of any of its representations and warranties hereunder; however, notwithstanding the foregoing, in the event the Equipment is sold, Owner shall pay to Auctioneer any deficiency arising in the event gross proceeds collected from the sale of the Equipment are insufficient to allow payment of those amounts.
4. Should Auctioneer be required to participate in any action to either enforce the terms of this Contract or as a result of other activities of Owner, Auctioneer shall be entitled to recover all its costs including lawyer's fees.
5. Owner authorizes Auctioneer to use Owner's name, trademark or logo in advertising the auction.
6. Owner acknowledges that Auctioneer may charge purchasers an administrative fee based on the selling price of each lot.
7. This Contract, which may be amended only in writing, constitutes the entire agreement and takes the place of prior contracts or understandings between the parties and inures to the benefit of and is binding upon their heirs, executors, administrators, successors and assigns.
8. This Contract is subject to and shall be determined both in and under the laws of the State in which the auction occurs.
9. Information provided in this Contract shall be retained by the Auctioneer in accordance with its formal Privacy Statement, available at www.rbauction.com.
10. Receipt by Auctioneer via facsimile of a signed copy of this Contract shall, upon acceptance by Auctioneer, be considered binding on both parties.

I solemnly declare that I am (the agent of) the Owner of the Equipment set out on the reverse hereof and as such have knowledge of the matters set out in this Contract to Auction and that the representations and warranties made herein are accurate, complete and have been made for the purpose of inducing the Auctioneer to accept the engagement for the saleof the Equipment.

Made this 11th day of April, 20 14

at RBA-Denver in the State of Colorado.

✓ _____ (Signature) _____ (Print Name)

OWNER CODE:

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RITCHIE BROS. Auctioneers

4444 Ritchie Drive
Longmont, CO 80504
Phone: (970) 535-6700
Fax: (970) 535-0168
Internet: www.rbauction.com

TITLE REQUIREMENTS

Sale Date: 3/18/2014 *Sale Location: Denver, CO*

Consignor Name:
Title Contact Name Printed:

Phone:
Email:

It is required that **ALL** vehicles and trailers have titles, and **unless** you are a Motor Vehicle Dealer, the title must be registered with the Department of Motor Vehicles **IN YOUR NAME/COMPANY NAME (the name the contract reads) NOT IN SOMEONE ELSE'S AND REASSIGNED TO YOU.** Please check your titles over carefully. MSO's will not be accepted, they need to be turned into a title prior to sale. In addition, if a **lienholder** is in possession of a title it is the consignor's responsibility to make all financial arrangements to secure release of the lien. Owner shall deliver to Ritchie Bros. Auctioneers all titles by the allotted time as agreed in the Terms and Conditions of the Contract to Auction Section 1e.

SPECIAL MOBILE MACHINERY: (Street Sweepers, Truck Cranes, Air Compressors, Welders, Gen Sets etc) are required by law to be titled in Colorado. All Special Mobile Machinery from other states must follow the law of that state by either providing title or current registration. Units will not be sold without providing title or current registration.

NOTE TO DEALERS: Dealers please fill out title in the seller's reassignment section and enter your dealer number.

Please forward (by traceable mail) or overnight the original signed title(s) no later than **ten days before sale day** to **Ritchie Bros. Auctioneers, 4444 Ritchie Dr, Longmont, CO 80504.** Titles must be properly signed off. **PLEASE** leave all titles open, **DO NOT** reassign titles to Ritchie Bros. Auctioneers or **date them**. Please call if you have any questions.

Please check and confirm that the serial number is clearly visible at the manufacturer's location on each vehicle/trailer (including Special Mobile Machinery). **The serial number located on the frame of the vehicle/trailer must match EXACTLY the serial number on the title or Ritchie Bros. Auctioneers will not be able to sell the item.** Cab/Doors can be changed, so that is why we verify the serial number on the frame of a vehicle.

Odometer Readings are required on all vehicles less than 10 years old and with GVWR less than 16,000 lbs. (empty weight < 10,000 lbs) Odometers must be working on vehicles less than 10 years old or we can not sell them.

If we are missing any of the above items, we will not be able to sell your vehicle/trailer.

Signature: _____ *TM Initial:* _____ *WH* _____

Printed Name: _____ *Owner Code:* _____

White-Owners Copy Yellow – Representative Copy Pink – Salesite Copy

RITCHIE BROS. Auctioneers

Ritchie Bros. Auctioneers (America) Inc.
4000 Pine Lake Road, Lincoln, NE USA 68516-4738

402.421.3631 / Fax 402.421.1738 / rbauction.com

SCHEDULE A
Part of a Contract to Auction

OWNER'S NAME: Gunnison County AUCTION SITE:Grand Junction, CO SALE DATE: April 30th

Year of Manufacture	Item Description – Manufacturer, Model, Serial Number, Description	Encumbrance Holder (if none, state 'nil')	Amount Owing on Encumbrance
1	1997 SnoGo MP3D Snowblower-AWL S/N:3676, CNV YR:WH C/W:Cat 3306, S/N:64Z24016, 404 hrs Per owner:engine runs, new clutch, water pump leaks, Broken fan hub, needs impeller and plates		
2	1978 Kenworth W900 T/A Asphalt Distributor Truck-ASD S/N:163379S, CNV YR:WH C/W:Cummins NTC350, eng brake, RTO12513, Hendrickson Spring Susp, 11,570Frt/40K Rrs, 11R24.5, 221 WB, 177,379M (may not be accurate for age) 1991 Etnyre BTSAM 2,500gal tank, 14Ft spraybar, in-cab cntrls, J9910		
3	1988 Peterbilt 378 T/A Dump Truck-DUT S/N:1XPFD29X2JD267126, Y/V:WH C/W:Cummins NTC350, eng brake, RTO14613, Hendrickson Spring Susp, 12K Frt/38K Rrs, 11R24.5, 196In WB, 75,649M (may not be accurate for age), Heil 10 cu/yd box		
4	1992 Kenworth W900 T/A Truck Tractor-TTT S/N:1XKWD29G4NS577642, Y/V:WH C/W:Cummins NTC400BCB, RTO12513, eng brake, Hendrickson spring sups, 12K Frt/38K Rrs, 11R24.5, 206in WB, 64,669M (may not be accurate for age)		
5	1990 Kenworth W900 T/A Truck Tractor-TTT S/N:2XKWD29X2LS547908, Y/V:WH C/W:Cummins NTC400BC4, RTO14613, eng brake, A/R sups, 12KFrt/38K Rrs,11R24.5, 199in WB, 20,825M (may not be accurate for age)		
6			
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Auctioneer	Owner

OWNER CODE

RITCHIE BROS. Auctioneers

Ritchie Bros. Auctioneers (America) Inc.
4000 Pine Lake Road, Lincoln, NE USA 68516-4738

402.421.3631 / Fax 402.421.1738 / rbauction.com

SCHEDULE A
Part of a Contract to Auction

OWNER'S NAME: AUCTION SITE: SALE DATE:

Year of Manufacture	Item Description – Manufacturer, Model, Serial Number, Description	Encumbrance Holder (if none, state 'nil')	Amount Owing on Encumbrance
15			
16			
17			
18			
19			
20			
21			
22			
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24			
25			

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INITIALS

Auctioneer	Owner

OWNER CODE