AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Contract for Professional Services; Ben White Architecture, LLC; Architectural Services for Bidding and Construction Administration to Carry Out the Scope of Work for Phase I of the Ohio City Town Hall Foundation Stabilization and Historic Rehabilitation Project; 5/6/14 thru 4/18/16; $6,010

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: BOCC and Ben White Architecture, L.L.C.

Term Begins: **Term Ends:** **Grant Contract #:** SHF Project #2014-02-026

Summary:
Attached please find the Contract for architectural oversight services for the Ohio City Town Hall Project. The funds allocated for this contract have been approved by the State Historical Society pursuant to the grant award. The Contract has been reviewed by the County Attorney. An original copy signed by the Architect will be provided prior to the May 6th BOCC meeting. May I please ask that the original be returned to me.

Fiscal Impact: $6,010

Submitted by: Office of the Gunnison County Attorney **Submitter's Email Address:** rmagruder@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:

This contract is consistent with the project budget for architectural/engineering construction administration. A proposed budget amendment has been routed to appropriate the total project budget of $159,266 (total cash match is 25% or $39,816 from the Capital Expenditures Fund).

Reviewed by: GUNCOUNTY1\bcowan Discharge Date: 5/1/2014

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

Comments:

ok db 4/29/14

Reviewed by: GUNCOUNTY1\dBaumgarten Discharge Date: 4/29/2014 Certificate of Insurance Required Yes (●) No ( )

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 5/1/2014

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

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

Revised April 2013

CONTRACT FOR PROFESSIONAL SERVICES

This Contract for Professional Services (herein "Contract") is entered into this ___ day of _____, 2014, by and between the Board of County Commissioners of the County of Gunnison, Colorado, whose address is 200 East Virginia, Gunnison, CO 81230 (herein "Gunnison County") and Ben White Architecture, L.L.C., a Colorado limited liability company, whose address is 148 Elcho Avenue, Unit 3, Crested Butte, Colorado 81224 (herein "Contractor").

RECITALS

The Contractor desires to provide architectural services for bidding assistance and construction administration services to carry out the Scope of Work for Phase I of the Ohio City Town Hall Foundation Stabilization & Historic Rehabilitation Project.

Gunnison County desires to engage Contractor to provide services according to this Contract.

AGREEMENT

NOW THEREFORE, in consideration of the recitals, mutual covenants and obligations hereinafter set forth, the parties agree as follows:

1. SCOPE OF SERVICES.

Contractor shall provide an architect licensed in the State of Colorado, for services and shall furnish all materials, labor, supervision, supplies and equipment to commence, diligently pursue, and to complete the Services specifically identified in the "Proposal for Services" attached hereto and incorporated herein by reference as Appendix "A" ("Services").

2. STANDARDS OF SERVICES.

Services must be provided according to all applicable federal, state and local laws and regulations, Colorado Historical Society preferences and requirements, the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties and other generally accepted standards for architects affecting the Services or the subject matter thereof. All Services shall be performed in a timely manner according to paragraph 3 herein.

3. USE OF MATERIALS.

Gunnison County shall retain all rights to use materials produced by Contractor with no additional approval by Contractor.

4. COMPENSATION.

In consideration and in exchange for Contractor's performance of the Services, Gunnison County shall pay Contractor fees not to exceed Six Thousand Ten and No/100 U.S. Dollars ($6,010.00) pursuant to Appendix "A" attached hereto.

Contractor shall forward invoices for services detailing the calculation used to determine the value of work on a monthly basis and at the completion of all services. Gunnison County shall forward payment within 30 days of the invoice billing date.

5. TERM AND SERVICE SCHEDULE.

The term of this Contract shall commence on the date this Contract is entered into as set forth above and shall expire upon completion of Services but no later than April 18, 2016.

No work will or has been done outside of the start and end date of this Contract, and, therefore, no work will or has been done outside of the start and end dates of the State Historical Fund contract start and end dates.

Services shall be completed and delivered pursuant to Appendix "A" attached hereto.

6. INSURANCE.

Contractor agrees that at all times during the Term of this Contract that Contractor 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 Contract, Contractor 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 Contractor during the term of this Agreement and no less than $500,000 for Professional Liability Insurance; and

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 $150,000 for any injury to one person in any single occurrence and in an amount no less than $600,000 for any injury to two or more persons in any single occurrence.

7. INDEPENDENT CONTRACTOR.

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

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

8. INDEMNIFICATION.

A. Contractor 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 Contractor or its employees, sub-contractors or agents in connection with this Contract.

B. This provision shall survive any termination or expiration of this Contract with respect to any liability, injury or damage occurring prior to such termination.

9. SOLE SOURCE CONTRACTS.

If the Contractor has entered into a sole source contract or contracts with the State of Colorado or any of its political subdivisions as defined in Article XXVIII of the Colorado Constitution which including this contract in the aggregate on an annual basis are equal to or exceed the amount of $100,000, then the following provisions apply:

A. Because of a presumption of impropriety between contributions to any campaign and sole source government contracts, Contractor, on behalf of itself , any person who controls ten percent or more of the shares of or interest in the Contractor, and the Contractor's officers, directors and

trustees (collectively, the “Contract Holder”) shall contractually agree, for the duration of the contract and for two years thereafter, to cease making, causing to be made, or inducing by any means, a contribution, directly or indirectly, on behalf of the Contractor Holder or on behalf of his or her immediate family member and for the benefit of any political party or for the benefit of any candidate for any elected office of the state or any of its political subdivisions.

B. The parties further agree that if a Contract Holder makes or causes to be made any contribution intended to promote or influence the result of an election on a ballot issue, the Contract Holder shall not be qualified to enter into a sole source government contract relating to that particular ballot issue.

C. The parties agree that if a Contract Holder intentionally violates sections 15 or 17(2) of Article XXVIII of the Colorado Constitution, as contractual damages that Contract Holder shall be ineligible to hold any sole source government contract, or public employment with the state or any of its political subdivisions, for three years.

D. These provisions shall not apply to the extent they have been enjoined or invalidated by a court of competent jurisdiction.

10. DISCRIMINATION.

The Contractor 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. Contractor 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, Contractor 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.

11. ADA COMPLIANCE.

The Contractor assures Gunnison County that at all times during the performance of this Contract 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 Contractor, or be subjected to any discrimination by the Contractor upon which assurance Gunnison County relies.

12. IMMIGRATION COMPLIANCE CERTIFICATION.

A. Contractor certifies that Contractor does not and will not knowingly contract with or employ illegal aliens to work under this Contract.

B. Contractor certifies that Contractor has required its subcontractors to certify that they do not knowingly contract with or employ illegal aliens to work under this Contract.

C. Contractor 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. Contractor 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. Contractor agrees to comply with the provisions of C.R.S. §8-17.5-101 et seq.

13. MISCELLANEOUS.

A. SEVERABILITY. If any clause or provision of this Contract 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 Contract 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 Contract 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.

14. DELEGATION AND ASSIGNMENT.

This is a contract for services with Contractor and, therefore, Contractor shall not delegate or assign its duties under this Contract 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 Contract shall be binding on the successors and assigns of either party.

15. TERMINATION.

Either party shall have the right to terminate this Contract at any time, with or without cause, upon thirty (30) days prior written notice to the other. Upon termination, Contractor shall be entitled to compensation for Services performed prior to the date of termination.

16. 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 facsimile or certified first class US mail, postage prepaid, addressed as follows:

Gunnison County: County Manager
Gunnison County
200 E. Virginia
Gunnison, Colorado 81230
Facsimile: 970-641-3061

Contractor: Ben White Architecture, L.L.C.
148 Elcho Avenue, Unit 3
Crested Butte, CO 81224

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.

17. GOVERNING LAW.

This Contract 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 Contract shall be in the state District Court governing Gunnison, Colorado.

18. COUNTERPARTS: FACSIMILE TRANSMISSION.

This Contract 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.

19. ENTIRE AGREEMENT.

This Contract 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 Contract as of the date above written.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Paula Swenson, Chairperson

ATTEST:

_____
Deputy County Clerk

BEN WHITE ARCHITECTURE, L.L.C.,
a Colorado limited liability company

By: _____
Benjamin J. White, Principal Owner

BEN WHITE
ARCHITECTURE

PROPOSAL FOR SERVICES 04

Appendix A

April 25, 2014

Rachel Magruder
Gunnison Count Attorney's Office
711 Rio Grand Avenue
Gunnison, CO 81230

Re: ***Bidding Assistance and Construction Administration Services for the*** **Ohio City Town Hall Foundation Stabilization & Rehabilitation, Phase 1**

Dear Rachel:

Please accept this *Proposal for Services* for continued services, assistance with bidding, and construction administration for the rehabilitation of the Ohio City Town Hall, Phase 1. I have enjoyed working with you during the design phase of this project and am very excited for the opportunity to continue through the construction phase.

Here are the specific services Ben White Architecture, LLC agrees to provide, hereafter referenced as "I" or "Architect", for you, hereafter referenced as "You" or "Owner":

BIDDING SERVICES

NO	TASK	HOURS
1.1	Preparation of Request for Proposal	4 hrs
1.2	Schedule and Lead a Pre-Bid Site Walk	2 hrs
1.3	Answer Bidder Questions and Issue and Addenda	2 hrs
1.4	Attend a Bid Opening and Review Bids	3 hrs
1.5	Award Project	2 hrs
1.6	*Sub Total*	13 hrs
Phase 1 - Bidding & Negotiation Services		**$1,100.00**

CONSTRUCTION ADMINISTRATION – PHASE 1

NO	TASK	HOURS
2.1	Pre-Construction Meeting with Contractor	2 hrs
2.2	Weekly Site Visits	16 hrs
2.3	Issue Field Reports with Site Photos	8 hrs
2.4	Owner Contractor Coordination Meetings	8 hrs
2.5	Answer RFI's, Review Submittals, Contractor Coordination	16 hrs
2.6	Perform Punch List Inspection	4 hrs
2.7	Close-Out Documentation	2 hrs
2.8	Clerical Associated with Construction Administration	2 hrs
2.9	*Sub Total*	58 hrs
Phase 1 – Construction Administration		**$4,910.00**

Per my Contract for Professional Services with Gunnison County, dated April 17, 2012, I am happy to extend my hourly rates for services.

I will perform services based on the assumption that work for Phase 1 will be completed in **71 hours**. The Lump Sum Fee I would bill against is **$6,010** (Six Thousand Ten Dollars).

Ben White Architecture, LLC will provide and maintain Commercial General and Professional Liability Insurance in amounts dictated by Gunnison County.

An invoice for my services and expenses will be sent monthly and at the completion of my services. I would ask that payment be made within 30 days of the billing date. All balances due in excess of thirty days shall incur interest at the rate of 1.25% per month.

Again, this is a terrific project and a wonderful and deserving building. I am excited about the opportunity to continue my services -thank you very much for the opportunity to work with you.

Sincerely,

Benjamin White, AIA
Ben White Architecture, LLC

RATE SCHEDULE 2014

1. Professional Services

Architectural Services	$105.00 per hour
Project Coordination	$85.00 per hour
Drafting	$75.00 per hour
Clerical	$75.00 per hour
Additional Services	$105.00 per hour

2. Reimbursable Expenses

Mileage – 2 Wheel Drive	$0.56 per mile
8.5" x 11" Black & White	$0.25 per sheet
8.5" x 11" Color	$0.75 per sheet
11" x 17" Black & White	$0.35 per sheet
11" x 17" Color	$1.00 per sheet
24" x 36" Black & White Copies	$3.50 per sheet
24" x 36" Color Prints	At Cost