AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Memorandum of Understanding between Gunnison County, the United States Department of the Interior Bureau of Land Management by and through the Colorado State Director Regarding Development of the Gunnison Sage-Grouse Environmental Impact Statement

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: BLM and Gunnison County

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

Summary:
Memorandum of Understanding between Gunnison County and the US Department of the Interior, Bureau of Land Management Regarding the Development of the Gunnison Sage-grouse Environmental Impact Statement

Fiscal Impact:

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

Finance Review: ○ Required ● Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ● Required ○ Not Required

Comments:

Reviewed by: GUNCOUNTY1\atrezise Discharge Date: 8/27/2014 Certificate of Insurance Required Yes ○ No ●

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 8/27/2014

● Consent Agenda ○ Regular Agenda ○ Worksession Time Allotted:

Agenda Date: 9/2/2014 Follow Up Agenda Date:

Revised April 2013

MEMORANDUM OF UNDERSTANDING

BETWEEN

GUNNISON COUNTY

THE UNITED STATES DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

BY AND THROUGH THE COLORADO STATE DIRECTOR

REGARDING

DEVELOPMENT OF THE GUNNISON SAGE-GROUSE

ENVIRONMENTAL IMPACT STATEMENT

Memorandum of Understanding
Between Gunnison County, Colorado and the Bureau of Land Management

1. Parties to and Purpose for this Document:

This Memorandum of Understanding (MOU) is entered into between Gunnison County, Colorado and the United States Department of the Interior, Bureau of Land Management (BLM), by and through the Colorado State Director (BLM), for the purpose of coordinating and cooperating in conducting an environmental analysis and preparing the Environmental Impact Statement (EIS) for the BLM Gunnison Sage-Grouse EIS Plan Amendment (Project). This MOU establishes Gunnison County as a "cooperating agency" in the EIS and documentation process and establishes procedures through which Gunnison County and the BLM will participate on the BLM interdisciplinary team (IDT) to conduct the analyses and develop the EIS.

Gunnison County has designated _____James Cochran_____, as primary representative, and _____David Baumgarten_____, as alternate representative, to represent Gunnison County as its members on the IDT. The alternate representative may represent Gunnison County, if ___James Cochran_____ is unavailable.

2. Background:

The BLM is writing an Environmental Impact Statement to analyze incorporating new sage-grouse habitat conservation measures into its Resource Management Plans for the eleven planning units within the range of the Gunnison Sage-Grouse: the Monticello Field Office and the Moab Field Office in Utah, the Grand Junction Field Office, the Uncompahgre Field Office, the Tres Rios Field Office, the Gunnison Field Office, the San Luis Valley Field Office, the Dominguez-Escalante National Conservation Area, the McInnis Canyons National Conservation Area, the Gunnison Gorge National Conservation Area, and the Canyons of the Ancients National Monument in Colorado.

More than 625,000 surface acres of Gunnison Sage-Grouse habitat are on BLM lands across this range.

The EIS is to comply with National Environmental Policy Act of 1969, 42 U.S.C. 4321 et. seq., as amended (NEPA) and provide support for the Record of Decision (ROD), if applicable.

Consistent with NEPA, and pursuant to the Code of Federal Regulations (40 CFR 1501.6 and 1508.5), State or local governments may participate in the development of environmental documentation for projects where they have jurisdiction by law or special expertise.

The BLM has offered and Gunnison County has accepted cooperating agency status in the development of the EIS for the Project.

3. Term of MOU:

This MOU shall commence upon the day and date last signed and executed by the duly authorized representatives of the parties to this MOU, and shall remain in full force and effect until terminated. This MOU may be terminated, without cause, by either party upon thirty (30) days written notice to the other party, which notice shall be delivered by hand or by certified mail.

4. Responsibilities of Gunnison County:

- Gunnison County will participate in the EIS and documentation process by providing information regarding environmental issues in which or where Gunnison County has jurisdiction by law or special expertise.

- Gunnison County will have one member appointed to the IDT, as identified in Paragraph 1 above. The Gunnison County member may attend and participate in IDT meetings, will provide supporting documentation, and will provide input as necessary, according to IDT protocol.

- Gunnison County will provide information from its records to the IDT, as needed.

- Gunnison County will submit information at its discretion or upon request by any IDT members or the BLM project manager, within the specified time frames.

- Through Gunnison County's IDT member, Gunnison County will have the opportunity for input to preliminary draft documents prepared during the EIS process. The IDT members may, at any time during the effective term of this MOU, request records by contacting Gunnison County point of contact identified in Section 8i.

- Gunnison County will provide public records, and other records deemed appropriate, and consistent with the provisions specified in Section 8g.

5. Responsibilities of the BLM:

In accordance with 40 CFR 1501.5, the BLM is the Project lead agency.

- The BLM Project Manager is Leigh D. Espy.

- The BLM Project IDT Leader is Travis Haby.

- The BLM will keep all IDT members apprised of current events in relation to the development of the EIS.

- The BLM will consider Gunnison County input and proposals to the maximum extent possible, consistent with legal requirements and its responsibility as lead agency.

- Beyond including Gunnison County in all IDT meetings, the BLM will appropriately involve other cooperating agencies (including but not limited to other County

governments, Colorado and Utah State Governments, and federal agencies) in meetings where such involvement would be necessary or of benefit to the process.

- The BLM will ensure that input from Gunnison County is appropriately considered and incorporated into the EIS.

- Any final decisions on BLM-administered lands and federal mineral estate under BLM jurisdiction will be made by the BLM.

6. Mutual Responsibilities of Gunnison County and the BLM:

- Gunnison County and the BLM will cooperate in apprising each other, as far in advance as possible, of any related actions or issues that may affect the EIS and documentation process or that may affect either party.

- The parties will cooperate in the development and review of any operating guidelines or agreements between Gunnison County or the BLM and other entities involved in the preparation of the EIS.

- The BLM and Gunnison County agree to meet on issues concerning the EIS at the request of either party.

The Gunnison County representative, the Project IDT Leader, and the Project Manager will serve as the MOU core team. The purpose of the MOU core team will be to coordinate communication among the parties to the MOU throughout the EIS process. MOU core team members will be responsible for relaying information to and from their constituents on a timely basis.

7. Payment:

No payment shall be made to either party by the other as a result of this MOU, including but not limited to, payment for any cost incurred as a result of carrying out any responsibility identified above. Each party shall pay its own costs. During the course of the project, should it become necessary for one party to purchase from or make payment or reimbursement to the other party, such arrangements will be covered in a separate cooperative agreement.

8. General Provisions:

a. Amendments.

Either party may request changes in this MOU. Any changes, modifications, revisions, or amendments to this MOU, which are mutually agreed upon by and between the parties to this MOU, shall be incorporated by written instrument, executed and signed by all parties to this MOU and are effective in accordance with the terms of paragraph 3 above.

b. Applicable Law.

The construction, interpretation and enforcement of this MOU shall be governed by the applicable laws of the United States.

c. Entirety of Agreement.

This MOU, consisting of seven (7) pages, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements concerning the EIS, whether written or oral.

d. Severability.

Should any portion of this MOU be determined to be illegal or unenforceable, the remainder of the MOU shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.

e. Sovereign Immunity.

Gunnison County and the BLM do not waive their sovereign immunity by entering into this MOU, and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this MOU.

f. Third Party Beneficiary Rights.

The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this MOU shall not be construed so as to create such status. The rights, duties and obligations contained in this MOU shall operate only between the parties to this MOU, and shall inure solely to the benefit of the parties to this MOU. The provisions of this MOU are intended only to assist the parties in determining and performing their obligations under this MOU. The parties to this MOU intend and expressly agree that only parties signatory to this MOU shall have any legal or equitable right to seek to enforce this MOU, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this MOU, or to bring an action for the breach of this MOU.

g. Exchange of Information.

Parties to this MOU will have access to all information relevant to the fulfillment of their responsibilities under this agreement. Data provided pursuant to this agreement may contain confidential or proprietary BLM or Gunnison County information. All records or information requested of either party by the other will be reviewed by the releasing party prior to release. To the extent permissible under applicable law, any recipient of proprietary information agrees not to disclose, transmit, or otherwise divulge this information without prior approval from the releasing party. Any breach of this provision may result in termination of this MOU.

h. Administrative Considerations.

Pursuant to 204(b) of the Unfunded Mandates Reform Act of 1995, responsible Federal Agency officials may meet or enter into project level MOUs with officials of State and local Governments or their designees. During such meetings and development, implementation and monitoring of such MOUs, views, information and advice are exchanged, or input relative to the implementation of Federal programs is obtained. Such meetings and MOUs will further the administration of intergovernmental coordination. The meetings or MOUs referred to include, but are not limited to, meetings called for the purpose of exchanging views, information, advice or recommendations, or for facilitating any other interaction relating to intergovernmental responsibilities or administration.

Nothing in this MOU will be construed as limiting or affecting in any way the authority or legal responsibility of Gunnison County or the BLM, or as binding either Gunnison County or the BLM to perform beyond the respective authority of each, or to require either assuming or expending any sum in excess of appropriations available. It is understood that all the provisions herein must be within financial, legal, and personnel limitations, as determined practical by Gunnison County and the BLM for their respective responsibilities. This MOU is neither a fiscal nor a funds obligation document.

Nothing in this MOU will be construed to extend jurisdiction or decision-making authority to the BLM for planning and management of land and resource uses for any non-Federal lands or resources in the Project area. Similarly, nothing in this MOU will be construed to extend jurisdiction or decision-making authority to Gunnison County for planning and management of land or resource uses on the Federal lands or mineral estates administered by the BLM. Both Gunnison County and the BLM will work together cooperatively and will communicate about issues of mutual concern.

i. Contacts:

The primary points of contact for carrying out the provisions of this MOU are:

Gunnison County	**BLM**
PRIMARY REPRESENTATIVE _____James Cochran___	Leigh D. Espy Project Manager 2850 Youngfield St. Lakewood, CO 80215
ALTERNATE REPRESENTATIVE _____David Baumgarten_____	Travis Haby Project IDT Leader 2850 Youngfield St Lakewood, CO 80215

9. Signature:

In witness whereof, the parties to this MOU through their duly authorized representatives have executed this MOU on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions, of this MOU as set forth herein.

The effective date of this MOU is the date of the signature last affixed to this page.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

_____
Gunnison County Deputy Clerk

By _____
_____Paula Swenson_____
Chair

Date _____

U. S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
by and through:

_____
Ruth Welch
Colorado State Director

_____
Date