AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Services Agreement; Board of Governors of the Colorado State University System; Administrative Assistant Position for Weed Coordination; $14,562.81

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Board of Governors of The Colorado State University System and Gunnison County

Term Begins: Date of Final Signature **Term Ends:** 10/30/2015 **Grant Contract #:**

Summary:
There is currently a contract in place for the payment of services rendered by Ann Wood in assisting Jon Mugglestone. Normally this contract has been renewed by signing an amendment. The Board of Governors of The Colorado State University System would like a new Services Agreement signed.

Fiscal Impact: $14,562.81

Submitted by: Marlene D. Crosby **Submitter's Email Address:** mcrosby@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:

This amount represents a 7.5% increase over 2014 and is included in the 2015 proposed budget.

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 9/19/2014

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

Comments:

Reviewed by: GUNCOUNTY1\atrezise Discharge Date: 9/18/2014 Certificate of Insurance Required Yes (●) No ( )

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 9/19/2014

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

Agenda Date: 10/7/2014 Follow Up Agenda Date:

Revised April 2013

SERVICES AGREEMENT

This Services Agreement ("Agreement") is entered into by and between The Board of Governors of The Colorado State University System, acting by and through Colorado State University, an institution of higher education of the State of Colorado ("University"), and , a County Government, organized under the laws of the state of Colorado, with a place of business located at: 106 Maintenance Dr. P.O. Box 915, Gunnison, CO 81230 ("Client").

NOW THEREFORE, in consideration of the above and the mutual promises contained herein, the parties agree as follows:

1. **Independent Contractors.** It is understood and agreed by the parties that the University is an independent contractor with respect to the Client and that this Agreement is not intended and shall not be construed to create an employer/employee or a joint venture relationship between the University and the Client. The University shall be free from the direction and control of the Client in the performance of the University's obligations under this Agreement, except that the Client may indicate specifications, standards requirements and deliverables for satisfaction of the University's obligations under this Agreement.

2. **Term.** This Agreement shall be effective commencing on the date of final signature (the "Effective Date") and shall terminate one year thereafter, unless sooner terminated as provided herein or extended by written agreement of the parties.

3. **Scope of Work.** The University agrees to perform the services described in the Scope of Work attached hereto (the "Services") and made a part hereof as Exhibit A, under the direction and supervision of the Principal Investigator, whose name appears in Exhibit A.

4. **Payment.** The Client agrees to pay the University for the Services performed under this Agreement as follows *(check one)*:

   ☐ In a fixed price amount of _____ payable 50% upon execution; 40% at mid-project; 10% upon University's submission of the final report; OR

   ☒ In accordance with the payment terms set forth in Exhibit B, attached hereto.

5. **Ownership of Information.** At all times during and following the term of this Agreement, including any extensions or renewals hereof, all records, information and data provided to the University by the Client or developed during the performance of the Services under this Agreement by the University and/or the Client ("Project Records") shall be and remain the sole property of the Client. The University retains the right to use the Project Records for academic and research purposes. Except as provided in paragraph 7 of this Agreement, any Project Records shall be provided to or returned to the Client upon request after termination of this Agreement.

6. **Reporting Requirements.**

   6.1 The University agrees that all Project Records as defined in the Scope of Work or detailed description thereof shall be made available to Client at any reasonable time, subject to the reporting requirements set forth in the Scope of Work.

   6.2 Client shall have the right to audit the records of the University related to the Services performed under this Agreement, during normal business hours and upon reasonable

notice to University. Such audit may include the financial records of University relating to the Services. University shall reasonably cooperate with Client in satisfying any requirement or order issued by any governmental agency or court, including but not limited to the inspection of University's records or facility.

7. Confidentiality.

7.1 Each party has certain documents, data, information, and methodologies that are confidential and proprietary to that party ("Confidential Information"). During the term of this Agreement, either party may, as the "Disclosing Party," disclose its Confidential Information to the other party (the "Recipient"), in writing, visually, or orally. Recipient shall receive and use the Confidential Information for the sole purpose of the performance of this Agreement, and for no other purpose (except as may be specifically authorized by the Disclosing Party, in writing). Recipient agrees not to make use of the Confidential Information except for such Services and agrees not to disclose the Confidential Information to any third party or parties without the prior written consent of the Discloser.

7.2 Recipient shall use its reasonable best efforts to preserve the confidentiality of the Confidential Information (using the same or similar protections as it would as if the Confidential Information were Recipient's own, and in any event, not less than reasonable care). Recipient shall obligate its affiliates with access to any portion of the Confidential Information to protect the proprietary nature of the Confidential Information.

7.3 "Confidential Information" shall not include, and Recipient shall have no obligation to refrain from disclosing or using, information which:

7.3.1 is generally available to the public at the time of this Agreement;

7.3.2 becomes part of the public domain or publicly known or available by publication or otherwise, not through any unauthorized act or omission of Recipient;

7.3.3 is lawfully disclosed to the Recipient by third parties without breaching any obligation of non-use or confidentiality;

7.3.4 has been independently developed by persons in Recipient's employ or otherwise who have no contact with Confidential Information, as proven with written records; or

7.3.5 is required to be disclosed by law; provided that, in the event that Recipient is required to redisclose Confidential Information under this subsection 7.3.5, it will promptly notify the Disclosing Party, and the Disclosing Party may, at its sole discretion and expense, initiate legal action to prevent, limit or condition such redisclosure.

7.4 Notwithstanding any other provision of this Agreement, a party may retain one copy of the other party's Confidential Information in its confidential files, for the sole purpose of establishing compliance with the terms hereof.

8. **Equipment**. Unless otherwise provided in the Scope of Work or in a writing signed by the parties, all equipment purchased with funds provided under this Agreement for use in connection with this Agreement shall be the property of the University, and shall be dedicated to providing Services under this Agreement while this Agreement is in effect.

9. **Liability; Insurance**. Each party hereto agrees to be responsible for its own wrongful or negligent acts or omissions, or those of its officers, agents, or employees to the full extent allowed by law. Liability of the University is at all times herein strictly limited and controlled by the provisions of the Colorado Government Immunity Act, C.R.S. secs. 24-10-101, *et seq.* as now or hereafter amended. Nothing in this Agreement shall be construed as a waiver of the protections of said Act. During the term hereof each party represents that it maintains general liability insurance covering itself and its employees in the performance of this contract, in an aggregate amount of not less than one million dollars ($1,000,000.00), all or part of which may be self-insured. A party will furnish the other party a certificate evidencing such insurance upon written request.

10. **Exclusive Warranty; Disclaimer.** University warrants that all deliverables provided under this Agreement will be provided substantially in accordance with the Scope of Work and/or written protocol provided by Client. All other warranties, express and implied, are hereby expressly disclaimed **INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** University does not perform any services under this agreement that may be subject to FDA Regulations, e.g. GMP, cGMP, GLP, GCP work/services. University shall not be liable for any indirect, special, incidental, consequential or punitive loss or damage of any kind, including but not limited to lost profits (regardless of whether or not University knows or should know of the possibility of such loss or damages). The liability of either party under this Agreement shall not exceed the amount paid or payable to the University under this Agreement.

11. **Use of Tradenames and Service Marks.** Neither party obtains by this Agreement any right, title, or interest in, or any right to reproduce or to use for any purpose, the name, tradenames, trade- or service marks, or logos (the "Marks"), or the copyrights of the other party. Neither party will include the name of the other party or of any employee of that party in any advertising, sales promotion, or other publicity matter without the prior written approval of that other party. In the case of the University, prior written approval is required from the University Vice President for External Relations. In the case of the Client, prior written approval is required from an authorized representative of the Client.

12. **Termination.** Either party may terminate this Agreement, without cause, upon not less than sixty (60) days' written notice, given in accordance with the Notice provisions of this Agreement. Termination of this Agreement shall not relieve a party from its obligations incurred prior to the termination date. Upon early termination of this Agreement by Client, except in the case of a material breach by University, Client shall pay all costs accrued by University as of the date of termination including non-cancelable obligations for the term of this Agreement, which shall include all appointments of staff incurred prior to the effective date of the termination. University shall exert its best efforts to limit or terminate any outstanding financial commitments for which Client is to be liable. University shall furnish, within ninety (90) days of the effective termination, a final report of all costs incurred and all funds received and shall reimburse Client for payments which may have been advanced in excess of total costs incurred with no further obligations to Client.

13. **Default.** A party will be considered in default of its obligations under this Agreement if such party should fail to observe, to comply with, or to perform any term, condition, or covenant

contained in this Contract and such failure continues for thirty (30) days after the non-defaulting party gives the defaulting party written notice thereof. In the event of default, the non-defaulting party, upon written notice to the defaulting party, may terminate this Contract as of the date specified in the notice, and may seek such other and further relief as may be provided by law. Notwithstanding the foregoing, in the event of a breach or threatened breach of paragraph 7 or 11 of this Agreement, the non-defaulting party may terminate the Agreement immediately without affording the defaulting party the opportunity to cure, and may seek an injunction or restraining order as required to prevent unauthorized disclosures of Confidential Information or unauthorized use of its Marks or copyrights. In the event that Client defaults under the obligation to make any payment as required herein, the University shall be entitled to recover, in addition to all amounts due and unpaid, interest at the rate of eighteen percent per annum, plus costs of collection and reasonable attorney fees incurred in connection with such default.

14. **Notices.** All notices and other correspondence related to this Agreement shall be in writing and shall be effective when delivered by: (i) certified mail with return receipt, (ii) hand delivery with signature or delivery receipt provided by a third party courier service (such as FedEx, UPS, etc.), (iii) fax transmission if verification of receipt is obtained, or (iv) email with return receipt, to the designated representative of the party as indicated below. A party may change its designated representative for notice purposes at any time by written notice to the other party. The initial representatives of the parties are as follows:

To University:

[The Board of Governors of the Colorado State University System, Acting By and Through Colorado State University, An Institution of Higher Education of the State of Colorado]
]
5060 Campus Delivery
Colorado State University
Fort Collins, CO 80523-5060
Telephone: 970-641-6852
Fax: 970-641-0653

A copy of any notice concerning a breach, alleged breach, or dispute arising under this Agreement shall also be sent to:
Office of the General Counsel
01 Administration Building
0006 Campus Delivery
Colorado State University
Fort Collins, CO 80523-0006
Tel: 970-491-6270

To Client:

Board of County Commissioners of Gunnison County, Colorado]
106 Manintnance Dr., P.O. Box 915,
Gunnision, Colorado 81230]
]

15. **Legal Authority.** Each party to this Agreement warrants that it possesses the legal authority to enter into this Agreement and that it has taken all actions required by its procedures, bylaws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Agreement and to bind it to its terms. The person(s) executing this

Agreement on behalf of a party warrant(s) that such person(s) have full authorization to execute this Agreement. This Agreement shall not be binding upon Colorado State University, its governing board or the State of Colorado unless signed by the Associate Vice-President for Finance or his/her authorized delegate.

16. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties, and supersedes any previous contracts, understandings, or agreements of the parties, whether verbal or written, concerning the subject matter of this Agreement.

17. **Amendment.** No amendment to this Agreement shall be valid unless it is made in a writing signed by the authorized representatives of the parties.

18. **Severability.** In the event that any provision of this Agreement is held unenforceable for any reason, the remaining provisions of this Agreement shall remain in full force and effect.

19. **Governing Law, Jurisdiction and Venue.** This Agreement shall be governed by and construed under the laws of the State of Colorado. Any claim arising under this Agreement shall be filed and tried in the District Court in and for Larimer County, situated in the City of Fort Collins, State of Colorado.

20. **Assignment.** This Agreement shall not be assigned without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed, provided however, such consent shall not be required in the case of a sale or transfer to a third party of all or substantially all of a party's business. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding on the successors and permitted assigns of the parties.

21. **International Agreement.**

☐ This is an International Agreement: (*only applicable if checked*)

International agreements with foreign vendors/contractors require approval by the CSU Export Control Office located within the Office of Sponsored Programs. The undersigned represents that he or she is duly authorized to approve export control measures on behalf of the University.

By: _____
Signature

Name: _____

Title: _____

Date: _____

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year written below.

The Board of Governors of the Colorado State University System, acting by and through Colorado State University:

By:_____
Lynn Johnson, Associate Vice President for Finance

Date: _____

APPROVED:

By: _____
Dean, Director or Department Head

*FUND ACCT NO.: _____

APPROVED AS TO FORM:

By: _____
Director, Contracting Services

Date: _____

Client:

By:_____

Printed Name:_____

Title:_____

Date: _____

_____

* Required for approval. List all fund accounts into which proceeds from this contract will be deposited.

EXHIBIT A TO SERVICES AGREEMENT
SCOPE OF WORK

PRINCIPAL INVESTIGATOR: Damon Lange

CLIENT INVESTIGATOR: Jon Mugglestone

TITLE: Administrative Assistant Services

DETAILED DESCRIPTION: Ann Wood, Administrative Assistant II for the Colorado State Forest Service, Gunnison Field Office (CSFS), will provide The Gunnison Basin Weed District (GBWD) with Administrative Assistant services for 2 hours per day (3pm-5pm), Monday – Friday. If assistance is needed during Ann Wood's CSFS hours, CSFS and GBWD will mutually agree to adjust the time schedule.

Administrative Assistant duties to include:

Daily
- Collection of mail at the post office and dispersal
- If Weed Coordinator is not in office, answer phone and answering machine and route messages
- If Weed Coordinator is not in office, respond to drop-in client's questions and route as necessary

Weekly
-Retrieve reclamation permit applications from the Road and Bridge Department (R&B), assign numbers to permits, maintain database; send letters of approval to permitees, file appropriate copies at Weed District Office. Deliver copies to R&B and Gunnison County Planning
-When property passes inspection, fails to pass, or is cancelled, send letter informing landowner. Deliver copies to R&B and Gunnison County Planning, and file Weed District copy. If security deposit was made, memo is sent to R&B requesting reimbursement.

Monthly
-Prepare vouchers for reimbursement of expenditures
-Code all Credit Card expenditures online
-Deliver vouchers to County Finance Office for reimbursement
-Reconcile Credit Card statement and deliver paperwork to County Finance Officer

During Spray Season
-Copy Weed Coordinator's daily spray reports and enter into database
-Maintain the database and compile data at end of spray season for reporting purposes
-At conclusion of spray season, invoice cooperators, receive payments and submit deposits to County Finance Officer

Yearly
-Invoice program participants, receive payments and submit deposit to County Finance Officer.
-Participants include Bureau of Land Management, US Forest Service Gunnison District, National Park Service, Western Area Power Associates, Colorado Division of Parks and Wildlife, Colorado Department of Transportation, Department of Energy, Town of Crested Butte, Town of Mountain Crested Butte, Gunnison County, Hinsdale County, Saguache County, Town of Pitkin,

As Needed
-Update and maintain files in Weed Coordinator's office

Exhibit A to Service Agreement Initials: CSU: _____ Client: _____

EXHIBIT B TO SERVICES AGREEMENT

PAYMENT SCHEDULE

This Service Agreement may be amended annually with signed approval on Exhibit B by authorized representatives of the parties.

Administrative Assistant services identified in Exhibit A to this Services Agreement will be billed at the current fiscal year rate plus fringe benefits and indirect costs.

The term of this Agreement shall be from January 1 – December 31, 2015

As consideration for the secretarial services identified in Exhibit A to this Service Agreement for the term identified above, Gunnison County shall pay to the University the sum of $14562.81,which amount shall be payable as follows:

Initial payment $7,104.82 shall be due by January 31, 2015;
Remaining balance $7,457.99 shall be due by July 31, 2015