AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Memorandum of Agreement; Gunnison-Crested Butte Tourism Association; 1/1/15 thru 3/31/15; $298,200

Action Requested: Motion

Parties to the Agreement:

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

Summary:
Attached is the funding agreement between the LMD and the TA for the first quarter of 2015.

Fiscal Impact: $298,200

Submitted by: Katherine Haase **Submitter's Email Address:** khaase@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:

Covered in the 2015 budget.

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 12/18/2014

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

Comments:

Reviewed by: GUNCOUNTY1\atrezise Discharge Date: 12/18/2014 Certificate of Insurance Required

Yes ( ) No (●)

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 12/18/2014

( ) Consent Agenda (●) Regular Agenda ( ) Worksession Time Allotted: 5

Agenda Date: 12/22/2014 Follow Up Agenda Date:

Revised April 2013

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement ("Agreement"), made effective the 1st day of January, 2015, between the Gunnison/Crested Butte Tourism Association, a Colorado non-profit corporation, and the Board of the Gunnison River Valley Local Marketing District ("LMD") provides that:

RECITALS

WHEREAS, Gunnison/Crested Butte Tourism Association has been working with the Crested Butte-Mt. Crested Butte Chamber of Commerce, Gunnison Country Chamber, local elected officials and the private sector to coordinate the marketing efforts of the Gunnison County community; and

WHEREAS, the Board of the Gunnison River Valley Local Marketing District is responsible for the administration of the funds collected from the Local Marketing District lodging tax and is supportive of the objectives and work program of the Gunnison/Crested Butte Tourism Association; and

WHEREAS, the Board of the Gunnison River Valley Local Marketing District feels that it is in the public interest and meets the goals of the Gunnison River Valley Local Marketing District to enter into an agreement with the Gunnison/Crested Butte Tourism Association to implement their work program for the first calendar quarter of 2015.

AGREEMENT

NOW, THEREFORE, the Board of the Gunnison River Valley Local Marketing District and the Gunnison/Crested Butte Tourism Association agree in consideration of the mutual covenants contained herein as follows:

1) The Board of the Gunnison River Valley Local Marketing District agrees to provide $298,200 in support funds to the Gunnison/Crested Butte Tourism Association. It is expressly agreed that these funds must be used only for costs associated with the implementation of the approved work program which includes salaries for the Executive Director and appropriate support staff and that such salaries may be adjusted based on revenues and at the Gunnison/Crested Butte Tourism Association's discretion.
2) The Gunnison River Valley Local Marketing District will provide funds to the Gunnison/Crested Butte Tourism Association via monthly installments of $99,400, for a total of $298,200 for the first calendar quarter of 2015.
3) A condition of payment of this contract is that that the proposed amended bylaws as prepared by the Gunnison County Attorney's office have been dully approved and enacted by the Gunnison Crested Butte Tourism Association.

4) Within two months of approval of this agreement, a Financial Policy, as specified in the proposed Gunnison/Crested Butte Tourism Association Bylaws shall be provided to the LMD for their review.
5) By March 31, 2015, a work plan shall be provided to the LMD which provides a time frame for completing a business plan that will include at a minimum a set of proposed results and an effective metric for evaluating progress on achieving proposed results. The Managing for Results Report prepared for the Gunnison River Valley Local Marketing District shall be used as a general guide for the development of a business plan.
6) Attachment A to this Agreement represents an estimate of the expenditures for 2015 and the approved work program for 2015.
7) During the term of this Agreement, the Gunnison/Crested Butte Tourism Association shall provide quarterly updates to the Gunnison River Valley Local Marketing District, and shall permit auditing by the LMD of all the Gunnison/Crested Tourism Association's books, accounts, and financial transactions.

1. TERM

The term of the agreement shall begin on January 1, 2015 and end on March 31, 2015.

2. COMPENSATION

The total value of this Agreement is estimated to be $298,200 for the first calendar quarter of 2015. It is further recognized and understood by the parties to this Agreement that the financial obligations under this Agreement are contingent upon the receipt of tax revenues by Gunnison County from the lodging tax and, if there are insufficient revenues to support the estimated expenditures for 2015, the financial obligation will be reduced accordingly.

3. GUNNISON COUNTY STRATEGIC PLAN

Execution of this Agreement will assist Gunnison County with its strategic measure that Gunnison County will provide economic development leadership, as more fully outlined in the Gunnison County Strategic Plan at C.1.

4. DESIGNATION OF COUNTY MANAGER

The Board of the Gunnison River Valley Local Marketing District designates the Gunnison County Manager as the Administrator for this Agreement, and all questions in regard to this Agreement shall be referred to the Gunnison County Manager.

5. INDEMNIFICATION

Gunnison/Crested Butte Tourism Association agrees to indemnify, defend and hold harmless the Board of the Gunnison River Valley Local Marketing District of Gunnison County, Colorado and Gunnison County, its 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 Gunnison/Crested Butte Tourism Association 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.

6. RELATIONSHIP AMONG PARTIES

The relationship of the Gunnison/Crested Butte Tourism Association to the Board of the Gunnison River Valley Local Marketing District is that of an independent contractor, performing marketing functions pursuant to this Agreement. Gunnison/Crested Butte Tourism Association is not an agent of the Board of the Gunnison River Valley Local Marketing District, and the Board of the Gunnison River Valley Local Marketing District is not responsible for the acts or omissions of Gunnison/Crested Butte Tourism Association its officers, employees or agents.

7. MEETING REQUIREMENTS AND PROJECT REPORTING

Gunnison/Crested Butte Tourism Association agrees to meet with the Board of the Gunnison River Valley Local Marketing District no later than March of 2015 to discuss progress with the implementation of the approved work program and to present a marketing plan for the remainder of 2015.

8. 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 River Valley Local Marketing District
Attn: Gunnison County Manager
200 E. Virginia Avenue
Gunnison, Colorado 81230

With a copy to:
Board of County Commissioners of the County of Gunnison, Colorado
200 E. Virginia Avenue
Gunnison, Colorado 81230

Gunnison/Crested Butte Tourism Association
202 E. Georgia, Suite B
Gunnison, CO 81230

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.

9. IMMIGRATION COMPLIANCE CERTIFICATION.

(a) By its signature on this Agreement, Gunnison/Crested Butte Tourism Association certifies that, as of the time of its signature, it does not knowingly employ or contract with an illegal alien and that, in order to confirm the employment eligibility of all employees who are newly hired for employment in the United States, the Gunnison/Crested Butte Tourism Association has participated or attempted to participate in the E-Verify program ("E-Verify Program") created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the United States Department of Homeland Security, and the Social Security Administration or the Department Program (Department Program) established pursuant to §8-17.5-102(5)(c), C.R.S.

(b) Gunnison/Crested Butte Tourism Association agrees that it shall not knowingly employ or contract with an illegal alien to perform work under this Agreement; and that it shall not enter into a contract with a subcontractor that fails to certify to the Gunnison/Crested Butte Tourism Association that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

(c) Gunnison/Crested Butte Tourism Association has confirmed or attempted to confirm through participation in the E-Verify or Department Program the employment eligibility of all employees who are newly hired for employment in the United States.

(d) Gunnison/Crested Butte Tourism Association shall not use E-Verify or Department Program procedures to undertake pre-employment screening of job applicants while work under this Agreement is being performed.

(e) If the Gunnison/Crested Butte Tourism Association obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Gunnison/Crested Butte Tourism Association Contractor shall:

(1) Notify the subcontractor and the Board of the Gunnison River Valley Local Marketing District within three days that the Gunnison/Crested Butte Tourism Association has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(2) Terminate the subcontract with the subcontractor if, within three days of receiving the notice required herein, the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

(f) The Gunnison/Crested Butte Tourism Association shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. Section 8-17.5-101(5).

(g) If the Gunnison/Crested Butte Tourism Association violates a provision of this Illegal Alien Addendum, the Board of the Gunnison River Valley Local Marketing District may terminate this Agreement for breach of contract. If the Agreement is so terminated, the Gunnison/Crested Butte Tourism Association shall be liable for actual and consequential damages to the Board of the Gunnison River Valley Local Marketing District. Gunnison/Crested Butte Tourism Association understands that, in the event of such a termination, the Board of the Gunnison River Valley Local Marketing District is required to notify the office of the Colorado Secretary of State.

10. SOLE SOURCE CONTRACT.

This agreement is a sole source contract pursuant to Article XXVIII of the Colorado Constitution, and the following provisions are applicable to said agreement.

(a) Section 15 of Article XXVIII of the Colorado Constitution is hereby incorporated by reference into this Agreement.

(b) The Gunnison/Crested Butte Tourism Association, on behalf of itself, any person who controls ten percent or more of the shares of or interest in the Gunnison/Crested Butte Tourism Association, and its officers, directors, and trustees (collectively, the "Contract Holder") agrees, for the duration of this Agreement 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 Contract Holder or on behalf of his or her immediate family members and for the benefit of any political party or for the benefit of any candidate for any elected officer of the state or any of its political subdivisions.

(c) If a person responsible for the bookkeeping of the Gunnison/Crested Butte Tourism Association, or if a person acting on behalf of any party to this Agreement, obtains knowledge of a contribution made or accepted in violation of Section 15 of Article XXVIII of the Colorado Constitution, and that person intentionally fails to notify the Secretary of State or appropriate government officer about the violation in writing within ten business days of learning of such contribution, then that person may be contractually liable for restitution to the general

treasury of the Board of the Gunnison River Valley Local Marketing District to compensate for all costs and expenses associated with the breach, including costs and losses involved in securing a new contract if that becomes necessary.

(d) The parties hereto agree that if any party intentionally violates Section 15 of Article XXVIII of the Colorado Constitution, as contractual damages that party shall be ineligible to hold any sole source government contract or public employment within the State of Colorado or any of its political subdivisions, for three years.

The parties hereto agree that if any party intentionally violates Section 17(2) of Article XXVIII of the Colorado Constitution, as contractual damages that party shall be ineligible to hold any sole source government contract or public employment with the State of Colorado or any of its political subdivisions, for three years.

(e) The Gunnison/Crested Butte Tourism Association agrees to comply with the summary and notice provisions of Section 16 of Article XXVIII of the Colorado Constitution.

(f) The Gunnison/Crested Butte Tourism Association hereby certifies that it has not made or caused to be made any contribution intended to promote or influence the result of an election on a ballot issue relating to this Agreement on or after December 31, 2008.

(g) All terms used in this Section and not otherwise defined in this Agreement shall have the same meanings as set forth in Article XXVIII of the Colorado Constitution.

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 the Board of the Gunnison River Valley Local Marketing District of Gunnison County, Colorado or Gunnison County of governmental immunity provided by the Colorado Governmental Immunity Act or otherwise.

12. 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.

13. 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.

14. 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.

GUNNISON RIVER VALLEY LOCAL MARKETING DISTRICT

_____
Chairperson

ATTEST:

_____
Deputy County Clerk

GUNNISON/CRESTED BUTTE TOURISM ASSOCIATION

_____
Chairperson

ATTEST:

_____
Clerk/Secretary

ATTACHMENT A

Gunnison Crested Butte TOURISM ASSOCIATION

Q1 2015 Draft Media Plan

	January				February				March								COST
	4	11	18	25	1	8	15	22	1	8	15	22					
PRINT																	
2015 Colorado Vacation Guide	Annual Vacation Guide 2-pg spread															Annual - $78,000 (approx. in 2014 budget)	$0.00
AAA Living - Chicago	1/8 page 4/C															Winter SC/AI	$1,851.00
Cognis Vail Traveler - Denver	Full page															Winter SC	$1,840.00
United Hemisphere magazine	1/2 Page				1/2 page											Winter SC/AI - $10,000 (no issue)	$10,000.00
Master Solar	Annual Issue 2015															Annual Media Guide	$1,200.00
Elevation Durango									1/2 page							Adventure Vacation Guide	$850.00
SOCIAL MEDIA																	
Facebook Paid ads	Paid advertising (includes option for Travel Group Members) (Ongoing)															Planned Group 1/2 - Schedule, geo-targeted placement based on consumer interest	$2,500.00
Facebook - boost postings	Ongoing boost to increase reach															Weekly Fee is $100.00	$1,700.00
ELECTRONIC																	
CTO Welcome Letter	Online Vacation Planner OTA															Online referral to GCTA vacation planner co.com.com	$1,350.00
AAA Living - Chicago	Online Spotlight																Invoice
CTO Event Listings	Annual Listings															Fee to VIC.com	$3,350.00
Vacationplanning.com	Online Vacation Planner Offer															Annual contract	$5,500.00
Texas Monthly Travel Channel	$500				$500											Spring campaign	$17,000.00
Google Adwords	S. U															SEO Strategies	$15,000.00
Co-Columbia.com	Online Vacation Planner Offer															Annual	$3,000.00
CrossCountrySkiCo.com	online listing/ads															Q1 online listings	$1,500.00
Gunnison Getaways: Web Deals	Special feature on VisitGCB.com															Lodge quilt: video deal	$0.00
EMARKETING																	
CTO Out of State Opener Email																Per Campaign $7,000/ea	$7,000.00
Media Buzz - Targeted native video																BOGO - 1st flight thru spring break	$30,000.00
Media Buzz - Targeted native video																BOGO - extending spring break	$30,000.00
Email Target - TA database prospecting																Quarterly - 2nd	$2,000.00
FULFILLMENT																	
Denver Int'l Airport - welcome guide connection	Q1															Annual contract $400,000	$1,250.00
BROADCAST																	
Chicago	3 week promo															(proportion of annual in the Travel & Adventure Show)	$10,000.00
TRADESHOWS																	
Ski Week Summit		XX														Keynote Speaker - January 19-23; additional speaker slots by application	$8,277.50
Chicago Travel & Adventure Show			XX													Chicago Jan 17-18; 200 consumer travelers	$3,350.00
PUBLIC RELATIONS - FAM TOURS																	
Ski Week Summit - [illegible]																HOST - Elevation Hotel & Spa	$1,500.00
CTO Ski Winter FAM Tour																Hotel & Dates TBD	$500.00
CTO Spring Media FAM Tour																Hotel & Dates TBD	$500.00
																	$169,003.40