AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Temporary Road Use Agreement; City of Gunnison; Po

Action Requested: County Manager Signature

Parties to the Agreement: Gunnison County and City of Gunnison

Term Begins: July 4 , 2015 **Term Ends:** 7/5/2015 **Grant Contract #:**

Summary:

The Commissioners approved Matthew's signature at their 6/23/2015 meeting. I have the original for Matthew's signature

Fiscal Impact: None

Submitted by: Marlene 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 6/29/15

Reveiwed by: Discharge Date: 6/29/2015 Certificate of Insurance Required Yes ◉ No ○

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\khaase Discharge Date: 6/29/2015

◉ Consent Agenda ○ Regular Agenda ○ Worksession Time Allotted:

Agenda Date: 7/7/2015

Revised April 2015

TEMPORARY ROAD USE AGREEMENT

THIS TEMPORARY ROAD USE AGREEMENT (hereinafter "Agreement") is made and entered into on this 23rd day of June, 2015, by and between the CITY OF GUNNISON, GUNNISON, CO, USA, INC., whose address is P.O. Box 239, Gunnison, Colorado 81230-1274 (hereinafter "City of Gunnison") and the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO, a political subdivision of the State of Colorado, whose address is 200 E. Virginia, Gunnison, Colorado 81230 (hereinafter "Gunnison County").

FOR AND IN CONSIDERATION of the mutual covenants and promises hereinafter set forth, the parties hereto agree as follows:

1. GRANT OF PERMISSION TO USE.

Gunnison County grants to the City of Gunnison temporary permission to use a portion of County Road 49 (the "Property") only as set forth herein.

2. TERM OF USE.

The City of Gunnison shall temporarily use a portion of County Road 49 from July 4, 2015 at 6:00am MDT to July 5, 2015 at 10:00a.m. MDT.

3. CITY OF GUNNISON'S USE LIMITED.

The City of Gunnison's use of County Road 49 shall be for and limited to a single special event for the benefit of the public, specifically limited to use of the Property for a fireworks aerial display special event in accordance with previous historical use of the Property for such event.

4. OBLIGATIONS OF THE RESPECTIVE PARTIES.

a. The City of Gunnison shall ensure closure of County Road 49 from its intersection with Teller Street to all traffic, including but not limited to foot, bicycle and vehicle traffic, with the exception of Gunnison County personnel, emergency vehicles, law enforcement, and contractor traffic for the set-up, conduct and clean-up of fireworks aerial display special event.

b. City of Gunnison agrees to indemnify, defend and hold harmless 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 the City of Gunnison or its employees, sub-consultants or agents in connection with the City of Gunnison's use of the Property pursuant to this Agreement. This provision 4.b. shall survive any

termination or expiration of the Term of Use period or this Agreement with respect to any liability, injury or damage caused or occurring prior to such termination.

c. The City of Gunnison shall ensure that Gunnison County is named as an additional insured, or has the named benefit of, the insurance coverage of the City of Gunnison regarding the fireworks aerial display special event, with limits no less than:

i. For any injury to one person in any single occurrence, Three Hundred Fifty Thousand and No/100 U.S. Dollars ($150,000.00); and

ii. 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).

The City of Gunnison shall furnish to Gunnison County current certificates of such insurance to Gunnison County no later than Friday, June 26, 2015.

Nothing in this Agreement, including but not limited to the required or the existence of the insurance required hereunder is or shall be deemed a waiver by the City of Gunnison or Gunnison County of any defense or claim of sovereign immunity, nor a waiver of any other provision of law relating to the liability of governmental units or the limits thereof.

This provision 4.c. shall survive any termination or expiration of this Agreement with respect to any liability, injury or damage caused or occurring prior to such termination.

d. The City of Gunnison shall be responsible for, and shall promptly pay to Gunnison County, all reasonable costs to repair any damage to County Road 49 caused by Rotary's use of the Property under this Agreement.

e. The City of Gunnison shall shoot the fireworks vertically to keep foreign object debris/damage (FOD) to a minimum on the Airport Safety and Movement Areas. Gunnison County will continue to work with the City of Gunnison on foreign object debris/damage (FOD) issues.

f. The City of Gunnison will need to keep emergency access routes open through San Juan and Teller streets and keep an emergency access route down County Road 49.

g. The City of Gunnison will be responsible for communicating with the I-Bar for access needs they have during the road closure period. Gunnison County will notify the lessees of the ranch that could possibly have animals in the pastures along County Road 49.

h. Should any damage happen to adjacent fences, the City of Gunnison will be responsible for fixing the damage.

i. Gunnison County will Notice to Airmen (NOTAM) the fireworks.

j. Instead of closing the Airport runway on July 4, 2015, Gunnison County will close the easterly 1,000 feet of the Airport runway and Notice to Airmen (NOTAM) that approaches on Runway 24 and Departures on Runway 06 will be out of service from 8:00 p.m. until 11:00 p.m. on July 4th.

k. There is not a commercial plane scheduled to arrive during the fireworks display time period, however, Gunnison County shall notify the local station and local pilots of the firework activities.

l. During this time, for any reason should an aircraft enter this area, Gunnison County will notify the City and the fireworks display will be temporarily halted until the aircraft is safely out of this area.

m. Gunnison County shall coordinate fire protection, with the Gunnison Fire Department and the Aircraft Rescue Fire Fighting (ARFF) crew.

n. Gunnison County Airport Personnel will monitor Universal Communications Common Frequency (UNICOM) and area traffic during the fireworks display time period.

5. NON-WAIVER.

No covenant or condition of this Agreement may be waived except by the written consent of the parties hereto. Forbearance or indulgence by either party in any regard whatsoever shall not constitute a waiver of the term or condition to be performed by the other party to which the same may apply, and, until complete performance of said term or condition, the parties shall be entitled to invoke any remedy available under this Agreement or by law or in equity despite said forbearance or indulgence.

6. NOTICES.

Service of all notices under this Agreement shall be sufficient if sent via hand delivery or certified registered mail as follows:

City of Gunnison:
Ken Coleman, City Manager
PO Box 239
Gunnison, CO 81230

Gunnison County:
Board of County Commissioners
of the County of Gunnison, Colorado

c/o County Manager
200 East Virginia Avenue
Gunnison, CO 81230

7. SEVERABILITY.

In the event any term, condition or provision contained in this Agreement is held by any court of competent jurisdiction to be invalid, the invalidity of such term, condition or provision shall in no way affect any other covenant, condition or provision herein contained. Provided, however, that if the invalidity of such term, condition or provision causes material prejudice to either party hereto with respect to its respective rights and obligations contained in the remaining valid portions of this Agreement, then at the option of such party, this Agreement may be declared to be terminated.

8. GOVERNING LAW - BINDING AGREEMENT.

This Agreement shall be deemed to have been made in and be construed in accordance with the laws of the State of Colorado and be binding upon the parties hereto, their successors and assigns.

9. ENTIRE AGREEMENT.

This instrument constitutes the entire Agreement between Gunnison County and the City of Gunnison, and it shall not be amended, altered, or changed except by a written agreement signed by the parties hereto.

10. VENUE.

Venue for any and all legal actions regarding this Agreement shall lie in the District Court in and for the County of Gunnison and State of Colorado.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first set forth above.

CITY OF GUNNISON, CO, USA, INC.

By: Ken Coleman by Acting Manager Gail Davidson
Ken Coleman, City Manager

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Matthew Birnie, County Manager

ATTEST:

_____
Deputy County Clerk

GUNNISON COUNTY SEAL COLORADO

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 6/11/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Britton Gallagher
One Cleveland Center, Floor 30
1375 East 9th Street
Cleveland OH 44114

CONTACT NAME:
PHONE (A/C, No, Ext): 216-658-7100 FAX (A/C, No): 216-658-7101
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Everest Indemnity Insurance Co.	10851
INSURER B : Everest National Insurance Company	10120
INSURER C : Maxum Indemnity Company	26743
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Western Enterprises, Inc.
13513 W. Carrier Road
Carrier OK 73727

COVERAGES CERTIFICATE NUMBER: 906224128 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY			SI8ML00068-151	2/15/2015	2/15/2016	EACH OCCURRENCE	$1,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$500,000
	CLAIMS-MADE X OCCUR						MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$1,000,000
							GENERAL AGGREGATE	$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	$2,000,000
	POLICY PRO-JECT X LOC							$
B	AUTOMOBILE LIABILITY			SI8CA00037-151	2/15/2015	2/15/2016	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS / X NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
C	UMBRELLA LIAB X OCCUR			EXC6018292	2/15/2015	2/15/2016	EACH OCCURRENCE	$4,000,000
	X EXCESS LIAB CLAIMS-MADE						AGGREGATE	$4,000,000
	DED RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATU-TORY LIMITS / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N (Mandatory in NH)	N/A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Additional Insureds: City of Gunnison; Gunnison County

Display Date: July 4, 2015
Alternate: July 5, 2015

Location: Gunnison, CO

CERTIFICATE HOLDER

City of Gunnison
Parks & Rec Dept.
Gunnison CO 81230

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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