AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Memorandum of Agreement between the Board of Count

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: BOCC and Young at Heart

Term Begins: 1/1/15 **Term Ends:** 12/31/2021 **Grant Contract #:**

Summary:

Attached please find the Memorandum of Agreement with The Young at Heart, Senior Citizens

Fiscal Impact:

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

Finance Review: (●) Required ( ) Not Required

Comments:
No concerns, can cover costs in 2016 adopted budget

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 5/14/2016

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

Comments:
ok - gs

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 5/17/2016 Certificate of Insurance Required Yes (●) No ( )

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 5/19/2016

(●) Consent Agenda ( ) Regular Agenda ( ) Worksession Time Allotted: 0

Agenda Date: 6/7/2016

Revised April 2015

MEMORANDUM OF AGREEMENT
BETWEEN
THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO AND
THE YOUNG AT HEART, SENIOR CITIZENS

THIS MEMORANDUM OF AGREEMENT ("Agreement") is entered into this ____ day of _____, 2016 by and between the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO whose address is 200 E. Virginia, Gunnison, Colorado 81230 ("Gunnison County") and THE YOUNG AT HEART, SENIOR CITIZENS, a Colorado non-profit corporation, whose address is 200 E. Spencer, Gunnison, Colorado 81230 ("Young at Heart").

A. RECITALS

WHEREAS, Young at Heart has requested assistance from Gunnison County in financing a portion of its operational costs and administrative assistance for payroll services; and

WHEREAS, Gunnison County is supportive of the objectives of Young at Heart in providing services to senior citizens in Gunnison County; and

WHEREAS, Gunnison County believes that it is in the public's interest to provide funding and administrative assistance for payroll services for Young at Heart employees.

B. AGREEMENT

NOW, THEREFORE, in consideration of the recitals above and the mutual covenants and obligations contained herein below, the parties understand and agree to the following:

1. TERM

The term of the agreement shall begin retroactively January 1, 2015 and end on December 31, 2021.

2. COMPENSATION

A. In consideration and exchange for Gunnison County's financial contribution, Young at Heart agrees to and shall provide:

1. Nutritious, balanced lunches to senior citizens of Gunnison County at least three times a week at the Gunnison Community Center or through home delivery.

2. Quarterly updates to Gunnison County and shall permit auditing by Gunnison County of all the Young at Heart's books, accounts, and financial transactions.

B. In consideration and exchange for Young at Heart's dedication and services for the senior community, Gunnison County agrees to and shall provide:

1. Support funds to Young at Heart to cover costs of General Liability Insurance and Workmen's Compensation Insurance and contribute towards personnel costs pursuant to what has been approved and allocated in the Gunnison County budget.

2. Administrative assistance related to payroll functions for Young at Heart personnel.

3. DESIGNATION OF COUNTY MANAGER

Gunnison County designates the Gunnison County Manager as the Administrator for this Agreement. All questions in regard to this Agreement should be referred to that person.

4. GUNNISON COUNTY STRATEGIC PLAN

Execution of this Agreement will assist Gunnison County with its strategic measure to promote optimal community and family health, safety and wellbeing by providing good or excellent services to senior citizens of Gunnison County.

5. INDEMNIFICATION

Young at Heart agrees to indemnify, defend and hold harmless Gunnison County, its elected officials, 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 Young at Heart 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. INSURANCE.

Young at Heart agrees that at all times during the Term of this Agreement that Young at Heart shall carry and maintain, in full force and effect the following insurance policies:

a. Workermen's Compensation Insurance in accordance with Colorado and Federal law which adequately protects all labor employed by Young at Heart during the term of this Agreement.

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 $350,000 for any injury to one person in any single occurrence and in an amount no less than $990,000 for any injury to two or more persons in any single occurrence.

Comprehensive Automobile Liability Insurance shall be at the sole cost and expense of Young at Heart. The cost and expense of Comprehensive General Liability Insurance and Workmen's Compensation Insurance shall be funded by Gunnison County pursuant to paragraph 2.B.1 herein.

Within thirty (30) days of the execution of this Agreement, Young at Heart 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.

7. RELATIONSHIP OF THE PARTIES.

The relationship of Young at Heart to Gunnison County is that of an independent contractor, performing senior care functions pursuant to this Agreement. Young at Heart is not an agent of Gunnison County, and Gunnison County is not responsible for the acts or omissions of Young at Heart, its officers, employees or agents. Young at Heart employees are not and shall not be employees of Gunnison County and the Gunnison County Personnel Policy shall not apply to their employment by Young at Heart pursuant to this Agreement or otherwise.

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 County:	Matthew Birnie Gunnison County Manager 200 E. Virginia Avenue Gunnison, Colorado 81230
Young at Heart:	Kenner Swedburg Young at Heart 200 E. Spencer 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. Young at Heart certifies that it does not and shall not knowingly contract with or employ illegal aliens to work under this Agreement.

b. Young at Heart certifies that it has required any of its subcontractors to certify that they do not knowingly contract with or employ illegal aliens to work under this Agreement.

c. Young at Heart 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. Young at Heart 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. Young at Heart agrees to comply with the provisions of C.R.S. 8-17.5-101 et seq.

10. TERMINATION.

Either party shall have the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days prior written notice to the other.

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 Gunnison County of governmental immunity provided by the Colorado Governmental Immunity Act or otherwise.

12. ATTORNEYS FEES.

If any party hereto shall bring any suit or action against another for relief, declaratory or otherwise, arising out of this Agreement, the prevailing party shall have and recover against the other party, in addition to all court costs and disbursements, such sum as the court may adjudge to be reasonable attorney's fees and expert witness fees.

13. 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 County, Colorado.

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.

15. 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.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Paula Swenson, Chairperson

ATTEST:

_____
Deputy County Clerk

THE YOUNG AT HEART, SENIOR CITIZENS,
a Colorado nonprofit corporation

By: Kenner Swedburg
Kenner Swedburg, President