AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Amendment to Memorandum of Understanding; Eagle, Pitkin and Gunnison Counties; Revolving Loan Fund

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Gunnison County/Eagle County/Pitkin County

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

Summary:
This is an amendment to the April 2012 MOU.

Fiscal Impact: Up to $50,000 access for Lake County residents.

Submitted by: M. Birnie **Submitter's Email Address:** mbirnie@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:

No fiscal impact on Gunnison County budget.

Reviewed by: Lnienhueser Discharge Date: 5/9/2013

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

Comments:

Reviewed by: ATrezise Discharge Date: 5/15/2013 Certificate of Insurance Required Yes ( ) No (●)

County Manager Review:

Comments:

Reviewed by: MBirnie Discharge Date: 5/15/2013

( ) Consent Agenda (●) Regular Agenda ( ) Worksession Time Allotted: 15

Agenda Date: 5/21/2013 Follow Up Agenda Date: N/A

Revised April 2013

MEMORANDUM OF UNDERSTANDING
Between the
Eagle County, Colorado, Pitkin County, Colorado
And
Gunnison County, Colorado

This **MEMORANDUM OF UNDERSTANDING** (MOU) is hereby entered into by and among Eagle County, Colorado, hereinafter referred to as Eagle County, Colorado Pitkin County, Colorado and Gunnison County, Colorado (collectively, the Counties).

A. PURPOSE:

The purpose of this MOU is to formalize a cooperative relationship among the aforementioned counties for the purpose of establishing and administering a Revolving Loan Fund (RLF) utilizing the proceeds of a grant from the United States Department of Energy (the Grant Funds) to provide financing for energy efficiency home improvements for the residents of the Counties (the Project).

B. OBJECTIVE:

The objective of this MOU is to establish a working relationship among the Counties to improve the energy efficiency of 10% or 4100 homes in the Counties by 20% through the utilization of the Grant Funds. Access to financing is a primary barrier identified by the Counties in meeting this goal.

C. BENEFITS:

The benefits of this cooperative management agreement are as follows:

- Promote the Counties' interest in assisting their residents to become more energy efficient.
- Make clear the expectations of the Counties with reference to the creation of the RLF and its subsequent administration.

D. Eagle County agrees to:

1. Serve as the authorized representative of the Counties in developing a term sheet and an agreement (Agreement) with Funding Partners For Housing Solutions, a Colorado CDFI, 501(c) (3) nonprofit corporation (Funding Partners), or a similar entity, to create and administer the RLF.
2. Enter into the Agreement, on its own behalf and as the authorized representative of Pitkin County and Gunnison County, with the understanding that contracts would not be finalized without the advice and consent of each County's representative.
3. Transfer the Grant Funds to Funding Partners for its administration of the RLF pursuant to the terms of the Agreement.

4. Monitor the RLF and its administration by Funding Partners and report to Pitkin County and Gunnison County, on a quarterly basis, the status of the RLF and all pertinent details relating to its administration.
5. Take the lead in establishing an Intergovernmental Agreement among the Counties to further the purpose and objectives of this MOU. One manifestation may be to form an Energy Smart Colorado separate entity with tri-county representation for ongoing RLF oversight.

E. Pitkin County and Gunnison County agree to:

1. Authorize Eagle County to serve as their authorized representative to perform the various acts set forth in Section D, paragraphs one through five.
2. Engage with Eagle County to provide their advice and assistance, when requested, in the oversight of the administration of the RLF.
3. Participate in preparation of the Intergovernmental agreement or possible separate entity as described in Section D, paragraph 5 above.

F. IT IS MUTUALLY AGREED AND UNDERSTOOD BY ALL PARTIES THAT:

1. Each county shall designate representation to provide equal oversight from each of the Counties into the future use and appropriation of the RLF. Future agreements between the Counties may further clarify such representation to meet this intent if mutually desired and agreed upon.

2. The Counties' representatives will meet not less than annually to review the terms of this MOU and, if necessary, update it.

3. The Counties' representatives may agree, but shall not be obligated, to participate in the solicitation of additional capital for the RLF from community funds, partnerships, investments and donations in the year 2012 and in the future.

4. The RLF is a pooled fund for common use and equal access by the Counties, and will not be divided or segregated on a per-county basis.

5. PRINCIPAL CONTACTS The principal contacts for this instrument are:

EAGLE COUNTY
Adam Palmer
PO Box 850
Eagle, CO 81631
Phone: 970-328-8698
Fax: 970-328-7185
E-mail:*adam.palmer@eaglecounty.us*

PITKIN COUNTY
Cindy Houben, Community
Development Director
130 S. Galena
Aspen, CO 8161
Phone: 970-920-5097
E-Mail: *cindy.houben@co.pitkin.co.us*

GUNNISON COUNTY
Matthew Birnie
County Manager's Office
200 E. Virginia, Ste 104
Gunnison, CO 81230
Ph: (970) 641-0248
Fax: (970) 641-3061

6. This MOU shall be subject to the laws of the United States, the State of Colorado, and Eagle County, and to the rules and regulations promulgated thereunder, whether now in force or hereafter enacted or promulgated; and nothing herein shall be construed as in any way affecting or waiving the jurisdiction, responsibility, or existing rights of any signatory party to this MOU.

7. PARTICIPATION IN SIMILAR ACTIVITIES This instrument in no way restricts any of the Counties from participating in similar activities with other public or private agencies, organizations, and individuals.

8. NON-FUND OBLIGATING DOCUMENT Nothing in this MOU shall obligate the Counties to obligate or transfer any funds other than the Grant Funds.

9. COMMENCEMENT/EXPIRATION/TERMINATION This MOU takes effect upon the signature of the Counties and shall remain in effect for a term of one year from the date of its execution. It shall automatically renew for another twelve month period upon the expiration of each term. This MOU may be amended upon written request of any of the Counties and subsequent written concurrence of the others. It may also terminate if the Counties enter into an Intergovernmental Agreement superseding it. Finally, any of the Counties may terminate its participation in this MOU upon 30 day written notice.

10. RESPONSIBILITIES OF PARTIES The Counties will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner pursuant to this MOU.

JON STAVNEY

~~Peter F. Runyon~~, Chairman
Eagle County Board of County
Commissioners

5/15/12
DATE

Attest:

Teak Simonton, Clerk to the Board

, Chairman
Pitkin County Board of County
Commissioners

DATE

Attest:

, Clerk to the Board

Paula Swenson, Vice-Chairperson
Gunnison County Board of County
Commissioners

5/1/2012
DATE

Attest:

Katherine Haase, Clerk to the Board

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE BOARD OF COUNTY COMMISSIONERS OF EAGLE COUNTY AND GUNNISON COUNTY, IN ORDER TO ENABLE THE ESTABLISHMENT AND ADMINISTRATION OF A REVOLVING LOAN FUND TO PROVIDE FINANCING FOR ENERGY EFFICENT HOME IMPROVEMENTS FOR COUNTY RESIDENTS

RESOLUTION NO 042-2012

RECITAL:
This **MEMORANDUM OF UNDERSTANDING** (MOU) is hereby entered into by and among Eagle County, Colorado, hereinafter referred to as Eagle County, Colorado Pitkin County, Colorado and Gunnison County, Colorado (collectively, the Counties).

A. PURPOSE:

The purpose of this MOU is to formalize a cooperative relationship among the aforementioned counties for the purpose of establishing and administering a Revolving Loan Fund (RLF) utilizing the proceeds of a grant from the United States Department of Energy (the Grant Funds) to provide financing for energy efficiency home improvements for the residents of the Counties (the Project).

B. OBJECTIVE:

The objective of this MOU is to establish a working relationship among the Counties to improve the energy efficiency of 10% or 4100 homes in the Counties by 20% through the utilization of the Grant Funds. Access to financing is a primary barrier identified by the Counties in meeting this goal.

C. BENEFITS:

The benefits of this cooperative management agreement are as follows:

- Promote the Counties' interest in assisting their residents to become more energy efficient.
- Make clear the expectations of the Counties with reference to the creation of the RLF and its subsequent administration.

D. Eagle County agrees to:

1. Serve as the authorized representative of the Counties in developing a term sheet and an agreement (Agreement) with Funding Partners For Housing Solutions, a Colorado CDFI, 501(c) (3) nonprofit corporation (Funding Partners), or a similar entity, to create and administer the RLF.
2. Enter into the Agreement, on its own behalf and as the authorized representative of Pitkin County and Gunnison County, with the understanding that contracts

would not be finalized without the advice and consent of each County's representative.

3. Transfer the Grant Funds to Funding Partners for its administration of the RLF pursuant to the terms of the Agreement.
4. Monitor the RLF and its administration by Funding Partners and report to Pitkin County and Gunnison County, on a quarterly basis, the status of the RLF and all pertinent details relating to its administration.
5. Take the lead in establishing an Intergovernmental Agreement among the Counties to further the purpose and objectives of this MOU. One manifestation may be to form an Energy Smart Colorado separate entity with tri-county representation for ongoing RLF oversight.

E. Pitkin County and Gunnison County agree to:

1. Authorize Eagle County to serve as their authorized representative to perform the various acts set forth in Section D, paragraphs one through five.
2. Engage with Eagle County to provide their advice and assistance, when requested, in the oversight of the administration of the RLF.
3. Participate in preparation of the Intergovernmental agreement or possible separate entity as described in Section D, paragraph 5 above.

F. IT IS MUTUALLY AGREED AND UNDERSTOOD BY ALL PARTIES THAT:

1. Each county shall designate representation to provide equal oversight from each of the Counties into the future use and appropriation of the RLF. Future agreements between the Counties may further clarify such representation to meet this intent if mutually desired and agreed upon.

2. The Counties' representatives will meet not less than annually to review the terms of this MOU and, if necessary, update it.

3. The Counties' representatives may agree, but shall not be obligated, to participate in the solicitation of additional capital for the RLF from community funds, partnerships, investments and donations in the year 2012 and in the future.

4. The RLF is a pooled fund for common use and equal access by the Counties, and will not be divided or segregated on a per-county basis.

5. <u>PRINCIPAL CONTACTS</u> The principal contacts for this instrument are:

EAGLE COUNTY
Adam Palmer
PO Box 850
Eagle, CO 81631

PITKIN COUNTY
Cindy Houben, Community Development Director
130 S. Galena

Phone: 970-328-8698
Fax: 970-328-7185
E-mail:*adam.palmer@eaglecounty.us*

Aspen, CO 8161
Phone: 970-920-5097
E-Mail:
cindy.houben@co.pitkin.co.us

GUNNISON COUNTY
Matthew Birnie
County Manager's Office
200 E. Virginia, Ste 104
Gunnison, CO 81230
Ph: (970) 641-0248
Fax: (970) 641-3061

6. This MOU shall be subject to the laws of the United States, the State of Colorado, and Eagle County, and to the rules and regulations promulgated thereunder, whether now in force or hereafter enacted or promulgated; and nothing herein shall be construed as in any way affecting or waiving the jurisdiction, responsibility, or existing rights of any signatory party to this MOU.

7. PARTICIPATION IN SIMILAR ACTIVITIES This instrument in no way restricts any of the Counties from participating in similar activities with other public or private agencies, organizations, and individuals.

8. NON-FUND OBLIGATING DOCUMENT Nothing in this MOU shall obligate the Counties to obligate or transfer any funds other than the Grant Funds.

9. COMMENCEMENT/EXPIRATION/TERMINATION This MOU takes effect upon the signature of the Counties and shall remain in effect for a term of one year from the date of its execution. It shall automatically renew for another twelve month period upon the expiration of each term. This MOU may be amended upon written request of any of the Counties and subsequent written concurrence of the others. It may also terminate if the Counties enter into an Intergovernmental Agreement superseding it. Finally, any of the Counties may terminate its participation in this MOU upon 30 day written notice.

10. RESPONSIBILITIES OF PARTIES The Counties will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner pursuant to this MOU.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Pitkin County, Colorado that Pitkin County enter into a Memorandum of Understanding with Eagle, County and Gunnison County for the purpose of establishing and administering a Revolving Loan Fund (RLF) utilizing the proceeds of a grant from the United States Department of Energy (the Grant Funds) to provide financing for energy efficiency home improvements for their residents (the Project).

INTRODUCED AND FIRST READ ON THE 22ND DAY OF FEBRUARY, 2012.

NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES WEEKLY ON THE 1ST DAY OF MARCH, 2012.

FULL TEXT OF THE RESOLUTION POSTED ON THE OFFICIAL PITKIN COUNTY WEBSITE ON THE 2ND DAY OF MARCH, 2012.

ADOPTED AFTER SECOND READING AND PUBLIC HEARING ON THE ~~14~~ 11TH DAY OF ~~MARCH~~ APRIL, 2012.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN TIMES WEEKLY AND POSTED ON THE PITKIN COUNTY OFFICAIL WEBSITE ON THE ~~14~~ 19th DAY OF APRIL 2012.

BOARD OF COUNTY COMMISSIONERS
OF EAGLE COUNTY, COLORADO

_____ _____

Peter F. Runyon, Chairman
Eagle County Board of County
Commissioners

DATE

Attest:

_____

Teak Simonton, Clerk to the Board

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

_____ _____

, Chairman
Gunnison County Board of County
Commissioners

DATE

Attest:

_____

, Clerk to the Board

BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

By _____
~~Michael Owsley, Chairman~~
Jack Hatfield, Vice Chair

Date 4/12/12

ATTEST:

_____
Jeanette Jones
Clerk to the BOCC

APPROVED AS TO FORM:

_____
John Ely,
County Attorney

MANAGER APPROVAL:

_____
Jon Peacock, County manager

AMENDMENT TO MEMORANDUM OF UNDERSTANDING
(LAKE COUNTY)

THIS AMENDMENT TO MEMORANDUM OF UNDERSTANDING ("Lake County Amendment") is hereby entered into by and between Eagle County, Colorado, Pitkin County, Colorado and Gunnison County, Colorado (collectively, the Counties).

WHEREAS, the Counties entered into a Memorandum of Understanding dated on or about April 11, 2012 ("MOU") to establish the relationship of the Counties concerning a revolving loan fund ("RLF") to provide financing for energy efficiency home improvements for residents of the three Counties; and

WHEREAS, the RLF was established by the Counties using grant proceeds from the Unites States Department of Energy("Grant"); and

WHEREAS, one of the goals of the Grant is to create a program which can be utilized by other jurisdictions in achieving common energy efficiency goals; and

WHEREAS, the Department of Energy has authorized the Counties to utilize Grant funds deposited in the RLF for citizens of other jurisdictions; and

WHEREAS, Cloud City Conservation Center, a Colorado non-profit corporation ("C4") has been provided with seed money from Lake County, Colorado and is working to establish programs concerning energy efficiency in Lake County, Colorado; and

WHEREAS, C4 desires to implement the energy efficiency program developed under the Grant (the "Energy Smart Program") for residents of Lake County including access to the RLF for residential energy efficient improvements as set forth herein; and

WHEREAS, the Counties desire to amend their MOU to allow residents of Lake County, Colorado to participate in the RLF on the terms and conditions set forth herein; and

WHEREAS, the Counties agree to create and utilize Energy Smart Colorado, Inc., a Colorado nonprofit corporation (Energy Smart) to administer, in part, the Energy Smart program, including, without limitation the RLF. The terms and conditions for administration of the RLF by Energy Smart shall be set forth in a separate agreement between the Counties and Energy Smart.

NOW THEREFORE, the Counties agree to amend the MOU as follows:

1. Eagle County, Colorado is hereby authorized to amend the agreement between Eagle County and Energy Smart Partners LLC dated June 11, 2012 (the "Revolving Loan Fund Agreement") which governs administration of the RLF to allow residents of Lake County, Colorado to access up to no more than fifty thousand dollars ($50,000) of the RLF for residential energy efficient

improvements on the terms and conditions set forth herein and in accordance with the Revolving Loan Fund Agreement.

2. C4 shall enter into an agreement with Energy Smart to implement the Energy Smart Program in Lake County, Colorado. That agreement shall require C4 to adhere to the Energy Smart Program requirements as may be amended from time to time.

3. The RLF shall remain a pooled fund for common use and equal access by the Counties and shall not be divided or segregated among the Counties.

4. Up to no more than fifty thousand dollars ($50,000) of the RLF may be made available to residents of Lake County, Colorado for residential energy efficient improvements but such funds are not restricted for use by Lake County residents alone and may be accessed by residents of the Counties. There is no warranty or guarantee that all or a portion of the $50,000 will be available for residents of Lake County as the RLF is available on a first come, first served basis.

5. Upon execution, this Lake County Amendment shall be provided to Energy Smart Partners LLC and shall constitute notice of a change in Program Criteria as set forth in paragraph 4 of the Revolving Loan Fund Agreement.

6. The Counties, or Energy Smart acting on their behalf, may terminate the right of Lake County residents to access the RLF, with or without cause and for any reason without penalty upon thirty (30) days advance written notice to C4 and Energy Smart Partners LLC.

_____
Jon Stavney, Chairman
Eagle County Board of County Commissioners

Attest:

_____
Teak Simonton, Clerk to the Board

_____
, Chairman
Pitkin County Board of County Commissioners

Attest:

_____
, Clerk to the Board

_____
, Chairman
Gunnison County Board of County Commissioners

Attest:

_____
, Clerk to the Board