AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Agreement between Gunnison County HHS and Region 10 League for Economic Assistance & Planning, Inc., Region 10 Area Agency on Aging; Senior Transportation Program; 7/1/14 thru 6/30/15; $33,000

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Gunnison County HHS and Region 10 Area Agency on Aging

Term Begins: July 1, 2014 **Term Ends:** 6/30/2015 **Grant Contract #:**

Summary:
Approval/signature of contract to provide funding for Sr Transportation program

Fiscal Impact: +20,000

Submitted by: Karin Stewart **Submitter's Email Address:** kstewart@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:

This is a renewal Grant Agreement for the SRO Coord. The award is once again $33,000 which is what we have in the 2014 County Budget.

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 6/24/2014

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

Comments:

Reviewed by: GUNCOUNTY1\atrezise Discharge Date: 6/23/2014 Certificate of Insurance Required Yes (●) No ( )

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 6/24/2014

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

Agenda Date: 7/1/2014 Follow Up Agenda Date:

Revised April 2013

AGREEMENT BETWEEN

Gunnison County HHS
and
Region 10 League for Economic Assistance & Planning, Inc.
Region 10 Area Agency on Aging

The Region 10 League for Economic Assistance & Planning, Inc., Region 10 Area Agency on Aging is responsible for the administration of funding received from the State of Colorado and the Administration on Aging service programs. Priority programs identified in the Four Year Plan of the Region 10 Area Agency on Aging for implementation include: accessing services, health promotion, in-home services, and affordable housing.

In keeping with the intent of the Older Americans Act and the Older Coloradans Act services are available to all persons age 60 years and older and targeted to those with the greatest social and economic need.

THIS AGREEMENT is entered this 27th day of June, 2014 by and between Region 10 League for Economic Assistance & Planning Inc., Region 10 Area Agency on Aging (herein called Region 10) and Gunnison County HHS(Herein called the "Contractor").

WITNESSETH:

WHEREAS, Region 10 desires to engage the Contractor to provide Services in Gunnison County/Counties

WHEREAS, Region 10 has applied for and received funds from the State of Colorado under the Older Colorado Act and the Colorado General Fund, and/or Older Americans Act: and,

WHEREAS, Region 10 is the sponsoring agency for the Area Agency on Aging for the six counties of Delta, Gunnison, Hinsdale, Montrose, Ouray and San Miguel and,

WHEREAS, the Area Agency on Aging has determined that Information and Assistance/Aging & Disability Resources for Colorado (ADRC) Services are important to maintain the independence of seniors; and

WHEREAS, the Contractor warrants that they have the knowledge, skills and staff for the proper and efficient provision of Services;

NOW THEREFORE, the parties hereto do mutually agree as follows:

1. GENERAL COMPLIANCE

The Contractor agrees to comply with the requirements of the Older Americans Act (Title 42, Chapter 35 et al) and the Older Coloradans' Act (C.R.S. Title 26 Article 11). The Contractor also agrees to comply with all other applicable federal, state and local laws, regulations, and policies governing the funds provided under this agreement.

The Contractor shall comply with: 1) clarifications or guidance issued by the United States Department of Health & Human Services; 2) the Colorado Department of Human Services program rules (12 CCR 2510-1); 3) any conditions attached to this agreement or funding letter issued by Region 10; and 4) the requirements found at 45 CFR, Part 1321; 45 CFR Part 74; 45 CFR Part 92; 45 CFR Part 95 and/or 48 CFR 31.2 and other applicable OMB Circulars for federal awards.

The Contractor agrees to comply with the applicable version of the Older Americans Act Program Staff Manual Volume 10, the Policy & Procedures Manual, and related policy guidance provided by the State Unit on Aging of the State of Colorado. The Contractor further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

The Contractor shall not use the cash and/or in kind match for the Agreement to fulfill matching requirements for other State or Federal funds.

2. COMPLIANCE WITH APPLICABLE LAWS

At all times during the performance of this agreement, the Contractor shall comply with all applicable rules, regulations and laws governing or affecting the services to be rendered under this Agreement.

3. SCOPE OF SERVICES

The Contractor shall do, perform, and carry out, in a satisfactory and proper manner, those services as included in Attachment A and outlined in the Funding Application submitted which is incorporated herein by reference.

4. TERM OF CONTRACT

Contractor services shall start on the 1st day of July 2014, and end on the 30th day of June 2015.

5. INDEPENDENT CONTRACTOR

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Contractor shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. Region 10 shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Contractor is an independent contractor of Region 10.

6. FINANCIAL OBLIGATIONS

All financial obligations of Region 10 and the Contractor under this Agreement expressly are made conditioned upon funds being appropriated, budgeted, approved or otherwise made available by the U.S. Department of Health and Human Services, the Colorado Department of Human Services and Region 10. In the event that such funding either in total or in part is not forthcoming, Region 10 and the Contractor is released from all liability whatsoever and will not be responsible for payment of any costs or expenses incurred in reliance upon this Agreement beyond that amount which has been appropriated and made available to Region 10 and neither party shall have any further liability hereunder, said Agreement shall cease and terminate as of such date.

7. PERSONNEL

All of the services required hereunder are to be performed by staff/volunteers of the Contractor. The Contractor covenants that it is an Equal Opportunity Employer and will comply with all Federal and State Employment laws and regulations, including PUBLIC CONTRACTS FOR SERVICES (CRS §8-17.5-101) as stated in Attachment B. Anyone providing direct service to consumers must pass a criminal background check.

8. WORKERS' COMPENSATION

The Contractor shall provide Workers' Compensation coverage for all of its employees involved in the performance of this Agreement, and verify same for sub-contractors as applicable.

9. INSURANCE AND BONDING/HIPPA

The Contractor and sub-contractors, as applicable, shall provide general liability insurance covering all operations under this Agreement; automobile liability insurance as required by the State of Colorado for all motor vehicles used in connection with this Agreement, whether owned, non-owned

or hired. Said liability insurance shall be for the term of the Agreement. The Contractor and sub-contractors shall provide criminal background checks for all staff and volunteers according to ASU Memorandum 05-15 guidelines.

9a. Health Insurance Portability & Accountability Act of 1996 ("HIPAA"). Federal law and regulations governing the privacy of certain health information requires a "Business Associate Contract" between the State and the Contractor. 45 C.F.R. Section 164.504(e). Attached and incorporated herein by reference and agreed to by the parties is a HIPAA Business Associate Addendum for HIPAA compliance. Terms of the Addendum shall be considered binding upon execution of this contract and shall remain in effect during the term of the contract including any extensions.

Contractor and its applicable subcontractors hereunder shall obtain and maintain during the term of this Contract privacy liability insurance covering all loss of Protected Health Information data and claims based upon alleged violations of privacy rights through improper use or disclosure of Protected Health Information with minimum annual limits as follows.

- Contractors with 10 or less clients **and** revenues of $250,000 or less shall maintain limits on Privacy Liability Insurance of not less than $50,000.

- Contractors with 25 or less clients **and** revenues of $500,000 or less shall maintain limits on Privacy Liability Insurance of not less than $100,000.

- Contractors with more than 25 clients **and** revenues of more than $500,000 shall maintain limits on Privacy Liability Insurance of not less than $1,000,000

10. COMPENSATION

It is expressly agreed and understood that in no event shall total compensation, to be paid hereunder, exceed the maximum amount $33000.00 of Federal funds and will be available contingent upon Region 10's receipt of Older Americans Act funding from the Colorado Department of Human Services.

11. BUDGET

Region 10 may require a detailed budget breakdown, and the Contractor shall provide such supplementary budget information in a timely fashion in the form and content prescribed by Region 10. Region 10 and the Contractor must approve any amendments to this budget in writing.

12. FINANCIAL MANAGEMENT

a) Accounting Standards
The Contractor agrees to adhere to generally accepted accounting principles and procedures, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

b) Administrative Requirements
The Contractor shall administer the program in conformance with OMB Circular A-102 "Grants and Cooperative Agreements with State and Local Governments" or OMB A-110 "Uniform Administrative Requirements for Grants and Agreements with institutions of Higher Education, Hospitals or Other Non-profit Organizations."

c) Cost Principles
The Contractor shall administer the program in conformance with Federal Acquisition Regulation (FAR) Subpart 31.2 "Contracts with Commercial Organizations." These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

d) Disallowed Costs
If costs claimed under this agreement are disallowed as a result of an audit or other financial or Programmatic review, the proportion of federal, state, or federal/state funds disallowed shall be returned to Region 10 or the costs shall be funded with 100% local funds.

13. DOCUMENTATION AND RECORD KEEPING

a) Records to be Maintained
The Contractor shall maintain all records required by Volume 10 that are pertinent to the activities to be funded under this Agreement. Such records shall include but are not limited to:

1. Records providing a full description of each activity undertaken;
2. Records demonstrating targeting of services to those with the greatest social / economic need;
3. Records required to determine the eligibility of activities;
4. Financial records as required;
5. Employment and personnel records;
6. Other records necessary to document compliance with the Older Americans Act or Older Coloradans Program.

b) Retention
The Contractor until notified in writing by Region 10 that the records may be destroyed shall retain all records and documentation associated with the provision of services under this Agreement.
The Contractor shall retain all records pertinent to expenditures incurred under this contract for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this contract shall be retained for three (3) years after final disposition of such property. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolutions of all issues, or the expiration of the three-year period, whichever occurs later.

c) Client Data
The Contractor shall maintain client data demonstrating client eligibility for services, characteristics of clients served and units of service provided. Such data shall be submitted in a format as described by Region 10, and made available to state staff, or their designees for review upon request.

d) Disclosure
The Contractor understands that client information collected under this contract is confidential and the use or disclosure of such information, when not directly connected with the administration of Region 10 or Contractor's responsibilities with respect to services provided under this contract, is prohibited.

e) Property Records
The Contractor shall maintain property inventory records that clearly identify property purchased with funds under this agreement.

f) Close-Outs
The Contractor's obligation to Region 10 shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, program income balances, and accounts receivable to Region 10) and determining the custodianship of records.

g) Audits and Inspections

All Contractor records with respect to any matters covered by this Agreement shall be made available to the U. S. Department of Health and Human Services, State of Colorado, Region 10, or their designees at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Contractor within 30 days after receipt of notice by the Contractor. Failure of the Contractor to comply with the above requirements will constitute a violation of this agreement and may result in the withholding of future payments.

14. PERFORMANCE MONITORING

Region 10 will monitor the performance of the Contractor on a monthly and annual basis against goals, objectives and performance standards required herein. Substandard performance will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Contractor within the prescribed period of time after being notified by Region 10, suspension or termination procedures may be initiated.

15. REPORTING AND PAYMENT PROCEDURES

a) Monthly Reimbursement Report
All Contractor funding will be utilized to provide services **throughout** the contract period. Monthly reimbursement requests will include proportioned OAA/OCA, local cash and in-kind funding necessary to provide projected units of service. The contractor must submit a written request by the 1st of the month for each month an exemption is requested.

b) Program Income
Program Income is any income generated through delivery of OAA/OCA services by a Contractor (voluntary contributions/interest income). Program Income shall be spent prior to reimbursement for the State.

c) Indirect Costs
Indirect costs are those costs incurred for a common or joint purpose benefiting more than one cost objective, and not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. If indirect costs are charged, the Contractor will develop an indirect cost allocation plan for determining the appropriate Contractor's share of administrative costs and shall submit such plan to Region 10 for approval. No indirect charges may be made without an approved plan.

d) Payment Procedures
Region 10 will pay to the Contractor, funds available under this Agreement based upon information submitted by the Contractor and consistent with any approved budget and Region 10 policy concerning payments. Monthly payments will be made to the Contractor for expenses incurred related to performance, as outlined in the contract. Expenses are not to exceed actual cash requirements. In addition, Region 10 reserves the right to liquidate funds available under this Agreement for costs incurred by Region 10 on behalf of the Contractor.

e) Payment Request
Requests for reimbursement shall be made on a monthly basis by the Contractor in a format prescribed by Region 10 and submitted by the COB on the 12th day of each month (or prior business day if the 12th falls on a weekend or holiday) of the Agreement period.

f) Reporting Procedures
The Contractor agrees to submit client data and fiscal, performance and other reports in the form, content and frequency as required by Region 10.

g) Reports Due
The Contractor shall submit fiscal and client data reports to Region 10 by the COB on the 12th day

of each month (or prior business day if the 12th falls on a weekend or holiday) of the Agreement period.

16. PROCUREMENT

a) Compliance
The Contractor shall comply with current Volume 10 policies and procedures concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to Region 10 upon termination of this Agreement.

b) OMB Standards
The Contractor shall procure all materials, property and services in accordance with the requirements in the OMB Circulars.

c) Travel
The Contractor shall obtain written approval from Region 10 for any unbudgeted travel outside the service area with funds provided under this Agreement.

17. CONFLICT OF INTEREST

The Contractor agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.

18. PROHIBITED ACTIVITY

The Contractor is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism.

19. HOLD HARMLESS

The Contractor shall hold harmless, defend and indemnify Region 10, United States Department of Health and Human Services, and the State of Colorado from any and all claims, actions, suits, charges and judgments whatsoever that arises out of the Contractor's performance or non-performance of the services or subject matter called for in this Agreement.

20. REGION 10 AREA AGENCY ON AGING RECOGNITION

The Contractor shall insure recognition of the role of Region 10 in providing services through this agreement. The Contractor will include a reference to the funding provided herein in all publications made possible with funds made available under this Agreement.

21. AMENDMENTS

Region 10 or Contractor may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and reviewed by the Regional Advisory Council. Such amendments shall not invalidate this Agreement, nor relieve or release Region 10 or Contractor from its obligations under this Agreement.

Notwithstanding any other provisions to this Agreement, Region 10 may, in its discretion, amend this

Agreement to conform with Federal, State or Local government legislation, guidelines, policies and available funding. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Region 10 and Contractor.

22. SUSPENSION OR TERMINATION

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the Scope of Service may only be undertaken because of adjustments to funding and with the prior approval of Region 10.

Region 10 may suspend or terminate this Agreement, in whole or in part, if the Contractor materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and Region 10 may declare the Contractor ineligible for any further participation in Region 10 programs, in addition to other remedies as provided by law. In the event there is a probable cause to believe the Contractor is in noncompliance with any applicable rules or regulations, Region 10 may withhold payment of funds until such time as the Contractor is found to be in compliance by Region 10, or is otherwise adjudicated to be in compliance.

Region 10 may suspend or terminate this Agreement if Region 10 does not receive funding from the State of Colorado under the Older Coloradans Act and the Colorado General Fund; and/or Older Americans Act.

23. NON-ASSIGNABILITY

It is understood and agreed that the Contractor shall have no right of assignment under this Agreement.

24. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

25. APPLICABLE LAW

This contract shall be construed and enforced in accordance with the laws of the State of Colorado.

26. NOTICES

Communication and details concerning this contract shall be directed to the following contract representatives:

Region10 League for Economic Assistance and Planning, Inc.
Eva Veitch, Area Agency on Aging Director
300 North Cascade, Suite #1
Montrose, Colorado 81401
Phone: (970) 249-2436
Email: eveitch@region10.net

Gunnison County HHS
Karin Stewart
225 Pine Street, Suite E
Gunnison 81230
970-641-7984

IN WITNESS WHEROF, the Parties have executed this agreement as of the date first written above.

Signed: _____ Date: _____

(Please Type or Print Name & Title)

Region 10 League for Economic Assistance & Planning, Inc.
Region 10 Area Agency on Aging

Signed: Eva Veitch Date: 6/16/14
Eva Veitch, AAA Director

Attachment A

Scope of Services:

Service Units: Federal Units: 13560

Total Units: 3300

Service Description:

Information and Assistance/Adult Resources for Care and Help (ARCH)

Budget:

Line Item	Amount
Project Revenues	
Federal Funds	$33000
State Funds	
Local Cash Match	$80697
Local In-Kind Match	$4800
Program Income	
Gunnison County HHSTotal	**$118497**

HIPAA BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum ("Addendum") is a part of the Contract dated July 1, 2014 between Region 10 AAA and Gunnison County Public Health. For purposes of this Addendum, Region 10 AAA is referred to as "Covered Entity" or "CE" and the Contractor is referred to as "Associate". Unless the context clearly requires a distinction between the Contract document and this Addendum, all references herein to "the Contract" or "this Contract" include this Addendum.

RECITALS

A. CE wishes to disclose certain information to Associate pursuant to the terms of the Contract, some of which may constitute Protected Health Information ("PHI") (defined below).

B. CE and Associate intend to protect the privacy and provide for the security of PHI disclosed to Associate pursuant to this Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d – 1320d-8 ("HIPAA") as amended by the American Recovery and Reinvestment Act of 2009 ("ARRA")/HITECH Act (P.L. 111-005), and its implementing regulations promulgated by the U.S. Department of Health and Human Services, 45 C.F.R. Parts 160, 162 and 164 (the "HIPAA Rules") and other applicable laws, as amended.

C. As part of the HIPAA Rules, the CE is required to enter into a written contract containing specific requirements with Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 160.103, 164.502(e) and 164.504(e) of the Code of Federal Regulations ("C.F.R.") and contained in this Addendum.

The parties agree as follows:

1. Definitions.

a. Except as otherwise defined herein, capitalized terms in this Addendum shall have the definitions set forth in the HIPAA Rules at 45 C.F.R. Parts 160, 162 and 164, as amended. In the event of any conflict between the mandatory provisions of the HIPAA Rules and the provisions of this Contract, the HIPAA Rules shall control. Where the provisions of this Contract differ from those mandated by the HIPAA Rules, but are nonetheless permitted by the HIPAA Rules, the provisions of this Contract shall control.

b. "Protected Health Information" or "PHI" means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be

used to identify the individual, and shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.501.

c. "Protected Information" shall mean PHI provided by CE to Associate or created received, maintained or transmitted by Associate on CE's behalf. To the extent Associate is a covered entity under HIPAA and creates or obtains its own PHI for treatment, payment and health care operations, Protected Information under this Contract does not include any PHI created or obtained by Associate as a covered entity and Associate shall follow its own policies and procedures for accounting, access and amendment of Associate's PHI.

d. "Subcontractor" shall mean a third party to whom Associate delegates a function, activity, or service that involves CE's Protected Information, in order to carry out the responsibilities of this Agreement.

2. Obligations of Associate.

a. Permitted Uses. Associate shall not use Protected Information except for the purpose of performing Associate's obligations under this Contract and as permitted under this Addendum. Further, Associate shall not use Protected Information in any manner that would constitute a violation of the HIPAA Rules if so used by CE, except that Associate may use Protected Information: (i) for the proper management and administration of Associate; (ii) to carry out the legal responsibilities of Associate; or (iii) for Data Aggregation purposes for the Health Care Operations of CE. Additional provisions, if any, governing permitted uses of Protected Information are set forth in Attachment A to this Addendum. Associate accepts full responsibility for any penalties incurred as a result of Associate's breach of the HIPAA Rules.

b. Permitted Disclosures. Associate shall not disclose Protected Information in any manner that would constitute a violation of the HIPAA Rules if disclosed by CE, except that Associate may disclose Protected Information: (i) in a manner permitted pursuant to this Contract; (ii) for the proper management and administration of Associate; (iii) as required by law; (iv) for Data Aggregation purposes for the Health Care Operations of CE; or (v) to report violations of law to appropriate federal or state authorities, consistent with 45 C.F.R. Section 164.502(j)(1). To the extent that Associate discloses Protected Information to a third party Subcontractor, Associate must obtain, prior to making any such disclosure: (i) reasonable assurances through execution of a written agreement with such third party that such Protected Information will be held confidential as provided pursuant to this Addendum and only disclosed as required by law or for the purposes for which it was disclosed to such third party; and that such third party will notify Associate within two (2) business days of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach. Additional provisions, if any, governing permitted disclosures of Protected Information are set forth in Attachment A.

c. Appropriate Safeguards. Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information other than as permitted by this Contract. Associate shall comply with the requirements of the HIPAA Security Rule at 45 C.F.R. Sections 164.308, 164.310, 164.312, and 164.316. Associate shall maintain a

comprehensive written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Associate's operations and the nature and scope of its activities. Associate shall review, modify, and update documentation of, its safeguards as needed to ensure continued provision of reasonable and appropriate protection of Protected Information.

d. Reporting of Improper Use or Disclosure. Associate shall report to CE in writing any use or disclosure of Protected Information other than as provided for by this Contract within five (5) business days of becoming aware of such use or disclosure.

e. Associate's Agents. If Associate uses one or more Subcontractors or agents to provide services under the Contract, and such Subcontractors or agents receive or have access to Protected Information, each Subcontractor or agent shall sign an agreement with Associate containing the same provisions as this Addendum and further identifying CE as a third party beneficiary with rights of enforcement and indemnification from such Subcontractors or agents in the event of any violation of such Subcontractor or agent agreement. The Agreement between the Associate and Subcontractor or agent shall ensure that the Subcontractor or agent agrees to at least the same restrictions and conditions that apply to Associate with respect to such Protected Information. Associate shall implement and maintain sanctions against agents and Subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation.

f. Access to Protected Information. If Associate maintains Protected Information contained within CE's Designated Record Set, Associate shall make Protected Information maintained by Associate or its agents or Subcontractors in such Designated Record Sets available to CE for inspection and copying within ten (10) business days of a request by CE to enable CE to fulfill its obligations to permit individual access to PHI under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.524. If such Protected Information is maintained by Associate in an electronic form or format, Associate must make such Protected Information available to CE in a mutually agreed upon electronic form or format.

g. Amendment of PHI. If Associate maintains Protected Information contained within CE's Designated Record Set, Associate or its agents or Subcontractors shall make such Protected Information available to CE for amendment within ten (10) business days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, and shall incorporate any such amendment to enable CE to fulfill its obligations with respect to requests by individuals to amend their PHI under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from Associate or its agents or Subcontractors, Associate must notify CE in writing within five (5) business days of receipt of the request. Any denial of amendment of Protected Information maintained by Associate or its agents or Subcontractors shall be the responsibility of CE.

h. Accounting Rights. If Associate maintains Protected Information contained within CE's Designated Record Set, Associate and its agents or Subcontractors shall make available to CE within ten (10) business days of notice by CE, the information required to

provide an accounting of disclosures to enable CE to fulfill its obligations under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.528. In the event that the request for an accounting is delivered directly to Associate or its agents or Subcontractors, Associate shall within five (5) business days of the receipt of the request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. Associate shall not disclose any Protected Information except as set forth in Section 2(b) of this Addendum.

i. Governmental Access to Records. Associate shall keep records and make its internal practices, books and records relating to the use and disclosure of Protected Information available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary"), in a time and manner designated by the Secretary, for purposes of determining CE's or Associate's compliance with the HIPAA Rules. Associate shall provide to CE a copy of any Protected Information that Associate provides to the Secretary concurrently with providing such Protected Information to the Secretary when the Secretary is investigating CE. Associate shall cooperate with the Secretary if the Secretary undertakes an investigation or compliance review of Associate's policies, procedures or practices to determine whether Associate is complying with the HIPAA Rules, and permit access by the Secretary during normal business hours to its facilities, books, records, accounts, and other sources of information, including Protected Information, that are pertinent to ascertaining compliance.

j. Minimum Necessary. Associate (and its agents or subcontractors) shall only request, use and disclose the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure, in accordance with the Minimum Necessary requirements of the HIPAA Rules including, but not limited to 45 C.F.R. Sections 164.502(b) and 164.514(d).

k. Data Ownership. Associate acknowledges that Associate has no ownership rights with respect to the Protected Information.

l. Retention of Protected Information. Except upon termination of the Contract as provided in Section 4(d) of this Addendum, Associate and its Subcontractors or agents shall retain all Protected Information throughout the term of this Contract and shall continue to maintain the information required under Section 2(h) of this Addendum for a period of six (6) years.

m. Associate's Insurance. Associate shall maintain insurance to cover loss of PHI data and claims based upon alleged violations of privacy rights through improper use or disclosure of PHI. All such policies shall meet or exceed the minimum insurance requirements of the Contract (e.g., occurrence basis, combined single dollar limits, annual aggregate dollar limits, additional insured status and notice of cancellation).

n. Notice of Privacy Practices. Associate shall be responsible for reviewing CE's Notice of Privacy Practices, available on CE's external website, to determine any requirements applicable to Associate per this Contract.

o. Notification of Breach. During the term of this Contract, Associate shall notify CE within two (2) business days of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Associate shall not initiate notification to affected individuals per the HIPAA Rules without prior notification and approval of CE. Information provided to CE shall include the identification of each individual whose unsecured PHI has been, or is reasonably believed to have been accessed, acquired or disclosed during the breach. Associate shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

p. Audits, Inspection and Enforcement. Within ten (10) business days of a written request by CE, Associate and its agents or subcontractors shall allow CE to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Addendum for the purpose of determining whether Associate has complied with this Addendum; provided, however, that: (i) Associate and CE shall mutually agree in advance upon the scope, timing and location of such an inspection; and (ii) CE shall protect the confidentiality of all confidential and proprietary information of Associate to which CE has access during the course of such inspection. The fact that CE inspects, or fails to inspect, or has the right to inspect, Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Associate of its responsibility to comply with this Addendum, nor does CE's (i) failure to detect or (ii) detection, but failure to notify Associate or require Associate's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under the Contract.

q. Safeguards During Transmission. Associate shall be responsible for using appropriate safeguards, including encryption of PHI, to maintain and ensure the confidentiality, integrity and security of Protected Information transmitted pursuant to the Contract, in accordance with the standards and requirements of the HIPAA Rules.

r. Restrictions and Confidential Communications. Within ten (10) business days of notice by CE of a restriction upon uses or disclosures or request for confidential communications pursuant to 45 C.F.R. Section 164.522, Associate will restrict the use or disclosure of an individual's Protected Information. Associate will not respond directly to an individual's requests to restrict the use or disclosure of Protected Information or to send all communication of Protect Information to an alternate address. Associate will refer such requests to the CE so that the CE can coordinate and prepare a timely response to the requesting individual and provide direction to Associate.

3. Obligations of CE.

a. Safeguards During Transmission. CE shall be responsible for using appropriate safeguards, including encryption of PHI, to maintain and ensure the confidentiality, integrity and security of Protected Information transmitted pursuant to the Contract, in accordance with the standards and requirements of the HIPAA Rules.

b. Notice of Changes. CE maintains a copy of its Notice of Privacy Practices on its website. CE shall provide Associate with any changes in, or revocation of, permission to use or disclose Protected Information, to the extent that it may affect Associate's permitted or required uses or disclosures. To the extent that it may affect Associate's permitted use or disclosure of PHI, CE shall notify Associate of any restriction on the use or disclosure of Protected Information that CE has agreed to in accordance with 45 C.F.R. Section 164.522.

4. Termination.

a. Material Breach. In addition to any other provisions in the Contract regarding breach, a breach by Associate of any provision of this Addendum, as determined by CE, shall constitute a material breach of this Contract and shall provide grounds for immediate termination of this Contract by CE pursuant to the provisions of the Contract covering termination for cause, if any. If the Contract contains no express provisions regarding termination for cause, the following terms and conditions shall apply:

(1) Default. If Associate refuses or fails to timely perform any of the provisions of this Contract, CE may notify Associate in writing of the non-performance, and if not promptly corrected within the time specified, CE may terminate this Contract. Associate shall continue performance of this Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services elsewhere.

(2) Associate's Duties. Notwithstanding termination of this Contract, and subject to any directions from CE, Associate shall take timely, reasonable and necessary action to protect and preserve property in the possession of Associate in which CE has an interest.

(3) Compensation. Payment for completed supplies delivered and accepted by CE shall be at the Contract price. In the event of a material breach under paragraph 4a, CE may withhold amounts due Associate as CE deems necessary to protect CE against loss from third party claims of improper use or disclosure and to reimburse CE for the excess costs incurred in procuring similar goods and services elsewhere.

(4) Erroneous Termination for Default. If after such termination it is determined, for any reason, that Associate was not in default, or that Associate's action/inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and obligations of the parties shall be the same as if this Contract had been terminated for convenience, as described in this Contract.

b. Reasonable Steps to Cure Breach. If CE knows of a pattern of activity or practice of Associate that constitutes a material breach or violation of the Associate's obligations under the provisions of this Addendum or another arrangement and does not terminate this Contract pursuant to Section 4(a), then CE shall take reasonable steps to cure such breach or end such violation.. If CE's efforts to cure such breach or end such violation are unsuccessful, CE shall either (i) terminate the Contract, if feasible or (ii) if termination of this Contract is not feasible, CE shall report Associate's breach or violation to the Secretary of the Department of Health and Human Services. If Associate knows of a pattern of activity or practice of a Subcontractor or

agent that constitutes a material breach or violation of the Subcontractor's or agent's obligations under the written agreement between Associate and the Subcontractor or agent, Associate shall take reasonable steps to cure such breach or end such violation, if feasible.

c. Judicial or Administrative Proceedings. Either party may terminate the Contract, effective immediately, if (i) the other party is named as a defendant in a criminal proceeding for a violation of the HIPAA Rules or other security or privacy laws or (ii) a finding or stipulation that the other party has violated any standard or requirement of the HIPAA Rules or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

d. Effect of Termination.

(1) Except as provided in paragraph (2) of this subsection, upon termination of this Contract, for any reason, Associate shall return or destroy all Protected Information that Associate or its agents or Subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If Associate elects to destroy the PHI, Associate shall certify in writing to CE that such PHI has been destroyed.

(2) If Associate believes that returning or destroying the Protected Information is not feasible, Associate shall promptly provide CE notice of the conditions making return or destruction infeasible. Associate shall continue to extend the protections of Sections 2(a), 2(b), 2(c), 2(d) and 2(e) of this Addendum to such Protected Information, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

5. Injunctive Relief. CE shall have the right to injunctive and other equitable and legal relief against Associate or any of its Subcontractors or agents in the event of any use or disclosure of Protected Information in violation of this Contract or applicable law.

6. No Waiver of Immunity. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, CRS 24-10-101 *et seq.* or the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.* as applicable, as now in effect or hereafter amended.

7. Limitation of Liability. Any limitation of Associate's liability in the Contract shall be inapplicable to the terms and conditions of this Addendum.

8. Disclaimer. CE makes no warranty or representation that compliance by Associate with this Contractor the HIPAA Rules will be adequate or satisfactory for Associate's own purposes. Associate is solely responsible for all decisions made by Associate regarding the safeguarding of PHI.

9. Certification. To the extent that CE determines an examination is necessary in order to comply with CE's legal obligations pursuant to the HIPAA Rules relating to certification of its

security practices, CE or its authorized agents or contractors, may, at CE's expense, examine Associate's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to CE the extent to which Associate's security safeguards comply with the HIPAA Rules or this Addendum.

10. Amendment.

a. Amendment to Comply with Law. The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of the HIPAA Rules and other applicable laws relating to the confidentiality, integrity, availability and security of PHI. The parties understand and agree that CE must receive satisfactory written assurance from Associate that Associate will adequately safeguard all Protected Information and that it is Associate's responsibility to receive satisfactory written assurances from Associate's Subcontractors and agents. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of the HIPAA Rules or other applicable laws. CE may terminate this Contract upon thirty (30) days written notice in the event (i) Associate does not promptly enter into negotiations to amend this Contract when requested by CE pursuant to this Section, or (ii) Associate does not enter into an amendment to this Contract providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of the HIPAA Rules.

b. Amendment of Attachment A. Attachment A may be modified or amended by mutual agreement of the parties in writing from time to time without formal amendment of this Addendum.

11. Assistance in Litigation or Administrative Proceedings. Associate shall make itself, and any Subcontractors, employees or agents assisting Associate in the performance of its obligations under the Contract, available to CE, at no cost to CE up to a maximum of 30 hours, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claimed violation of the HIPAA Rules or other laws relating to security and privacy or PHI, except where Associate or its Subcontractor, employee or agent is a named adverse party.

12. No Third Party Beneficiaries. Nothing express or implied in this Contract is intended to confer, nor shall anything herein confer, upon any person other than CE, Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

13. Interpretation and Order of Precedence. The provisions of this Addendum shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Addendum. Together, the Contract and this Addendum shall be interpreted as broadly as necessary to implement and comply with the HIPAA Rules. The parties agree that any ambiguity in this Contract shall be resolved in favor of a meaning that complies and is consistent

with the HIPAA Rules. This Contract supercedes and replaces any previous separately executed HIPAA addendum between the parties.

14. Survival of Certain Contract Terms. Notwithstanding anything herein to the contrary, Associate's obligations under Section 4(d) ("Effect of Termination") and Section 12 ("No Third Party Beneficiaries") shall survive termination of this Contract and shall be enforceable by CE as provided herein in the event of such failure to perform or comply by the Associate. This Addendum shall remain in effect during the term of the Contract including any extensions.

15. Representatives and Notice.

a. Representatives. For the purpose of the Contract, the individuals identified elsewhere in this Contract shall be the representatives of the respective parties. If no representatives are identified in the Contract, the individuals listed below are hereby designated as the parties' respective representatives for purposes of this Contract. Either party may from time to time designate in writing new or substitute representatives.

b. Notices. All required notices shall be in writing and shall be hand delivered or given by certified or registered mail to the representatives at the addresses set forth below.

Covered Entity Representative:

Name: Eva Veitch
Title: Director Region 10 AAA
Department and Division: _____
Address: 300 N. Cascade ave
Montrose CO 81401

Contractor/Business Associate Representative:

Name: _____
Title: _____
Department and Division: _____
Address: _____

ATTACHMENT A

This Attachment sets forth additional terms to the HIPAA Business Associate Addendum, which is part of the Contract dated July, 1 2014, between Region 10 AAA and Gunnison County Public Health. ("Contract") and is effective as of July 1, 2014 (the "Attachment Effective Date"). This Attachment may be amended from time to time as provided in Section 10(b) of the Addendum.

1. Additional Permitted Uses. In addition to those purposes set forth in Section 2(a) of the Addendum, Associate may use Protected Information as follows: _____

_____

_____

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2. Additional Permitted Disclosures. In addition to those purposes set forth in Section 2(b) of the Addendum, Associate may disclose Protected Information as follows:

_____

_____

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3. Subcontractor(s). The parties acknowledge that the following subcontractors or agents of Associate shall receive Protected Information in the course of assisting Associate in the performance of its obligations under this Contract:

_____

_____

_____

_____

4. Receipt. Associate's receipt of Protected Information pursuant to this Contract shall be deemed to occur as follows, and Associate's obligations under the Addendum shall commence with respect to such PHI upon such receipt: _____

_____

_____

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_____

5. Additional Restrictions on Use of Data. CE is a Business Associate of certain other Covered Entities and, pursuant to such obligations of CE, Associate shall comply with the following restrictions on the use and disclosure of Protected Information: _____

_____

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_____

6. Additional Terms. *[This section may include specifications for disclosure format, method of transmission, use of an intermediary, use of digital signatures or PKI, authentication, additional security of privacy specifications, de-identification or re-identification of data and other additional terms.]*

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