AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Temporary Road Use Agreement; Crested Butte / Mt.

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Gunnison County and Crested Butte/Mt. Crested Butte Chamber

Term Begins: June 23, 2017 **Term Ends:** 6/23/2017 **Grant Contract #:**

Summary:

This agreement authorizes the closure of CR #12 on Friday, June 23, 2017 from 3:00 PM until 6:00 PM for the Chainless Race

Fiscal Impact: No financial impact

Submitted by: Marlene D. 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 - gs

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 4/26/2017 Certificate of Insurance Required Yes ◉ No ○

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 4/26/2017

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: DCM Report

Agenda Date: 5/2/2017

Revised April 2015

TEMPORARY ROAD USE AGREEMENT

THIS TEMPORARY ROAD USE AGREEMENT hereinafter ("Agreement") is made and entered into on this 2nd day of May 2017, by and between the Crested Butte / Mt. Crested Butte Chamber of Commerce, whose address in 601 Elk Avenue, Crested Butte, CO 81224 (hereinafter "Chamber") and the Board of County Commissioners of the County of Gunnison, Colorado, a political subdivision of the State of Colorado, whose address in 200 East Virginia, Gunnison, CO 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 Chamber temporary permission to use a portion of County Road 12, identified by Gunnison County (the "Property") only as set forth herein.

2. TERM OF USE
   Chamber shall temporarily use a portion of County Road 12 on June 23, 2017 from 3:00 p.m. to 6:00 p.m.

3. CHAMBER'S USE LIMITED
   Chamber's use of County Road 12 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 chainless race event.

4. OBLIGATIONS OF THE RESPECTIVE PARTIES
   a. Chamber shall ensure closure of that portion of County Road 12, identified by Gunnison County from the top of Kebler Pass to the intersection of 1st and Whiterock Avenue in Crested Butte to vehicle traffic, with the exception of chase vehicles, event staff vehicles, emergency vehicles and law enforcement.
   b. Chamber 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 (include 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 Chamber or its employees, sub-consultants or agents in connection with Chamber'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. Chamber shall ensure that Gunnison County is named as an additional insured, or has the named benefit of, the insurance coverage of Chamber regarding the chainless race event, with limits no less than:
      i. For any injury to one person in any single occurrence, $350,000; and ii. For any injury to two or more persons in any single occurrence, the sum of $990,000.
      Chamber shall furnish to Gunnison County current certificates of such insurance to Gunnison County no later than June 1, 2016.
      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 Chamber 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. Chamber shall be responsible for, and shall promptly pay to Gunnison County, all reasonable costs to repair any damage to County Road 12 caused by Chamber's use of the Property under this Agreement.

e. Chamber will need to keep emergency access routes open during the closure.

f. Should any damage happen to adjacent fences or guard rail, Chamber will be responsible for fixing the damage and/or paying for the repair of the damages depending on severity and complexity of the damage.

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:

Chamber:
Crested Butte / Mt. Crested Butte Chamber of Commerce
c/o Fat Tire Bike Week Committee 601 Elk Avenue
Crested Butte, CO 81224

Gunnison County:
Board of County Commissioners of
the County of Gunnison, Colorado
c/o Matthew Birnie, County Manager
200 East Virginia
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, than 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 Chamber, 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 hand and seals on the day and year first set forth above.

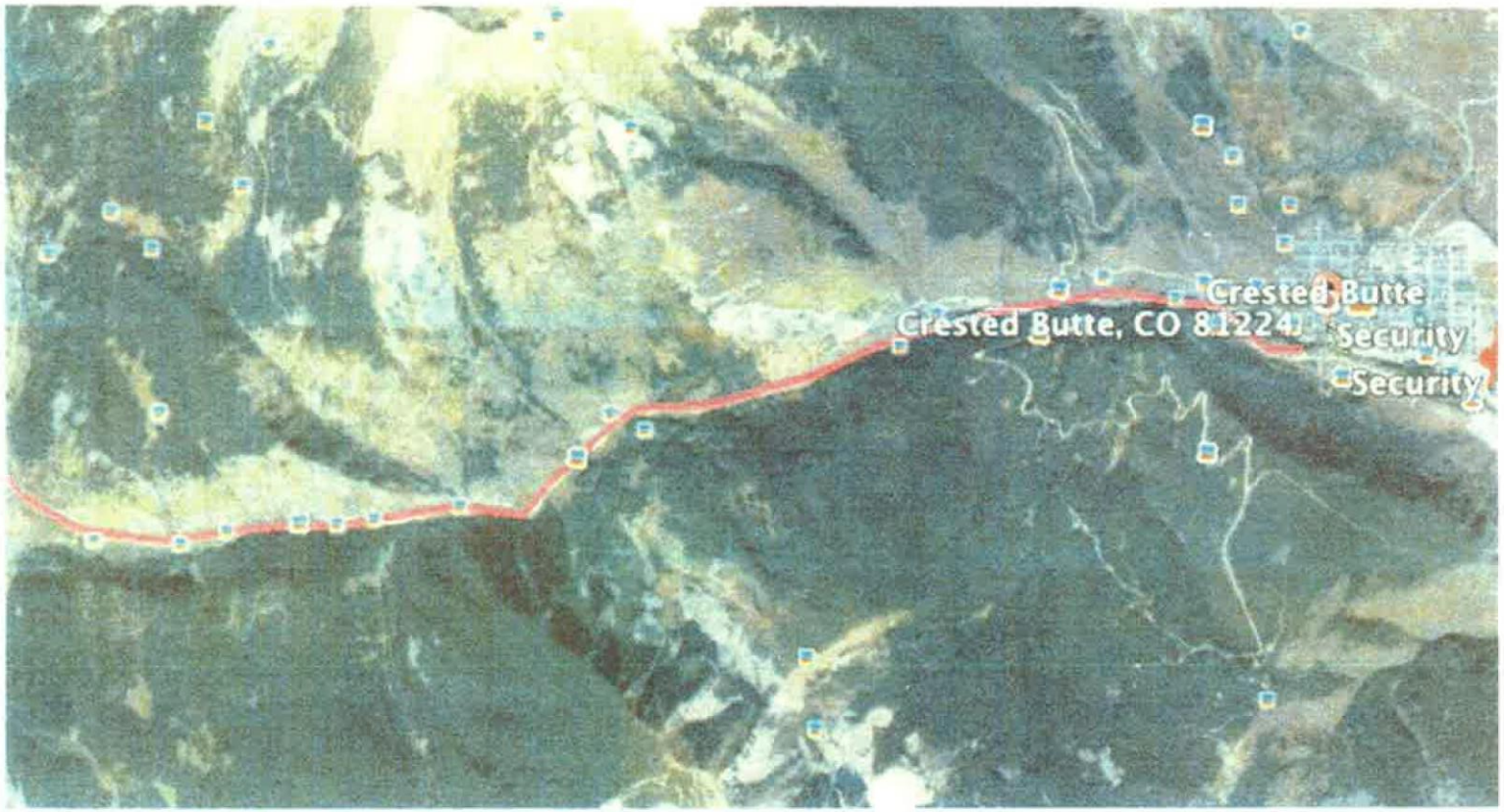
CRESTED BUTTE/MT. CRESTED BUTTE CHAMBER OF COMMERCE

By:_____

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By:_____

ATTEST:

_____
Deputy County Clerk

Friday 24th
Chainless Race - Kebler Pass