AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Draft Memorandum of Understanding; Bureau of Land

Action Requested:

Parties to the Agreement:

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

Summary:

Please see the attached.

Fiscal Impact:

Submitted by: Josh Ost **Submitter's Email Address:** jost@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 9/22/17

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 9/22/2017 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 9/22/2017

◉ Consent Agenda ○ Regular Agenda ○ Worksession Time Allotted: 0

Agenda Date: 10/3/2017

Revised April 2015

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
GUNNISON FIELD OFFICE
210 West Spencer Ave
Gunnison, CO 81230
www.blm.gov/co/st/en/fo/gfo.html

Received
County Administration
9/22/17

In Reply Refer To:
8305 (COF07000)

Gunnison County Board of County Commissioners
200 East Virginia
Gunnison, CO 81230

Dear Mr. Chamberland,

Attached is a draft copy of a Memorandum of Understanding (MOU) between the Bureau of Land Management (BLM) and Gunnison County Board of County Commissioners for your participation as a Cooperating Agency for the Signal Peak Trail Planning Environmental Assessment (EA).

Please review the MOU. In order for BLM to finalize this MOU we will need to know who will be signing the MOU on behalf of your agency as well as who will be your Agency Representative(s) attending the meetings. Please provide questions or comments to Jim Lovelace (jlovelac@blm.gov) or 970-642-4953 within the next two weeks.

Gunnison Field Office,
Attn: Jim Lovelace
210 West Spencer Ave, Suite A
Gunnison, CO 81230

Once we have all of your information on the MOU the BLM will work with you to finalize signatures and execute the MOU.

Please note that our first Interdisciplinary Team Meeting with Cooperating Agencies is scheduled for the week of October 30 – November 3, 2017. Specific information (including a scheduling poll) about that meeting will be emailed to your Primary Representative listed in the MOU.

Thank you for your assistance with this matter. We look forward to working with you on the Signal Peak Trail Planning EA.

Sincerely,

Stuart Schneider

for Elijah Waters
Field Manager

MEMORANDUM OF UNDERSTANDING

BETWEEN

U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT,

GUNNISON FIELD OFFICE;

AND GUNNISON COUNTY

AS A COOPERATING AGENCY;

FOR THE PURPOSE OF PREPARING AN ENVIRONMENTAL ASSESSMENT

FOR THE GUNNISON FIELD OFFICE

I. Introduction

This Memorandum of Understanding (MOU) establishes a cooperating agency relationship between the Bureau of Land Management's Gunnison Field Office ("BLM") and Gunnison County ("Cooperator") for the Signal Peak Trails Proposal (Project). As a Cooperating Agency, Gunnison County will participate in the preparation of an Environmental Assessment (EA) for the Project.

The BLM is the lead federal agency ("Lead Agency") for development of the Project EA. The Lead Agency acknowledges that the Cooperator has special expertise applicable to the EA effort, as defined at 40 CFR 1508.15 and 1508.26. This MOU describes responsibilities and procedures agreed to by Gunnison County as a Cooperating Agency and the BLM as the Lead Agency (individually a "Party" and collectively the "Parties").

The cooperating agency relationship established through this MOU shall be governed by all applicable statutes, regulations, and policies, including the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations (in particular, 40 CFR 1501.6 and 1508.5), the BLM's planning regulations (in particular, 43 CFR 1601.0-5, 1610.3-1, and 1610.4), and the Department of the Interior Manual (516 DM 2.5).

II. Purpose

The purposes of this MOU are:

1. To designate Gunnison County as a Cooperating Agency in the EA process.

2. To provide a framework for cooperation and coordination between the Lead Agency and the Cooperator that will ensure successful completion of the EA in a timely, efficient, and thorough manner.

3. To recognize that the BLM is the Lead Agency with responsibility for the completion of the EA and Record of Decision (ROD).

4. To describe the respective responsibilities and expertise of each of the Parties in the EA process.

III. Authorities for the MOU

Statutory authorities for BLM to enter into this MOU include, but are not limited to:

1. National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
2. Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)

Regulations in place that implement the above authorities:

1. Council on Environmental Quality regulations (40 CFR 1501 et seq.)
2. Bureau of Land Management planning regulations (43 CFR 1601 et seq.)

IV. Roles and Responsibilities

A. BLM Responsibilities:

1. As Lead Agency, the BLM retains final responsibility for the content of all planning and NEPA documents, which include the Draft EA, the Final EA, and the BLMs Record of Decision. The Lead Agency's responsibilities include determining the purpose of and need for the action and alternatives, selecting reasonable alternatives for analysis, identifying effects of the proposed alternatives, selecting the preferred alternative, and determining appropriate mitigation measures. In meeting these responsibilities, the Lead Agency will follow all applicable statutory and regulatory requirements.

2. To the fullest extent consistent with BLM's responsibilities as Lead Agency, the BLM will consider the comments, recommendations, data, and/or analyses provided by the Cooperator in the EA process, giving particular consideration to those topics in which the Cooperator is acknowledged to possess special expertise.

3. To the fullest extent practicable, after consideration of the effect such releases may have on the Lead Agency's ability to withhold this information from other parties, the Lead Agency will provide the Cooperator with copies of documents underlying the EA relevant to the Cooperator's responsibilities (as set forth below), including technical reports, data, analyses, comments received, working drafts related to environmental reviews, and draft and final EAs.

4. Coordinate the exchange of information among the Cooperator and project facilitator.

5. Maintain the Decision File for the Project with assistance from the facilitator, protecting proprietary information and data collected.

6. Establish goals and an EA schedule. The Lead Agency will provide the Cooperator adequate time to review documents, including administrative draft versions of the Draft EA and Final EA, technical reports, and cultural reports, as requested.

7. Advise, in writing, Native American Tribes and state and local agencies with jurisdiction over any aspect of the Project and invite them to participate in the EA process.

8. Inform the Cooperator about the progress of the EA, additional data needs, changes

needed in the EA, third-party NEPA contractor Scopes of Work and other aspects of document preparation.

B. Cooperating Agency Responsibilities:

1. Gunnison County is a Cooperating Agency in this EA process and is recognized to have special expertise in the following areas:

   a. Cooperator's special expertise relates to community issues and concerns relevant to the project.

Cooperator responsibilities shall include the following:

a. Assist Lead Agency in the preparation of the EA, ensuring that interests associated with the Cooperator are considered as part of the EA. Review relevant documents and submit comments to the BLM Project Manager within agreed-upon time frames.

b. Provide the BLM Project Manager with information to assist in the development of a range of reasonable alternatives and in the analysis of effects on the areas in which Gunnison County has special expertise.

c. Participate in communications regarding the EA for the Project, including, but not limited to, conference calls, meetings, and e-mails. When appropriate, send a representative(s) to attend EA-related meetings scheduled by the BLM.

d. Provide written comments on EA-related documents within time frames provided by the BLM. These documents include, but are not limited to, draft versions of the Draft EA and Final EA, technical reports, and public notices.

e. Respond to comments on the Draft EA that pertain to Cooperator interests and resource concerns.

f. The Cooperator will provide information, comments, and technical expertise to the Lead Agency regarding those elements of the EA, and the data and analyses supporting them, for which it has jurisdiction or special expertise or the Lead Agency requests its assistance. In particular, the Cooperator will provide information on:

   i. NEPA review assistance and data and information that pertains to the interests of Gunnison County. Cooperator will identify and help evaluate project-related impacts on, and recommend alternatives and mitigation strategies related to their areas of special expertise.

   ii. Other such information that is relevant to project issues and data needs.

g. Within the areas of its special expertise, the Cooperator may participate in any of the activities identified in Attachment A. These activities include, but are not limited to: providing guidance on public involvement strategies; identifying data needs, suggesting management actions to resolve planning issues, identifying effects of alternatives, suggesting mitigation measures, and providing written comments on working drafts of the EA and supporting documents.

C. Responsibilities of the Parties:

1. The Parties agree to participate in this EA process in good faith and make all reasonable efforts to resolve disagreements. Where procedural or substantive disagreement may impede effective and timely completion of the EA, the Parties agree to utilize the facilitation and conciliation procedures described below (see Section V.E).

2. The Parties agree to comply with the EA schedule provided as Attachment B, which includes dates for EA milestones and time frames for the Cooperator's reviews and submissions. This schedule is subject to amendment by the Lead Agency.

3. Each Party agrees to fund its own expenses associated with the Project EA process.

V. Other Provisions

A. *Authorities not altered.* Nothing in this MOU alters, limits, or supersedes the authorities and responsibilities of any Party on any matter within their respective jurisdictions. Nothing in this MOU shall require any of the Parties to perform beyond its respective authority.

B. *Financial obligations.* Nothing in this MOU shall require any of the Parties to assume any obligation or expend any sum in excess of authorization and available appropriations.

C. *Immunity and defenses retained.* Each Party retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this MOU.

D. *Conflict of interest.* The Parties agree not to utilize any individual or organization for purposes of plan development, environmental analysis, or Cooperator representation, including officials, employees, third-party contractors, or NEPA contractors having a financial interest in the outcome of the Project. Questions regarding potential conflicts of interest should be referred to BLM HQ or Field Ethics Counselors for resolution.

E. *Documenting disagreement or inconsistency/Conflict resolution.* If the Lead Agency and the Cooperator disagree on substantive elements of the EA (such as designation of the alternatives to be analyzed or analysis of effects), and the disagreement cannot be resolved, the Lead Agency will include a summary of the Cooperator's views in the Draft EA and Final EA. The Lead Agency will also describe substantial inconsistencies between the proposed action or actions and the objectives of state, local, or tribal land use plans and policies. The Parties agree to make reasonable efforts to resolve procedural or substantive conflicts, and may agree to initiate an Alternative Dispute Resolution (ADR) process.

F. *Management of information.* The Cooperator acknowledges that all supporting materials and draft documents may become part of the administrative record and may be subject to the requirements of the Freedom of Information Act (FOIA) and other federal statutes. The BLM acknowledges that the Cooperator's handling of these materials may be impacted by the Colorado Open Records Act. The Parties agree that the BLM at its discretion may withhold from the cooperator those documents that would otherwise be available for public release under the Colorado Open Records Act

G. *Confidentiality of information.* The Cooperator agrees to the following conditions for maintaining the confidentiality of project data received: (1) To prevent the use or disclosure of any data received unless the data is already in the public domain or disclosure is required by law; (2) To report to the BLM any use or disclosure of the data of which it becomes aware; and; (3) To require any of its agents or contractors that received or have access to the data to agree to the same restrictions and conditions on the use and/or disclosure of the data that apply to Cooperator under this agreement.

VI. Agency Representatives

A. Each Party will designate a representative and alternate representative, as described in Attachment C, to ensure coordination between the Cooperator and the Lead Agency during the EA process. Each Party may change its representative at will by providing written notice to the other Parties.

VII. Administration of the MOU

A. *Approval.* This MOU becomes effective upon signature by the authorized officials of the Lead Agency and the Cooperator.

B. *Amendment.* This MOU may be amended through written agreement of all signatories.

C. *Termination.* If not terminated earlier, this MOU will end when the ROD for the Project EA is approved by the Lead Agency.

VIII. Signatures

The Parties hereto have executed this MOU on the dates shown below.

Department of the Interior
Bureau of Land Management
Gunnison Field Office

_____ _____
Elijah Waters - Field Manager Date

Gunnison County Board of County Commissioners

_____ _____
Phil Chamberland, Chairperson Date

Attachment A

Cooperating Agency Participation in the Project Environmental Assessment

	EA Stage	Potential Activities of Gunnison County (Cooperating Agency - CA) within their acknowledged areas of expertise.
1	Conduct scoping and identify issues	Provide input on preparation plan; identify coordination requirements based on Cooperator plans; identify significant issues; identify relevant local and regional organizations and interest groups; collaborate in reviewing/ assessing scoping comments (review of scoping report); identify connected, similar, and cumulative actions; identify other relevant agencies.
2	Collect inventory data	Identify data needs; provide data and technical assistance for analysis within Cooperator's expertise
3	Formulate alternatives	Collaborate with Lead Agency, Cooperating Agencies, Facilitator representatives in developing alternatives. Suggest land allocations or management actions to resolve issues. **[Decision to select alternatives for analysis is reserved to the Lead Agency]**
4	Estimate effects of alternatives	Cooperator will review and provide comments on the effects analysis and proposed mitigation measures within Cooperator's expertise.
5	Select the preferred alternative, issue Draft EA	Collaborate with Lead Agency, Cooperating Agencies, and Facilitator representatives in evaluating alternatives and in developing criteria for selecting the preferred alternative; provide input on Draft EA. Cooperator may also provide written, public comments on draft if desired. **[Decision to select a preferred alternative and to issue a draft is reserved to the Lead Agency.]**
6	Respond to Comments	As appropriate, review comments and responses within Cooperator's expertise and provide recommendations for revisions as necessary to assist the Lead Agencies in their responses.
6a	Issue Proposed Final EA	**[Action reserved to the BLM]**
6b	Initiate Governor's Consistency Review	**[Action reserved to the BLM if a proposed RMP amendment is part of the Final EIS.]**
7	Sign Record of Decision (ROD) [or]	• BLM will issue a Record of Decision.
7a	Resolve protests; Final EA if needed, sign ROD	**[Action reserved to the BLM.]** If Cooperator provided information relevant to a protest, they may be asked for clarification.

Attachment B
EA Preparation Schedule
for the
Signal Peak Trail Proposal Project

Tasks ~ Tentative Project Schedule	
BLM Start-up Meeting – Establish BLM Interdisciplinary Team. Review proposal.	**March 28, 2017**
Start of Scoping Period.	**April 20, 2017**
Scoping Notice sent to public.	**April 20, 2017**
Public Scoping Meetings.	**April 28, 2017**
Description of Proposed Action, Purpose and Need Statement Drafted.	**April 14, 2017**
BLM Completes Public Scoping Report.	**July 21, 2017**
MOU Finalized and Signed.	**September 22, 2017**
Meeting between BLM and Cooperating Agencies to develop alternatives and cumulative impact analysis area based upon public issues/BLM concerns.	**October, 2017**
Affected Environment section completed.	**November, 2017**
Final review of Alternatives. Cooperating agency (as necessary) may review.	**November, 2017**
Publication of Alternatives. Start Action Alternatives Comment Period (30 days).	**November, 2017**
Hold Public Meetings.	**November, 2017**
Public comment period ends, all public comments to Interdisciplinary Team Lead.	**December 14, 2017**
Analyzes public comments, summary report to Interdisciplinary Team.	**Jan 16, 2018**
Draft EA delivered to BLM Field Office Manager.	**Feb 13, 2018**
FOM comments back to BLM Interdisciplinary Team Lead.	**Feb 20, 2018**
Final internal review of EA completed.	**March 5, 2018**
Publication of Final EA.	**March 15, 2018**
ROD issued. Appeal period begins.	**March 15, 2018**

Attachment C

Agency Representatives

BUREAU OF LAND MANAGEMENT

EA Name: Signal Peak Trails

Primary Representative: Jim Lovelace, Interdisciplinary Team Lead

Phone: 970-642-4953

E-Mail Address: jlovelac@blm.gov

Physical Address: Bureau of Land Management
Gunnison Field Office
210 West Spencer Avenue
Gunnison, CO 81230

Gunnison County BOCC

Primary Representative: Jonathan Houck

Phone: 970-275-9625

E-Mail Address: JHouck@gunnisoncounty.org

Physical Address: 200 East Virginia., Gunnison CO 81230