AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Contract Agreement; Output Services, Inc.; Gunniso

Action Requested: County Manager Signature

Parties to the Agreement: Output Services Inc

Term Begins: 11/29/17 **Term Ends:** 11/29/2018 **Grant Contract #:** N/A

Summary:

Renewal contract for printing and mailing of Motor Vehicle renewal cards.

Fiscal Impact: Budget item for 2017 and 2018

Submitted by: Kathy Simillion **Submitter's Email Address:** ksimillion@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:
No concerns, costs included in budget. ln

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 11/30/2017

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

Comments:
ok db 12/1/17

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 12/1/2017 Certificate of Insurance Required Yes ( ) No (●)

County Manager Review:

Comments:

Reveiwed by: Discharge Date: 12/1/2017

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

Agenda Date: 12/5/2017

Revised April 2015

Output Services, Inc.
Data Driven

CONTRACT AGREEMENT

This agreement is made November 29, 2017 between Output Services, Inc., 6410 Odell Place, Boulder, Colorado 80301 ("OSI") and the Gunnison County Clerk and Recorder's office, 221 N. Wisconsin, Suite C, Gunnison, CO, 81230 (CUSTOMER)

1. SUBJECT MATTER OF THE AGREEMENT
OSI agrees to provide and the Customer agrees to purchase on the terms and conditions contained in the Agreement and the Appendices attached hereto the Services described in Section 3 below and commencing on the Commencement Date; and, if required, the Additional Services described in Section 4 below.

2. DEFINITIONS
For the purpose of the Agreement:

2.1 "Service" means the output service as detailed in Section 3 below, but does not include any service of the nature included under Section 4 of this Agreement.

2.2 "Additional Services" refers to the supplementary services detailed in Section 4 of this Agreement. Additional Services are not a specific part of this Agreement, but will be performed by OSI at the listed charges, upon the Customer's request, and following execution of an Addendum to this Agreement.

2.3 "Effective Date" means the date agreed upon by the Customer and OSI when a particular service becomes subject to this Agreement, as indicated in Appendix 1 hereof or on any Supplemental Service Schedule executed by both parties from time to time.

2.4 "Commencement Date" is the date of this contract.

2.5 "Turnaround Time" means the elapsed time between receipt of valid data, all insert materials, approvals and any items necessary to processing by OSI, and completion of the corresponding service.

2.6 "Customer Data" means the accurate information, insert materials, approvals and any other items necessary in order for OSI to properly complete its output services in a timely manner. Customer Data means that it is accurate, valid, complete, and timely in order that OSI may meet its obligations under this Agreement.

3. DESCRIPTION OF THE SERVICE

3.1 OSI will provide, from Customer Data, services for all items detailed in Appendix 1. These services will include, but will not be limited to, the printing and mailing of documents.

3.2 OSI will receive Customer Data for the Customer's requests and OSI will properly secure all Customer Data. Customer Data shall remain the property of the Customer and OSI shall have no ownership rights to the data. The documents will be prepared according to the control files provided in the Customer Data.

3.3 OSI will affix the proper postage from a postage account which has been prepaid by the Customer for jobs requesting USPS delivery. The mailed documents will be delivered by an OSI courier to the post office for mailing. For jobs requesting carrier delivery, OSI will utilize the Customer supplied carrier account number.

3.4 All items will be produced by OSI and mailed or returned in a timely manner as dictated by the Customer Data and the Service Level Agreement in Addendum A, not including weekends and postal holidays.

3.5 OSI will perform special audits tied to printing and mailing requirements. The audits required will be as follows: E-mail notification for all files transmitted to OSI, segment notification on all control files mailed, and postal reconciliation on all postage used by Customer.

3.6 Upon Customer request OSI will provide quarterly performance reports to Customer. Such reports are to include relevant performance metrics including, but not limited to: file received date, file run date, mail date, and number of items printed and mailed.

4. ADDITIONAL SERVICES

4.1 OSI will warehouse supplied materials as determined by the Customer for each specific job.

4.2 OSI will provide reasonable computer programming support as requested by the Customer. These services will support and enhance the document production process with any modifications and alterations required by the Customer. Major changes to the operating system which may require extensive programming changes will be billed at OSI's current hourly rate for programming support.

5. CHARGES

The Customer shall pay to OSI at the times and in the manner herein provided:

5.1 The charge for the service as indicated in Appendix 1 hereof. The Customer agrees to pay in full all charges for services within thirty (30) days of the receipt of the invoice, unless a mutually agreed upon unresolved discrepancy as outlined in 5.4 exists whereupon the Customer will pay undisputed charges of the services provided by OSI.

5.2 During the term of Agreement, the Customer may elect to alter the composition of the service, by requesting additional services or adding to the quantities of existing services, subject to the approval of OSI as to such changes or additions and subject to the approval of the Customer as to any alteration(s) in the monthly charges as a result of such changes or additions.

Such changes or additions shall be reflected in a Supplemental Service Schedule and any alteration(s) in the charges therefore shall be reflected in a revised Appendix 1. All supplemental schedules and revisions to Appendix 1 shall be executed by both parties.

5.3 All charges payable by the Customer under this Agreement are exclusive of all sales, use, and similar taxes in the event any such taxes are applicable. Such taxes are the responsibility of the Customer and shall be billed to the Customer as a separate line item on each invoice when applicable.

5.4 Should the Customer have any questions or complaints regarding any invoices received from OSI, the Customer shall communicate such questions or complaints to OSI within thirty (30) days of the date of the invoice.

5.5 If any charges payable under this Agreement are in arrears for more than thirty (30) days, OSI reserves the right to charge interest on a pro-rate basis for every day such unpaid balance is delinquent at an annualized rate equal to the prime rate (based on the consensus prime published in the Wall Street Journal) plus 2 percent (2%), provided that interest shall not be assessed on any unpaid balance that is the subject of a question or complaint pursuant to section 5.4 that has been initiated by the Customer in good faith. In addition, if payments are in arrears for more than sixty (60) days, without prior arrangements for repayment having been made and mutually accepted, OSI reserves the right to:

i. suspend the services or Additional Services being performed or due to be performed until full payment therefore is made: or

ii. terminate this Agreement forthwith.

6. CUSTOMER'S OBLIGATION

6.1 If the Customer has specific rules and regulations with which it expects OSI to comply in the performance of the duties hereunder, the Customer shall duly notify OSI of such rules and regulations, in writing.

6.2 The Customer must fulfill its obligation in providing OSI with required Customer Data in a timely manner so that OSI production can accommodate The Customer's deadline requirements, or OSI will be held harmless from such deadline requirements.

6.3 To the extent that the Customer fails to perform its obligations in accordance with this Section 6, and that any such failure prevents OSI and its employees from performing OSI's obligations in accordance with this Agreement, any such failure by OSI shall not constitute a breach by OSI of the terms of this Agreement.

6.4 Customer must maintain minimum processing levels detailed in Appendix 1 to maintain pricing levels set in Appendix 1.

7. TERM, TERMINATION AND WITHDRAWAL

7.1 This Agreement shall have effect from the Commencement Date and shall remain in force until termination by the Customer or OSI as provided for below.

7.2 This Agreement shall continue in effect for a period of one (1) year from the Commencement Date and may be renewed for additional one to three year periods, upon notification within ninety (90) days of the intention to renew,

unless either party terminates the Agreement by giving at least ninety (90) days prior written notice to the other party, subject to Subsection 7.3 and any alternative provisions for termination in Section 7 below. The Agreement may not be terminated prior to the expiration of the term, except for cause as specified in Subsection 7.3, such termination to take effect at the expiration of the term.

7.3 Either party hereto shall have the right to terminate this Agreement summarily, by notice given in writing (without prejudice to any other remedy it might have against the other party for breach or infringement of any provisions of this Agreement), if such other party has committed a material breach of its obligation under this Agreement and, in the case of a breach capable of cure, has failed to cure such breach within thirty (30) days of being given notice by the terminating party to do so, subject to Subsection 7.4 below. The Customer shall determine in good faith whether any action or inaction by OSI shall constitute a material breach of OSI's obligations under this Agreement for which this section 7.3 shall be applicable; furthermore, the Customer shall determine in good faith (i) whether such breach is capable of cure by OSI, and (ii) in the case of the breach determined by Customer to be capable of cure, whether OSI has failed to cure such breach.

7.4 Subject to Subsection 7.5 below, OSI may terminate this Agreement forthwith by giving written notice to the Customer or to any receiver, trustee in bankruptcy or other officer similarly appointed on behalf of the Customer if (i) the Customer shall admit in writing its inability to pay its debts generally as they become due, or executes a similar document or an assignment for the benefit of creditors: or (ii) a receiver, trustee in bankruptcy, or similar officer is appointed on behalf of the Customer.

7.5 Any termination rights delineated herein shall not otherwise affect the payment of any sums owed to OSI per the terms of this Agreement, as a result of any service or Additional Service rendered to the Customer prior to the effective date of such termination; nor shall such termination otherwise affect any other rights and obligations of either OSI or the Customer arising from this Agreement or the lawful termination thereof.

8. LIMITATION OF LIABILITY

8.1 In the event of loss or damage to all or part of a commodity owned by the Customer (e.g., paper stock), or owned by a third party and provided to OSI by the Customer, caused by a negligent act, default or omission of OSI or any of its employees, OSI shall, at its own expense, either restore the article to the condition it was in immediately before such damage occurred, to the extent technically possible, or, at its own election, replace the article with a comparable one. This restoration or replacement refers only to the physical commodity and does not include any intangible such as Customer Data which may have been contained on the item. The Customer is expected to maintain a back-up and copy of all Customer Data transmitted to OSI.

8.2 OSI indemnifies the Customer and agrees to hold the Customer harmless from all losses, costs, liabilities, damages and expenses actually incurred by the Customer and arising out of acts or omissions of OSI that shall be found to constitute fraud, negligence or willful misconduct with respect to the services to be performed under this Agreement. Notwithstanding the

foregoing, OSI's liability and obligation to indemnify the Customer under this Agreement shall be limited to the aggregate amount of fees actually paid to OSI hereunder, to the extent such limitation of damages shall be enforceable under applicable law.

8.3 Notwithstanding anything else contained in this Agreement, OSI shall not be liable to The Customer for loss of profits, goodwill, or any type of indirect or consequential loss (including loss or damage suffered by The Customer as a result of any action brought by a third party) even if such loss was reasonably foreseeable or OSI has been advised of the possibility of The Customer incurring the same.

8.4 Notwithstanding any of the foregoing provisions of this Section 8, performance by OSI of its obligations under this Agreement is subject to appropriate adjustment and extension of time in the event of an act of terrorism, strike, fire, war, natural disasters, insurrection, riot, electrical failure, or any other event that would constitute force majeure under Colorado law.

9. CONFIDENTIALITY

9.1 The parties hereto acknowledge that the information to be disclosed upon execution of this agreement will contain and incorporate confidential information in which the Customer has an interest. OSI hereby agrees to maintain confidentiality and agrees not to use directly or indirectly all or part of such information which OSI has gained from such disclosure, until and unless such information becomes public knowledge through no fault of OSI. On termination of this Agreement OSI undertakes to return all tangible forms of any such confidential information forthwith to the Customer and to furnish The Customer, at the Customer's request, with a letter certifying that no copies have been made or retained throughout the life of this Agreement.

10. DISCLAIMER OF WARRANTY

OSI DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO THE SERVICES AND MATERIALS PROVIDED HEREUNDER, INCLUDING ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT. SAID DISCLAIMER NOTWITHSTANDING, OSI NONETHELESS UNDERTAKES TO PERFORM ALL SERVICES TO A STANDARD ACCEPTABLE IN THE LASER PRINTING INDUSTRY.

11. MISCELLANEOUS

11.1 This document, together with the Appendices and Schedules, contains the entire Agreement between OSI and the Customer with respect to the services being performed, and supersedes all oral or written communications and any prior agreement with respect thereto. Any pre-printed terms and conditions of any purchase order issued in connection with this Agreement shall be of no force and effect. Except as otherwise stated herein, this Agreement may not be altered, modified, terminated or

discharged except by written amendment signed by both parties. Any variation from the terms and conditions of this Agreement in any Customer order or other written notification will be of no effect.

11.2 The Customer warrants it is entitled and empowered to authorize OSI to perform the Services and any Additional Services and to execute this Agreement.

11.3 Any provision of this Agreement or of any Appendix or Supplemental Schedule incorporated in this Agreement which is unenforceable under the laws of any jurisdiction which are applicable hereto shall be deemed ineffective in such jurisdiction without causing such provision to be ineffective under the laws of any other jurisdiction in which it may be or may become applicable; but shall not affect the enforceability of the remaining provisions of the Agreement, Appendices, or Schedules. This Agreement and each Appendix or Schedule hereunder shall be governed by and construed in accordance with the laws of the State of Colorado.

11.4 Any notice or communication given or required under this Agreement shall be in writing and shall be deemed to have been given when sent by United States certified mail, postage prepaid to the other party at the address stated below and directed to the attention of the person designated below, his or her successor or other designee of the party.

If to OSI:
Attention: President
Output Services, Inc.
6410 Odell Place
Boulder, CO 80301

If to the Customer:
Attention: Kathy Simillion
Gunnison County Clerk & Recorder
221 N. Wisconsin, Suite C, Gunnison, CO, 81230

11.5 This Agreement is not assignable without the prior written consent of the other party. Any attempt to assign any of the right, duties or obligations of this Agreement without such consent is void.

11.6 Addendums to this Agreement must be executed by both parties. An addendum can be proposed to this Agreement at any time during the contract term. A proposal for a contract addendum must be made, in writing, in accordance with Section 11.4 above. Upon receipt of the proposal for a contract addendum, each party shall have up to thirty (30) days to consider the proposal. If a conflict over the proposal arises, both sides agree to meet at a mutually convenient time to resolve any differences. Upon mutual acceptance of a proposed addendum, a written copy shall be executed by the Company and the Customer.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date indicated above.

SIGNED for and on behalf of Output Services, Inc.

(authorized signature)

Jennifer Simpson
(print or type name)

November 29, 2017
(title)

SIGNED for and on behalf of CUSTOMER

(authorized signature)

(print or type name)

(title)

Output Services, Inc.
Data Driven

MOTOR VEHICLE RENEWAL CARD PRICING APPENDIX

ITEM	PRINT & MAIL DOCUMENTS[1]	UNITS	PRICE
MATERIALS:	**Cardstock:**	Each	INCLUDED
SERVICES:	**Data processing, black ink printing, cutting, and mail preparations as follows:**	Per Document	$0.05
	OPTIONAL: Data processing, color ink printing, cutting, and mail preparation as follows:	Per Document	$0.06
	Data Processing: Specified receipt and processing of data files per specifications	Per Account	INCLUDED
	Mail Preparation: Traying, tagging, and palletizing of mail	Per Piece	INCLUDED
	Postal Sortation	Per Piece	INCLUDED
	USPS NCOA Move Update Processing	Per Piece	INCLUDED

	OPTIONAL ITEMS NOT INCLUDED IN PACKAGE PRICE		Cost
	Custom Programming Support	Per Hour	$100.00
	Creative Design Support	Per Hour	$80.00
	DVD Master Production	Per DVD	$52.50
	Manual Pulls	Per Pull	$5.00
	Boxed Accounts	Per Account	$.28
	Inkjet Variable Text Message	Per Piece	$0.02
	Folding	Per Piece	$0.01
	Produce Marketing Inserts	Per Insert	VARIES[2]

[1] Does not include postage.