AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Agreement Regarding Payment for Coroner's Work Spa

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: BOCC and Gunnison Funeral Services, L.L.C.

Term Begins: 4/1/18 **Term Ends:** 3/31/2019 **Grant Contract #:**

Summary:

Attached please find the Agreement Regarding Payment for Coroner's Work Space. The purpose of said Agreement is for Gunnison County to provide a financial contribution towards a portion of the rent and utilities for the Coroner's Work Space just as the 2015 Agreement had reflected.

Fiscal Impact: $442.50 per month plus 60% towards the cost of utilities

Submitted by: Office of the County Attorney **Submitter's Email Address:** rmagruder@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:
No Concerns, the only change is an increase to rent amount, all other financial components are consistent with previous agreement. The increase in rent can be covered in the 2018 adopted budget. ln

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 5/1/2018

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

Comments:
ok db 5/1/18

Reveiwed by: Discharge Date: 4/27/2018 Certificate of Insurance Required Yes ( ) No (●)

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 5/4/2018

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

Agenda Date: 5/15/2018

Revised April 2015

AGREEMENT REGARDING PAYMENT FOR CORONER'S WORK SPACE

THIS AGREEMENT REGARDING PAYMENT FOR CORONER'S WORK SPACE ("Agreement") is made and entered into this 15th day of May, 2018, by and between the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO, whose address is 200 E. Virginia, Gunnison, Colorado 81230 ("Gunnison County") and GUNNISON FUNERAL SERVICES, L.L.C., a Colorado limited liability company, whose address is 106 S. Taylor, #2, Gunnison, CO 81230 ("Gunnison Funeral").

WHEREAS, Gunnison Funeral currently leases real property located at 106 S. Taylor, #2, Gunnison, Colorado 81230 ("Property"); and

WHEREAS, the Property includes an appropriate work space, the functional equivalent of approximately 375 sq. ft., dedicated for the official services of the Gunnison County Coroner ("Coroner's Work Space"); and

WHEREAS, Gunnison County has been financially contributing towards the rental and utility costs for the Coroner's Work Space and would like to continue to provide that contribution; and

NOW, THEREFORE, for and in consideration of the mutual covenants, terms and conditions herein contained, Gunnison County and Gunnison Funeral do hereby agree as follows:

1. RESCINDING PRIOR AGREEMENT.

The *Agreement Regarding Payment for Coroner's Work Space* by and between the Board of County Commissioners of the County of Gunnison, Colorado and Frank L. Vader, Gunnison County Coroner, dated September 30, 2015 and assigned Gunnison County Legal Instrument No: 2015-122 is hereby rescinded, null and void.

2. TERM.

The term of this Agreement shall commence nunc pro tunc April 1, 2018 and shall terminate on March 31, 2019 ("Term"), unless otherwise terminated or extended under the terms of this Agreement by mutual written agreement of Gunnison County and Gunnison Funeral.

3. COMPENSATION.

In full and complete consideration for use of the Coroner's Work Space by the Gunnison County Coroner, Gunnison County shall compensate Gunnison Funeral 60% of the rental costs incurred for said Coroner's Work Space which currently is in the monthly amount of FOUR HUNDRED FORTY TWO and 50/100 U.S. Dollars ($442.50) through

the Term of this Agreement. Thereafter should this Agreement be amended and extended the dollar amount shall be adjusted no more than 3% annually.

In addition to this amount, Gunnison County shall compensate Gunnison Funeral for a portion of utility bills as more specifically identified in paragraph 3 herein below.

This Agreement is subject to Gunnison County making an annual budget appropriation in an amount sufficient to fund this Agreement. If Gunnison County fails or refuses to make such an appropriation, Gunnison County reserves the right to terminate this Agreement pursuant to paragraph 10 herein below.

3. UTILITIES.

Historically Gunnison County has financially provided for 100% of the costs for telephone and internet services for the Coroner's Work Space and will continue to do so through the Term of this Agreement.

Gunnison County shall continue to compensate Gunnison Funeral 60% of the billed, receipted costs for natural gas, water, sewer and electric bills incurred by Coroner's use of the Coroner's Work Space throughout the Term of this Agreement. Gunnison Funeral shall forward those utility bills to the Gunnison County Finance Department at 200 E. Virginia, Gunnison, CO 81230.

Gunnison Funeral shall be responsible for any and all other costs not identified herein that may be associated with official Coroner's use of the Coroner's Work Space.

4. USE OF GUNNISON FUNERAL'S WORK SPACE.

The Gunnison County Coroner shall conduct the use of the Coroner's Work Space in an orderly manner. The Gunnison County Coroner, his agents, and employees, shall not discriminate against any person or class of person by reason of race, age, religion, gender, creed, sexual preference or national origin in providing any use of the Coroner's Work Space.

5. IMPROVEMENTS.

All equipment placed by Gunnison County at its expense in, on or about the Coroner's Work Space, including all fixtures temporarily affixed to the Coroner's Work Space but which may be removed without damage thereto, shall remain the items of Gunnison County and Gunnison County shall have the right at any time during the Term of this Agreement or at its termination, to remove all such equipment.

6. OPERATIONS.

Gunnison Funeral agrees to secure all necessary licenses, permits and other approval required by the City of Gunnison, County of Gunnison, State of Colorado, or the United

States of America that may be necessary or associated with Coroner's use of the Coroner's Work Space.

7. WARRANTIES.

Gunnison Funeral warrants and assures Gunnison County that Gunnison Funeral has the authority from the Owner of the Property to use the Property for official use by the Gunnison County Coroner.

8. INDEMNIFICATION.

During the term of this Agreement, Gunnison Funeral shall indemnify, hold harmless and defend Gunnison County, its Board of County Commissioners, its officers, agents and employees, against any claim for injury or damage caused by any act or omission of Gunnison Funeral or any other person arising from the use of the Coroner's Work Space.

9. NO CREATION OF OBLIGATION TO OWNER.

Nothing in this Agreement creates any obligation whatsoever from Gunnison County to the Owner of the Property.

Nothing in this Agreement is or shall be construed a waiver of any protection of the Governmental Immunity Act.

This provision shall survive any termination or expiration of this Agreement with respect to any liability, injury or damage occurring prior to such termination

10. TERMINATION.

Either party shall have the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days prior written notice to the other.

11. NOTICES.

Service of all notices under this Agreement shall be sufficient if sent via certified mail return receipt requested to the following address:

Gunnison County: Board of County Commissioners
of the County of Gunnison, Colorado
200 East Virginia Avenue
Gunnison, CO 81230

Gunnison Funeral: Frank L. Vader
Gunnison Funeral Services, L.L.C.
106 S. Taylor, #2
Gunnison, CO 81230

12. MISCELLANEOUS.

a. SEVERABILITY. If any clause or provision of this Agreement shall be held to be invalid in whole or in part, then the remaining clauses and provisions, or portions thereof, shall nevertheless be and remain in full force and effect.

b. AMENDMENT. No amendment, alteration, modification of or addition to this Agreement shall be valid or binding unless expressed in writing and signed by the parties to be bound thereby.

c. NO WAIVER OF GOVERNMENTAL IMMUNITY. Nothing in this Agreement is, or shall be construed to be, a waiver, in whole or part, by Gunnison County of governmental immunity provided by the Colorado Governmental Immunity Act or otherwise.

13. PROHIBITION UPON ASSIGNMENT.

Without the prior written consent of Gunnison County, Gunnison Funeral shall not (a) assign, transfer, pledge, or hypothecate this Agreement, or any part thereof, or any interest therein, or (b) convey, sublet or lend the Coroner's Work Space or any part thereof.

14. GOVERNING LAW, JURISDICTION AND VENUE.

This Agreement is entered into in the County of Gunnison, State of Colorado, and it is agreed that the proper jurisdiction and venue of any legal action regarding the interpretation and/or enforcement of this Agreement, or any document related hereto, shall be the County or District Court of the County of Gunnison, State of Colorado and 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.

15. ENTIRE AGREEMENT.

Gunnison Funeral and Gunnison County agree that the provisions contained herein constitute the entire agreement and that all representations made by any officer, agent or employee of the respective parties unless included herein are null and void and of no effect. No alterations, amendments, changes or modifications, unless expressly reserved herein, shall be valid unless executed by an instrument in writing by Gunnison Funeral and Gunnison County with the same formality as this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first set forth above.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Phil Chamberland, Chairperson

ATTEST:

_____
Deputy County Clerk

GUNNISON FUNERAL SERVICES, L.L.C.,
a Colorado limited liability company

By: Frank Vader
Frank L. Vader, Director

AGREEMENT REGARDING PAYMENT FOR CORONER'S WORK SPACE

THIS AGREEMENT REGARDING PAYMENT FOR CORONER'S WORK SPACE ("Agreement") is made and entered into this 30 day of September, 2015, by and between the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO, a political subdivision of the State of Colorado, whose address is 200 E. Virginia, Gunnison, Colorado 81230 ("Gunnison County") and FRANK L. VADER, GUNNISON COUNTY CORONER, whose address is P.O. Box 303, Gunnison, CO 81230 ("Coroner").

WHEREAS, the Coroner currently leases the real property located at 106 S. Taylor, #2, Gunnison, Colorado 81230 ("Property") for his personal business, Gunnison Funeral Services, L.L.C. ("LLC"); and

WHEREAS, in support of the Coroner and the official services the Coroner provides in his capacity as Coroner, Gunnison County would like pay a portion of the rental and utility costs for the Property to partially offset LLC's costs to lease the Property and to ensure that the Coroner's use of the Property includes an appropriate work space, the functional equivalent of approximately 375 sq. ft., dedicated for the official services provided by the Coroner ("Coroner's Work Space"); and

WHEREAS, Coroner agrees that the Coroner's Work Space is adequate for the services Coroner provides, and that the compensation provided by Gunnison County is appropriate and sufficient; and

NOW, THEREFORE, for and in consideration of the mutual covenants, terms and conditions herein contained, Gunnison County and Coroner do hereby agree as follows:

1. TERM.

The term of this Agreement shall commence on October 1, 2015, and shall terminate either upon the expiration of LLC's lease of the Property or at the end of Coroner's term of office, whichever comes sooner, unless otherwise terminated under the terms of this Agreement or by mutual written agreement of Gunnison County and Coroner.

2. COMPENSATION.

$375.00 FV NB

In full and complete consideration of the rights granted herein, Gunnison County shall pay Coroner THREE HUNDRED FIFTY AND NO/100 U.S. Dollars (~~$350.00~~) per calendar month for the term of this Agreement made payable to Gunnison Funeral Services, L.L.C., Lessee of the Property. In addition to this amount, Gunnison County shall compensate Coroner for a portion of utilities bills as more specifically identified in paragraph 3 below.

3. UTILITIES.

Gunnison County shall compensate Coroner 60% of the billed, receipted costs for natural gas, water, sewer and electric bills incurred by Coroner's use of the Coroner's Work Space. Coroner shall forward those utility bills to the Gunnison County Finance Department at 200 E. Virginia, Gunnison, CO 81230. Gunnison County, at the cost of Gunnison County, shall install a Point to Point Wireless at the Property to provide for Gunnison County telephone and internet services specifically for use by the Coroner in association with his official duties and services. Gunnison County shall not be responsible to the LLC, Coroner or Lessor of the Property for any damages resultant from such installation; any improvement or equipment provided by Gunnison County shall remain the property of Gunnison County. Coroner shall be responsible for any additional telephone and internet services and any and all other costs not identified herein that may be associated with official Coroner's use of the Coroner's Work Space.

4. USE OF CORONER'S WORK SPACE.

The Coroner shall conduct the use of the Coroner's Work Space in an orderly manner. Coroner, his agents, and employees, shall not discriminate against any person or class of person by reason of race, age, religion, gender, creed, sexual preference or national origin in providing any use of the Coroner's Work Space.

5. OPERATIONS.

Coroner agrees to secure all necessary licenses, permits and other approval required by the City of Gunnison, County of Gunnison, State of Colorado, or the United States of America that may be necessary or associated with Coroner's use of the Coroner's Work Space.

6. WARRANTIES.

Coroner warrants and assures Gunnison County that Coroner has the authority from the Lessor of the Property to use the Property for his official use as a Coroner.

7. NO CREATION OF OBLIGATION TO LESSOR.

Nothing in this Agreement creates any obligation whatsoever from Gunnison County to the Lessor of the Property.

Nothing in this Agreement is or shall be construed a waiver of any protection of the Governmental Immunity Act.

This provision shall survive any termination or expiration of this Agreement with respect to any liability, injury or damage occurring prior to such termination

8. DEFAULT.

Coroner shall be considered to be in default of this Agreement upon failing to keep, perform and observe each and every other covenant, term or condition set forth in this Agreement which failure continues for a period of more than 30 days after written notice from Gunnison County of such breach or default.

No waiver of default by either party of any of the terms or conditions herein to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms or conditions herein contained to be performed, kept and observed by the other party.

9. TERMINATION.

This Agreement shall be terminated if:

A. Coroner is determined to be in default as set forth in paragraph 8 above; or

B. Gunnison County determines that the Coroner's Work Space is not being used for the purposes as set forth in this Agreement; or

10. NOTICES.

Service of all notices under this Agreement shall be sufficient if sent via certified mail return receipt requested to the following address:

Gunnison County: Board of County Commissioners
of the County of Gunnison, Colorado
200 East Virginia Avenue
Gunnison, CO 81230

Coroner: Frank L. Vader, Gunnison County Coroner
P.O. Box 303
Gunnison, CO 81230

11. PROHIBITION UPON ASSIGNMENT.

Without the prior written consent of Gunnison County, Coroner shall not (a) assign, transfer, pledge, or hypothecate this Agreement, or any part thereof, or any interest therein, or (b) convey, sublet or lend the Coroner's Work Space or any part thereof.

12. NON-WAIVER.

The failure of either party to insist in any one or more instances upon compliance with any of the covenants, terms or conditions agreed upon and herein contained, or the failure of either party to exercise any option, privilege or right agreed upon and herein contained shall not be construed as constituting a waiver of such right, option or the right to demand compliance with such covenant, term or conditions.

13. 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, then at the option of such party, this Agreement may be declared to be terminated.

14. GOVERNING LAW, JURISDICTION AND VENUE.

This Agreement is entered into in the County of Gunnison, State of Colorado, and it is agreed that the proper jurisdiction and venue of any legal action regarding the interpretation and/or enforcement of this Agreement, or any document related hereto, shall be the County or District Court of the County of Gunnison, State of Colorado and 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.

15. COUNTERPARTS: FACSIMILE TRANSMISSION.

This Agreement may be executed by facsimile and/or in any number of counterparts, any or all of which my contain the signatures of less than all the parties, and all of which shall be construed together as but a single instrument and shall be binding on the parties as though originally executed on one originally executed document. All facsimile counterparts shall be promptly followed with delivery of original executed counterparts.

16. ENTIRE AGREEMENT.

Coroner and Gunnison County agree that the provisions contained herein constitute the entire agreement and that all representations made by any officer, agent or employee of the respective parties unless included herein are null and void and of no effect. No alterations, amendments, changes or modifications, unless expressly reserved herein, shall be valid unless executed by an instrument in writing by Coroner and Gunnison County with the same formality as this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first set forth above.

FOR THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Matthew Birnie, County Manager

ATTEST:

_____
Deputy County Clerk

FRANK L. VADER,
CORONER FOR GUNNISON COUNTY, COLORADO

By: _____
Frank L. Vader