AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Contractor Agreement; Ultraswayed, LLC; Annual Ben

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: BOCC Gunnison County, Colorado & Ultraswayed LLC.

Term Begins: October 1, 2020 **Term Ends:** **Grant Contract #:**

Summary:

Ultraswayed LLC. desires to provide professional services regarding Annual Benefits Compliance Notices (Medicare Part D Notice and CHIP, WHCRA, NMHPA, HIPAA and SBC Notices).

Fiscal Impact: $3000.00

Submitted by: Cheryl Seling **Submitter's Email Address:** cseling@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 10/16/20 Note: The document that the BOCC will be presented to sign will have the following change in paragraph 2: The termination date will be March 1, 2021.

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 10/16/2020 Certificate of Insurance Required Yes ◉ No ○

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 10/16/2020

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

Agenda Date: 10/20/2020

Revised April 2015

From: Cheryl Seling
Sent: Thursday, September 17, 2020 6:02 PM
To: Matthew Birnie <MBirnie@gunnisoncounty.org>
Subject: Annual Medicare Part D Notices - Oct 15th

Hi Matthew,

We are faced with an unexpected fee for the annual Medicare Part D Notices that are mailed out annually to all medical insurance plan participants. This is a compliancy requirement for our health plan. Medicare Part D Notices include our plan's creditable coverage status prior to the Medicare Part D (prescription drug coverage) annual open enrollment period.

In the past years, CoreSource/Trustmark had always mailed out the annual Medicare Part D Notices in October. The fee (PEPM) was included in our Client Services Agreement each year ($2.04 PEPM). With GPA, they do not send out the notices, but rather partner with a vendor to offer their clients this services. Long story short…there is a Client Services Agreement that must be signed/approved before the notices go out before 10/15/2020.

The vendor is Ultracompliance and GPA utilizes them for their own health plan. I have attached the Agreement and will submit the item through Laserfiche for approvals, but was hoping that I might secure your signature as soon as possible after the Agreement is reviewed by the CAO; possibility getting it on or before the BOCC Agenda October 13th.

Please let me know how you would like me to proceed with this. We pay GPA (through our monthly premium list bill) for the notices sent by Ultracompliance and then GPA remits the payment to Ultracompliant. The fee is $3000.00.

Cheryl

Cheryl Seling
Human Resources Manager
Gunnison County Administration
200 E. Virginia Ave., Gunnison CO, 81230
Phone: (970) 641-7962
Fax: (970) 641-7618
www.GunnisonCounty.org

Important Notice from Gunnison County
About Your Prescription Drug Coverage and Medicare

Read this Notice if you, your spouse or children are: (1) eligible and enrolled in a Gunnison County health care plan, and (2) covered by or will become eligible for Medicare (due to age or disability) in the next 12 months.

Please read this notice carefully and keep it where you can find it. This notice has information about your current prescription drug coverage with Gunnison County and about your options under Medicare's prescription drug coverage. This information can help you decide whether or not you want to join a Medicare drug plan. If you are considering joining, you should compare your current coverage, including which drugs are covered at what cost, with the coverage and costs of the plans offering Medicare prescription drug coverage in your area. Information about where you can get help to make decisions about your prescription drug coverage is at the end of this notice.

There are two important things you need to know about your current coverage and Medicare's prescription drug coverage:

1. **Medicare prescription drug coverage became available in 2006 to everyone with Medicare. You can get this coverage if you join a Medicare Prescription Drug Plan or join a Medicare Advantage Plan (like an HMO or PPO) that offers prescription drug coverage. All Medicare drug plans provide at least a standard level of coverage set by Medicare. Some plans may also offer more coverage for a higher monthly premium.**

2. **Gunnison County has determined that the prescription drug coverage offered by Gunnison County health care plans is, on average for all plan participants, expected to pay out as much as standard Medicare prescription drug coverage pays and is therefore considered Creditable. Because your existing coverage is Creditable Coverage, you can keep this coverage and not pay a higher premium (a penalty) if you later decide to join a Medicare drug plan.**

When Can You Join A Medicare Drug Plan?
You can join a Medicare drug plan when you first become eligible for Medicare and each year October 15th - December 7th. However, if you lose your current creditable prescription drug coverage, through no fault of your own, you will also be eligible for a two (2) month Special Enrollment Period (SEP) to join a Medicare drug plan.

What Happens To Your Current Coverage If You Decide To Join A Medicare Drug Plan?
If you are an active employee and decide to join a Medicare drug plan, your current Gunnison County coverage will not be affected. Your current coverage pays for other health expenses in addition to prescription drugs. If you enroll in a Medicare prescription drug plan, you will still be eligible to receive all of your current health and prescription drug benefits. The Gunnison County health care plan will remain your primary insurance and Medicare will be your secondary insurance. The plan will coordinate payment of your benefits with Medicare.

If you decide to join a Medicare drug plan, and drop your current Gunnison County coverage, be aware that you and your dependents will be able to get this coverage back during a Gunnison County open enrollment period.

When Will You Pay A Higher Premium (Penalty) To Join A Medicare Drug Plan?
You should also know that if you drop or lose your current coverage with Gunnison County and don't join a Medicare drug plan within 63 continuous days after your current coverage ends, you may pay a higher premium (a penalty) to join a Medicare drug plan later. If you drop your current prescription drug coverage and enroll in Medicare prescription drug coverage, you may not be able to reenroll in the Gunnison County plan.

If you go 63 continuous days or longer without creditable prescription drug coverage, your monthly premium may go up by at least 1% of the Medicare base beneficiary premium per month for every month that you did not have that coverage. For example, if you go nineteen months without creditable coverage, your premium may consistently be at least 19% higher than the Medicare base beneficiary premium. You may have to pay this higher premium (a penalty) as long as you have Medicare prescription drug coverage. In addition, you may have to wait until the following October to join a Medicare plan.

For More Information About This Notice Or Your Current Prescription Drug Coverage…
Call the contact listed below for further information. **NOTE**: You'll get this notice each year. You will also get a notice before the next period you can join a Medicare drug plan, and if this coverage through Gunnison County changes. You also may request a copy of this notice at any time.

For More Information About Your Options Under Medicare Prescription Drug Coverage…
More detailed information about Medicare plans that offer prescription drug coverage is in the "Medicare & You" handbook. You'll get a copy of the handbook in the mail every year from Medicare. You may also be contacted directly by Medicare drug plans.

For more information about Medicare prescription drug coverage:

- Visit www.medicare.gov.
- Call your State Health Insurance Assistance Program for personalized help. Find their number on the inside back cover of your copy of the "Medicare & You" handbook.
- Call 1-800-MEDICARE (1-800-633-4227). TTY users should call 1-877-486-2048.

If you have limited income and resources, extra help paying for Medicare prescription drug coverage is available. For information about this extra help, visit Social Security at www.socialsecurity.gov or call them at 1-800-772-1213 (TTY 1-800-325-0778).

REMEMBER: Keep this Creditable Coverage notice. If you decide to join one of the Medicare drug plans, you may be required to provide a copy of this notice when you join to show whether or not you have maintained creditable coverage and, therefore, whether or not you are required to pay a higher premium (a penalty).

Date of this Notice:	10/01/20
Name of Entity:	Gunnison County
Contact:	Cheryl Seling
Contact Phone Number:	1-970-641-7962
Mailing address:	200 E. Virginia Avenue Gunnison, CO 81230

CONTRACTOR AGREEMENT

THIS CONTRACTOR AGREEMENT ("Agreement") made effective the 1 day of October 2020, by and between the Board of County Commissioners of the County of Gunnison, Colorado, whose address is 200 East Virginia, Gunnison, CO 81230 (herein "Gunnison County") and Ultraswayed LLC , whose address is 23 Elmham Lane, Bella Vista, AR 72715 (herein "Contractor").

RECITALS

The Contractor desires to provide professional services regarding Annual Benefits Compliance Notices
("Services").

Gunnison County desires to engage Contractor to provide Services according to this Agreement.

OR

as identified in the Scope of Work attached hereto and incorporated herein by reference as Appendix "A ("Services").

Gunnison County desires to engage Contractor to provide Services according to this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the Recitals and the mutual covenants and obligations hereinafter set forth, the parties agree as follows:

1. SERVICES.

Contractor shall furnish all materials, labor, supervision, supplies and equipment to commence, diligently pursue, and complete the Services as more specifically set forth on Appendix "A". All Services shall be performed in a timely manner and in accordance with generally accepted standards for Contractor's profession and all applicable federal, state and local laws and regulations affecting the Services or the subject matter thereof. Contractor acknowledges that this is a non-exclusive Agreement, and Gunnison County may contract with additional or other providers able to furnish the same or similar services as it deems appropriate to do so.

2. TERM.

The term of this Agreement shall commence on the date first set forth above and shall terminate on October 1, 2020, unless sooner terminated or replaced as provided herein.

3. STRATEGIC RESULT.

Execution of this Agreement will assist the County with its benefits compliance strategy, as outlined in the Gunnison County Strategic Plan.

4. COMPENSATION, BONUS AND EXPENSES.

In consideration and exchange for Contractor's performance of the Services, during the Term, Gunnison County shall pay Contractor fees as more specifically not to exceed Three Thousand and No/100 U. S. Dollars ($3,000). Payment shall be made by Gunnison County to Contractor within 45 days of receipt of an invoice.

The Compensation shall compensate Contractor for all charges, expenses, overhead, payroll costs, employee benefits, insurance subsistence, and profits, except as specifically set forth herein.

(IF THE TERM IS FOR MORE THAN 1 YEAR: 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 14 of this Agreement.)

5. INSURANCE.

Contractor agrees that at all times during the Term of this Agreement that Contractor shall carry and maintain, in full force and effect and at its sole cost and expense, the following insurance policies. Within thirty (30) days of the execution of this Agreement, Contractor will provide insurance certificates to Gunnison County, listing Gunnison County as an additional insured, for the coverage's required herein which shall state that such policies shall not be materially changed or cancelled without thirty (30) days prior notice to Gunnison County.

a. Worker's Compensation Insurance in accordance with Colorado and Federal law which adequately protects all labor employed by Contractor during the term of this Agreement.

b. Comprehensive General Liability Insurance or the equivalent for any injury to one person in any single occurrence, Three Hundred Eighty-Seven Thousand and No/100 U.S. Dollars ($387,000.00); and for an injury to two or more persons in any single occurrence, the sum of One Million Ninety-Three Thousand and No/100 U.S. Dollars ($1,093,000.00).

c. Comprehensive automobile liability insurance on all vehicles used in the Services, in an amount no less than Three Hundred Eighty-Seven Thousand

and No/100 U.S. Dollars ($387,000.00) for any injury to one person in any single occurrence and in an amount no less than One Million Ninety-Three Thousand and No/100 U.S. Dollars ($1,093,000.00) for any injury to two or more persons in any single occurrence.

6. INDEPENDENT CONTRACTOR.

In carrying out its obligations and activities under this Agreement, Contractor is acting as an independent contractor and not as an agent, partner, joint venture or employee of Gunnison County. Contractor does not have any authority to bind Gunnison County in any manner whatsoever.

Contractor acknowledges and agrees that Contractor is not entitled to: (i) unemployment insurance benefits; or (ii) Workers Compensation coverage, from Gunnison County. Further, Contractor is obligated to pay federal and state income tax on any moneys paid it related to the services.

7. INDEMNIFICATION.

Contractor agrees to indemnify, defend and hold harmless Gunnison County, its Commissioners, agents and employees of and from any and all liability, claims, liens, demands, actions and causes of action whatsoever (including 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 Contractor or its employees, subcontractors or agents in connection with this Agreement.

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

8. SOLE SOURCE CONTRACTS. (ONLY USE ON CONTRACTS $100,000 or more.)

If the Contractor has entered into a sole source contract or contracts with the State of Colorado or any of its political subdivisions as defined in Article XXVIII of the Colorado Constitution which including this contract in the aggregate on an annual basis are equal to or exceed the amount of $100,000, then the following provisions apply:

a. Because of a presumption of impropriety between contributions to any campaign and sole source government contracts, Contractor, on behalf of itself , any person who controls ten percent or more of the shares of or interest in the Contractor, and the Contractor's officers, directors and trustees (collectively, the "Contract Holder") shall contractually agree, for the duration of the contract and for two years thereafter, to cease making, causing to be made, or inducing by any means, a contribution, directly or indirectly, on behalf of the Contractor Holder or on behalf of his or her immediate family member and for the benefit of

any political party or for the benefit of any candidate for any elected office of the state or any of its political subdivisions.

b. The parties further agree that if a Contract Holder makes or causes to be made any contribution intended to promote or influence the result of an election on a ballot issue, the Contract Holder shall not be qualified to enter into a sole source government contract relating to that particular ballot issue.

c. The parties agree that if a Contract Holder intentionally violates sections 15 or 17(2) of Article XXVIII of the Colorado Constitution, as contractual damages that Contract Holder shall be ineligible to hold any sole source government contract, or public employment with the state or any of its political subdivisions, for three years.

d. These provisions shall not apply to the extent they have been enjoined or invalidated by a court of competent jurisdiction.

9. DISCRIMINATION.

The Contractor agrees to not discriminate against any person or class of persons by reason of age, race, color, sex, creed, religion, disability, national origin, sexual orientation or political affiliation in providing any services or in the use of any facilities provided for the public in any manner prohibited by Part 21 of the Regulations of the Office of the Secretary of Transportation. Contractor shall further comply with the letter and spirit of the Colorado Anti-Discrimination Act of 1957, as amended, and any other laws and regulations respecting discrimination in unfair employment practices. Additionally, Contractor shall comply with such enforcement procedures as any governmental authority might demand that Gunnison County take for the purpose of complying with any such laws and regulations.

10. IMMIGRATION COMPLIANCE CERTIFICATION.

a. Contractor certifies that Contractor does not and will not knowingly contract with or employ illegal aliens to work under this Agreement.

b. Contractor certifies that Contractor has required its subcontractors to certify that they do not knowingly contract with or employ illegal aliens to work under this Agreement.

c. Contractor certifies that it has attempted to verify the eligibility of its employees and subcontractors to work through the Basic Pilot Employment Verification Program administered by the Social Security Administration and Department of Homeland Security.

d. Contractor agrees to comply with all reasonable requests made in the course of an investigation under C.R.S. 8-17.5-102 by the Colorado Department of Labor and Employment.

e. Contractor agrees to comply with the provisions of C.R.S. 8-17.5-101 et seq.

11. ADA COMPLIANCE.

The Contractor represents and warrants to Gunnison County that at all times during the performance of this Agreement no qualified individual with a disability shall, by reason of such disability, be exclude from participation in, or denied benefits of the service, programs, or activities performed by the Contractor, or be subjected to any discrimination by the Contractor upon which assurance Gunnison County relies.

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. DELEGATION AND ASSIGNMENT.

This is a personal services contract with Contractor and, therefore, Contractor shall not delegate or assign its duties under this Agreement without the prior written consent of Gunnison County which consent Gunnison County may withhold in its discretion. Subject to the foregoing, the terms, covenants and conditions of this Agreement shall be binding on the successors and assigns of either party.

14. 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. Upon termination, Contractor shall be entitled to compensation for Services performed prior to the date of termination, per the compensation terms outlined in Exhibit A.

15. NOTICES.

Any notice, demand or communication which either party may desire or be required to give to the other party shall be in writing and shall be deemed sufficiently given or rendered if delivered personally or sent by certified first class US mail, postage prepaid, addressed as follows:

Gunnison County: County Manager
Gunnison County
200 E. Virginia
Gunnison, Colorado 81230
Phone: 970-641-0248

With a copy to: Board of County Commissioners
of the County of Gunnison, Colorado
200 E. Virginia
Gunnison, Colorado 81230

Contractor: Name
Address
Gunnison, CO 81230

Either party has the right to designate in writing, served as provided above, a different address to which any notice, demand or communication is to be mailed.

16. GOVERNING LAW.

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Colorado. Exclusive jurisdiction and venue for any legal proceedings related to this Agreement shall be in the State of Colorado District Court, Gunnison County, Colorado.

17. 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.

18. ENTIRE AGREEMENT.

This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof, and supersedes any and all prior agreements, proposals, negotiations and representations pertaining to the obligations to be performed hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date above written.

19. PUBLIC RECORD

To the extent not prohibited by state or federal law, this Agreement is potentially subject to public release through the Colorado Open Records Act.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Jonathan Houck, Chairperson

ATTEST:

_____
Deputy Clerk

CONTRACTOR

By: Julie Horner for Ultraswayed LLC 10/1/20

479/802-6200 (office)
479/899-1908 (cell)

ultraswayed

APPENDIX "A"

SCOPE OF SERVICES

Contractor shall perform and provide the following services:

1. Annual Benefits Compliance Notices. During the Term, Ultraswayed LLC will create specific annual benefits compliance notices for Client in two (2) separate waves (collectively, the "**Notices**") as more particularly described in this Section 3.2. The Notices will utilize model language provided by the Department of Labor ("**DOL**"), the Department of Health and Human Services ("**HHS**") and the Centers for Medicare and Medicaid Services ("**CMS**") as published from time to time with appropriate revisions based upon Company-specific information provided to Ultraswayed by Client.
2. Specific Notice Requirements.
   - **Sent to arrive before October 15** - The Notices shall include a **Medicare Part D Notice** of Creditable or Non-Creditable Coverage.
   - **Sent in January** - The Notices included shall consist of a Children's Health Insurance Program Notice ("**CHIP**"), a Women's Health and Cancer Rights Act Notice ("**WHCRA**"), a Newborns' and Mothers' Health Protection Act Notice ("**NMHPA**"), a **HIPAA Privacy Notice,** a **HIPAA Special Enrollment Notice** and Summary of Benefits and Coverage ("**SBC**") .
3. **PRODUCTION AND DISTRIBUTION OF NOTICES.** Ultraswayed will manage the production and distribution of the Notices including (i.) customizing the Notices based on information provided by Client, (ii) managing the review and approval of the Notices by Client, (iii) printing and fulfillment including folding and insertion of the Notices into envelopes, (iv) ink-jetting of individual company name, company logo, return address of the client, and home address of active employees and retirees, and (v) first class postage and delivery of the Notices to USPS for mailing.