AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Agreement for Consulting Services; Cascadia Partne

Action Requested: County Manager Signature

Parties to the Agreement: Cascadia Partners and Gunnison County

Term Begins: **Term Ends:** **Grant Contract #:** POGG1NLAA201800000714

Summary:

Contract for consulting services for CB South Commercial Area Master Plan

Fiscal Impact: 9350

Submitted by: Cathie Pagano **Submitter's Email Address:** cpagano@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:
No concerns. ln

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 3/11/2018

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

Comments:
ok db 3/30/18

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 3/30/2018 Certificate of Insurance Required Yes (●) No ( )

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\jost Discharge Date: 3/30/2018

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

Agenda Date: 4/3/2018

Revised April 2015

STATE OF COLORADO
Department of Local Affairs

ORDER
Number: POGG1 NLAA 201800000714
Date: 02/06/18
Description:
EIAF #8677 Gunnison County Crested Butte South Area Planning
Effective Date: 02/05/18 Expiration Date: 01/31/19

BUYER
Buyer:
Email:

VENDOR
GUNNISON COUNTY
221 N WISCONSIN ST
C
GUNNISON, CO 81230

Contact: Cathie Pagano
Phone: 970-641-0248

**** IMPORTANT ****
The order number and line number must appear on all invoices, packing slips, cartons and correspondence

BILL TO
DIVISION OF LOCAL GOVERNMENT
1313 SHERMAN ST, RM 521
DENVER, CO 80203

SHIP TO
DIVISION OF LOCAL GOVERNMENT
1313 SHERMAN ST, RM 521
DENVER, CO 80203

SHIPPING INSTRUCTIONS
Delivery/Install Date:
F.O.B:
VENDOR INSTRUCTIONS:

EXTENDED DESCRIPTION
CMS#107630
Version 1

Line Item	Commodity/Item Code	UOM	QTY	Unit Cost	Total Cost	MSDS Req.
1	G1000		0	0.00	$5,175.00	☐

Description: SV18A9 Consulting Services

Service From: 02/05/18 Service To: 01/31/19

TERMS AND CONDITIONS
https://www.colorado.gov/osc/purchase-order-terms-conditions

DOCUMENT TOTAL = $5,175.00

2/6/18

Purchase Order Terms and Conditions

1. Offer/Acceptance. If this purchase order ("PO") refers to vendor's bid or proposal, this PO is an ACCEPTANCE of vendor's OFFER TO SELL in accordance with the terms and conditions of the "solicitation" identified in vendor's bid or proposal. The solicitation includes an RFP, IFB, or any other form of order by buyer. If a bid or proposal is not referenced, this PO is an OFFER TO BUY, subject to vendor's acceptance, demonstrated by vendor's performance or written acceptance of this PO. Any COUNTER-OFFER TO SELL automatically CANCELS this PO, unless a change order is issued by buyer accepting a counter-offer. This PO shall supersede and control over any vendor form(s) or part(s) thereof included in or attached to any bid, proposal, offer, acknowledgment, or otherwise, in the event of inconsistencies or contradictions, regardless of any statement to the contrary in such form(s) or parts thereof. **2. Safety Information.** All chemicals, equipment and materials proposed and/or used in the performance of this PO shall conform to the requirements of the Occupational Safety and Health Act of 1970. Vendor shall furnish all Material Safety Data Sheets (MSDS) for any regulated chemicals, equipment or hazardous materials at the time of delivery.

3. Changes. Vendor shall furnish products and/or services strictly in accordance with the specifications and price set forth for each item. This PO shall not be modified, superseded or otherwise altered, except in writing signed by purchasing agent and accepted by vendor. Each shipment received or service performed shall comply with the terms of this PO, notwithstanding invoice terms or acts of vendor to the contrary, unless this PO has been modified, superseded or otherwise altered in accordance with this section.

4. Delivery. Unless otherwise specified in the solicitation or this PO, delivery shall be FOB destination. Buyer is relying on the promised delivery date, installation, and/or service performance set forth in vendor's bid or proposal as material and basic to buyer's acceptance. If vendor fails to deliver or perform as and when promised, buyer, in its sole discretion, may cancel its order, or any part thereof, without prejudice to its other rights, return all or part of any shipment so made, and charge vendor with any loss or expense sustained as a result of such failure to deliver or perform as promised. Time is of the essence.

5. Intellectual Property. Any software, research, reports, studies, data, photographs, negatives or other documents, drawings or materials (collectively "materials") delivered by vendor in performance of its obligations under this PO shall be the exclusive property of buyer. Ownership rights shall include, but not be limited to, the right to copy, publish, display, transfer, prepare derivative works, or otherwise use the materials. Vendor shall comply with all applicable Cyber Security Policies of the State of Colorado (the "State"), or buyer, as applicable, and all confidentiality and non-disclosure agreements, security controls, and reporting requirements.

6. Quality. Buyer shall be the sole judge in determining "equals" with regard to quality, price and performance. All products delivered shall be newly manufactured and the current model, unless otherwise specified.

7. Warranties. All provisions and remedies of the Colorado Uniform Commercial Code, CRS, Title 4 ("CUCC"), relating to implied and/or express warranties are incorporated herein, in addition to any warranties contained in this PO or the specifications.

8. Inspection and Acceptance. Final acceptance is contingent upon completion of all applicable inspection procedures. If products or services fail to meet any inspection requirements, buyer may exercise all of its rights, including those provided in the CUCC. Buyer shall have the right to inspect services provided under this PO at all reasonable times and places. "Services" as used in this section includes services performed or tangible material produced or delivered in the performance of services. If any of the services do not conform to PO requirements, buyer may require vendor to perform the services again in conformity with PO requirements, without additional payment. When defects in the quality or quantity of service cannot be corrected by re-performance, buyer may (a) require vendor to take necessary action to ensure that future performance conforms to PO requirements and (b) equitably reduce the payment due vendor to reflect the reduced value of the services performed. These remedies do not limit the remedies otherwise available in this PO, at law, or in equity.

9. Cash Discount. The cash discount period will start from the later of the date of receipt of acceptable invoice, or from date of receipt of acceptable products/services at the specified destination by an authorized buyer representative.

10. Taxes. Buyer and the State are exempt from all federal excise taxes under Chapter 32 of the Internal Revenue Code [No. 84-730123K] and from all State and local government sales and use taxes [CRS, Title 39, Article 26, Parts I and II]. Such exemptions apply when materials are purchased for the benefit of State, except that in certain political subdivisions (e.g., City of Denver) vendor may be required to pay sales or use taxes even though the ultimate product or service is provided to buyer. Buyer shall not reimburse such sales or use taxes.

11. Payment. Buyer shall pay vendor for all amounts due within 45 days after receipt of products or services and a correct notice of amount due. Interest on the unpaid balance shall begin to accrue on the 46th day at the rate set forth in CRS §24-30-202(24) until paid in full. Interest shall not accrue if a good faith dispute exists as to buyer's obligation to pay all or a portion of the amount due. Vendor shall invoice buyer separately for interest on delinquent amounts due, referencing the delinquent payment, number of day's interest to be paid, and applicable interest rate.

12. Vendor Offset [*Not Applicable to Intergovernmental POs*, [illegible] State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

13. Assignment and Successors. Vendor shall not assign rights or delegate duties under this PO, or subcontract any part of the performance required under this PO, without the express, written consent of buyer. This PO shall inure to the benefit of and be binding upon vendor and buyer and their respective successors and assigns. Assignment of accounts receivable may be made only upon written notice furnished to buyer.

14. Indemnification. If any article sold or delivered under this PO is covered by a patent, copyright, trademark, or application therefore, vendor shall indemnify and hold harmless buyer from any and all loss, liability, cost, expenses and legal fees incurred on account of any claims, legal actions or judgments arising out of manufacture, sale or use of such article in violation or infringement of rights under such patent, copyright, trademark or application. If this PO is for services, vendor shall indemnify, save, and hold harmless buyer, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related expenses, incurred as a result of any act or omission by vendor, or its employees, agents, subcontractors or assignees, arising out of or in connection with performance of services under this PO.

15. Independent Contractor. Vendor shall perform its duties hereunder as an independent contractor and not as an employee. Neither vendor nor any agent or employee of vendor shall be deemed to be an agent or employee of buyer. Vendor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through buyer and buyer shall not pay for or otherwise provide such coverage for vendor or any of its agents or employees. Unemployment insurance benefits will be available to vendor and its employees and agents only if coverage is made available by vendor or a third party. Vendor shall pay when due all applicable employment, income, and local head taxes incurred pursuant to this PO. Vendor shall not have authorization, express or implied, to bind buyer to any agreement, liability or understanding, except as expressly set forth herein. Vendor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by buyer, and (c) be solely responsible for its acts and those of its employees and agents.

16. Communication. All communication concerning administration of this PO, prepared by vendor for buyer's use, shall be furnished solely to purchasing agent.

17. Compliance. Vendor shall strictly comply with all applicable federal and state laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

18. Insurance. Vendor shall obtain, and maintain, at all times during the term of this PO, insurance as specified in the solicitation, and provide proof of such coverage as requested by purchasing agent.

19. Termination Prior to Shipment. If vendor has not accepted this PO in writing, buyer may cancel this PO by written or oral notice to vendor prior to shipment of goods or commencement of services.

20. Termination for Cause. (a) If vendor refuses or fails to timely and properly perform any of its obligations under this PO with such diligence as will ensure its completion within the time specified herein, buyer may notify vendor in writing of non-performance and, if not corrected by vendor within the time specified in the notice, terminate vendor's right to proceed with the PO or such part thereof as to which there has been delay or a failure. Vendor shall continue performance of this PO to the extent not terminated and be liable for excess costs incurred by buyer in procuring similar goods or services elsewhere. Payment for completed services performed and accepted shall be at the price set forth in this PO. (b) Buyer may withhold amounts due to vendor as buyer deems necessary to reimburse buyer for excess costs incurred in curing, completing or procuring similar goods and services.(c) If after rejection, revocation, or other termination of vendor's right to proceed under the CUCC or this clause, buyer determines for any reason that vendor was not in default or the delay was excusable, the rights and obligations of buyer and vendor shall be the same as if the notice of termination had been issued pursuant to termination under §21.

21. Termination in Public Interest. Buyer is entering into this PO for the purpose of carrying out the public policy of the State, as determined by its Governor, General Assembly, and Courts. If this PO ceases to further the public policy of the State, buyer, in its sole discretion, may terminate this PO in whole or in part and such termination shall not be deemed to be a breach of buyer's obligations hereunder. This section shall not apply to a termination for vendor's breach, which shall be governed by §20. Buyer shall give written notice of termination to vendor specifying the part of the PO terminated and when termination becomes effective. Upon receipt of notice of termination, vendor shall not incur further obligations except as necessary to mitigate costs of performance. For services or specially manufactured goods, buyer shall pay (a) reasonable settlement expenses, (b) the PO price or rate for supplies and services delivered and accepted, (c) reasonable costs of performance on unaccepted supplies and services, and (d) a reasonable profit for the unaccepted work. For existing goods, buyer shall pay (e) reasonable settlement expenses, (f) the PO price for goods delivered and accepted, (g) reasonable costs incurred in preparation for delivery of the undelivered goods, and (h) a reasonable profit for the preparatory work. Buyer's termination liability under this section shall not exceed the total PO price plus a reasonable cost for settlement expenses. Vendor shall submit a termination proposal and reasonable supporting documentation, and cost and pricing data as required by CRS §24-106-101, upon request of buyer.

22. PO Approval. This PO shall not be valid unless it is executed by purchasing agent. Buyer shall not be responsible or liable for products or services delivered or performed prior to proper execution hereof.

23. Fund Availability. Financial obligations of buyer payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this PO is funded in whole or in part with federal funds, this PO is subject to and contingent upon the continuing availability of federal funds for the purposes hereof. Buyer represents that it has set aside sufficient funds to make payment for goods delivered in a single installment, in accordance with the terms of this PO.

24. Choice of Law. State laws, rules and regulations shall be applied in the interpretation, execution, and enforcement of this PO. The CUCC shall govern this PO in the case of goods unless otherwise agreed in this PO. Any provision included or incorporated herein by reference which conflicts with such laws, rules, and regulations is null and void. Any provision incorporated herein by reference which purports to negate this or any other provision in this PO in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Unless otherwise specified in the solicitation or this PO, venue for any judicial or administrative action arising out of or in connection with this PO shall be in Denver, Colorado. Vendor shall exhaust administrative remedies in CRS §24-109-106, prior to commencing any judicial action against buyer

25. Public Contracts for Services. [*Not Applicable to offer, issuance, or sale of securities, investment advisory services, fund management services, sponsored projects, intergovernmental* ***POs, or information technology services or products and services***] Vendor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this PO and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this PO, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Vendor shall not knowingly employ or contract with an illegal alien to perform work under this PO or enter into a contract or PO with a subcontractor that fails to certify to vendor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this PO. Vendor shall (a) not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants during performance of this PO, (b) notify subcontractor and buyer within three days if vendor has actual knowledge that subcontractor is employing or contracting with an illegal alien for work under this PO, (c) terminate the subcontract if subcontractor does not stop employing or contracting with the illegal alien within three days of receiving notice, and (d) comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If vendor participates in the Department program, vendor shall deliver to the buyer a written, notarized affirmation that vendor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If vendor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., buyer may terminate this PO for breach and, if so terminated, vendor shall be liable for damages.

26. Public Contracts with Natural Persons. Vendor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced a form of identification required by CRS §24-76.5-103 prior to the date vendor delivers goods or begins performing services under terms of the PO.

AGREEMENT FOR CONSULTING SERVICES

Project Name: CB South Consulting Services	**Date of Agreement:** **02/9/2018**
Client's Name: _____**Gunnison COunty** (last, or company name) (first) (middle initial)	
Client's Address: ___221 N Wisconsin St Suite D_____ (street)	_____**D**_____ (suite/unit/box no.)
_____Gunnison_____ (city)	____**CO**_____ (state) _**81230**_____ (zip)
Client's Phone Number: 970-641-7985_____	**Client's E-Mail Address:** _Cpagano@gunnisoncounty.org_____

This **AGREEMENT FOR CONSULTING SERVICES** (the "Agreement") is made and entered into as of the day and year first written above (the "Effective Date") by and between **Cascadia Partners, LLC**, an Oregon limited liability company ("Consultant"), and the undersigned Gunnison County ("Client").

RECITALS

WHEREAS, the Consultant is licensed to conduct business in the State of Oregon;

WHEREAS, the Consultant offers planning, design, pre-development services, such as financial feasibility analysis, and project management services;

WHEREAS, the Client wishes to engage the Consultant to provide the Scope of Services; and

WHEREAS, the Consultant wishes to provide the Scope of Services on a non-employee basis, in exchange for the Consultant Fee and other good and valuable consideration specified herein;

THE AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and promises set forth herein, the parties hereto agree that the foregoing recitals and completed form fields are true and accurate and further agree that the Client shall engage the Consultant to provide the Consultant Services, subject to the following terms and conditions:

ARTICLE I:
CONSULTANT SERVICES

1.1. ***Consultant Services***. The Consultant agrees to serve as an independent Consultant of the Client on the terms and conditions set forth in this Agreement and agrees to devote its time and attention to the performance of its duties under this Agreement, which duties are described on the Scope of Services attached hereto as Exhibit "**A**" and incorporated herein by reference, and the Consultant agrees to perform such general and specific duties and to exercise such general and specific authority as may be necessary to accomplish the performance of those duties (hereinafter, the "Scope of Services"). Subject to the terms of this contract, the Consultant shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this contract. Nothing contained in this contract shall be deemed or construed to create a partnership, joint venture, or relationship of an employer-employee. In performing the Scope of Services, the Consultant agrees to comply with the policies, standards, and regulations of the Client as well as the Consultant's own policies and procedures.

1.2. ***Changes in the Scope of Services***. If the Client desires to make changes to the Scope of Services, whether to add to, change, or reduce the terms, conditions, or scope of the Scope of Services, the Client must communicate its wishes, verbally or in writing, to the Consultant. If the Consultant agrees with such changes, the Consultant will prepare Amendments to the Scope of Services, attached hereto as Exhibit "**A**," the Consultant Fee, attached hereto as Exhibit "**B**," any such Amendments will become effective at the time they are executed by both Client and Consultant.

ARTICLE II:
COMPENSATION AND EXPENSES

2.1. ***Compensation***. As compensation for the Scope of Services, the Client shall pay the Consultant the Consultant Fee as specified on Exhibit "**B**" attached hereto and incorporated herein by reference. The Consultant shall submit invoices to the Client on a monthly or near-monthly basis, as work is performed and Tasks are completed. The Client shall pay the amount of the invoice within 30 days of receipt.

2.2. ***Estimates Not Binding***. Consultant will provide a good faith estimate of expected project hours for completion of the Scope of Services in Exhibit "**A**". Any estimates or proposals are only for the purpose of informing the client of the potential cost of services. Client understands and agrees that such estimates are not binding, and actual costs or fees may be more or less.

2.3 ***Reimbursement of Expenses***. The Consultant shall be entitled to reimbursement from the Client for reasonable expenses necessarily incurred by Consultant in the performance of its duties under this Agreement, including air travel, taxis, auto rentals, meals, and lodging, upon presentation of a written expense report (typically on invoice) and receipts indicating the amount and business purpose of each such expense. The Consultant shall submit such expense reports to the Client at the time of its submission of a monthly or near-monthly invoice.

ARTICLE III:
CONSULTANT OBLIGATIONS

3.1. ***Best Efforts***. The Consultant covenants and agrees that, at all times during the Term of this Agreement, it shall use its best efforts to effectively provide the Scope of Services to the Client and the Consultant is free to offer services to other entities.

3.2. ***Right to Use Other Consultants***. The Consultant acknowledges and agrees that the Client retains the right to contract with and use other consultants in the course of the Client's business.

3.3. ***Injuries.*** The Consultant acknowledges its obligation to obtain appropriate insurance coverage for its own benefit and further acknowledges that the Client will not maintain workers compensation insurance for the benefit of the Consultant. The Consultant waives any right to recovery from or for any injuries that the Consultant may sustain while providing the Scope of Services or any other services under this Agreement unless such injuries are the result of the Client's negligence.

3.4. ***Independent Consultant***. The Consultant acknowledges and agrees that the Consultant is an independent consultant with respect to the Client, and not an employee of the Client. Consultant further acknowledges and understands that the Client will not pay any payroll or other taxes associated with the Consultant Fee and will not provide Consultant with any employee-related benefits, including, without limitation, health insurance benefits, paid vacation, unemployment insurance, disability insurance, retirement benefits or any other employee benefit. This Agreement is not intended, and shall not be construed, to create any relationship between the parties that would allow one party to exercise direction or control over the manner or method by which the other party performs services, duties or obligations under this Agreement. The Client and the Consultant shall monitor the work relationship throughout the term of the contract to ensure that the independent consultant relationship remains as such.

3.5. ***Taxes***. Consultant shall be responsible for payment of all foreign and domestic taxes arising out of the Consultant's activities in connection with this Agreement, including without limitation, sales, goods and services, excise, value added or similar taxes, whether of federal or other jurisdictional level, social security taxes, unemployment insurance taxes, and any other taxes or business license fees as required. Client shall not be responsible for withholding any income or employment taxes whatsoever on behalf of Consultant, and Consultant further agrees to indemnify, defend, and hold Client harmless from and against any claims or action arising out of or relating to Consultant's failure to withhold such taxes on behalf of Consultant or Consultant's employees.

ARTICLE IV:
REPRESENTATIONS, WARRANTIES & DISCLAIMERS

4.1. ***No Fiduciary Relationship***. The Client and the Consultant are not fiduciaries, partners, joint venturers, or agents of the other in any sense and neither will have the power to bind the other.

4.2 ***Consultant's Representations and Warranties***. The Consultant represents and warrants to the Client that there are no other agreements, court orders, or other legal obligations that would preclude or in any manner restrict the Consultant from: (a) negotiating and entering into this Agreement; (b) exercising its rights under this Agreement; and/or (c) fulfilling its responsibilities under this Agreement. The Consultant represents and warrants that the Consultant has the sole authority to execute this Agreement without the consent of any other person or entity.

4.3. ***Client's Representations and Warranties***.

4.3.1. ***Participation and Disclosure***. The Client shall fully participate in conceptual development and shall furnish Consultant with any requested information needed for or affecting the completion of work, including any plans known to exist, letters, and official or legal documents. If the project comes under the design constraints imposed by CC&Rs of a Home Owner's Association, the Client must submit a copy of such along with any other relevant written documentation.

4.3.2. ***Reasonable Time***. The Client, or a designated representative who acts on behalf of the Client, shall render decisions, with respect to details of the Scope of Services, to the Consultant in a timely manner to avoid unreasonable delay in the orderly and sequential progress of the Consultant's services. If attempts to communicate go unanswered for five days or more, work stops. Once communications are restored, work will be completed behind other work which may have taken precedence in the interim.

4.3.3. ***Third Party Delays***. Client acknowledges that governmental agencies which may be required to approve certain aspects of the work performed as part or all of the Scope of Services set their own pace with no guarantee of a schedule or timely responses, and that those responses may create a delay beyond the Consultant's control.

4.3.4. ***Limitation of Liability***. To the fullest extent permitted by law, the total liability, in the aggregate, of Consultant, Consultant's officers, directors, partners, employees, agents, and subconsultants, to Client, and anyone claiming by, through, or under Client for any claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to this Project or Agreement from any cause or causes, including but not limited to negligence, professional errors and omissions, strict liability, breach of contract, or breach of warranty, shall not exceed the total fee for services rendered on this project.

ARTICLE V:
INTELLECTUAL PROPERTY

5.1. ***Use of Name and Likeness.*** Client hereby grants to the Consultant a limited right to use the Consultant's name and/or likeness for purposes of promoting, distributing, or otherwise using the work produced

by Consultant pursuant to this Agreement.

5.2. ***Ownership of Work Produced.*** All notes, drawings, designs and technical data developed by the Consultant in connection with or pursuant to the terms of this Agreement shall become and/or remain the exclusive property of the Client, and the Client shall have the exclusive right to use and disclose them for any purpose. Upon completion of the Scope of Services or earlier termination of this Agreement in accordance with Article VII, the Consultant agrees to promptly deliver to the Client all materials, including all copies thereof, that are in the Consultant's possession or under its control that were developed in connection with this Agreement.

ARTICLE VII:
TERM AND TERMINATION

6.1. ***Term***. This Agreement shall continue from the Effective Date to the completion of the Scope of Services. Consultant will provide a good faith estimate of expected date of completion.

6.2. ***Termination***. Either party may terminate this Agreement at any time with cause (i.e., material breach of contract) in its sole and absolute discretion; such termination shall be effective immediately upon dispatch of notice or as the parties negotiate. Prior to termination for cause, the terminating party must notify the other party in writing at least ten (10) days in advance, states the reasons why the Agreement should be terminated, and affords the defaulting party an opportunity to cure any alleged default during such ten (10) day notice period. Either party may terminate this Agreement at any time without cause upon sixty (60) days' notice by delivering to the other party written notice of the intent to so terminate. Such notice may be delivered at the party's option, via fax, e-mail, or first class mail. Upon termination by the Client, the following rights and obligations shall apply:

6.2.1. ***Payment of Consultant Fee***. Upon termination, the Client shall pay to the Consultant any portion of the Consultant Fee then owed to the Consultant, calculated up to, but not including, the official date of termination.

6.2.2. ***Cessation of Services***. Upon termination, the Consultant shall immediately cease representing itself as associated with the Client, shall cease providing any of the Scope of Services to the Client, and shall return to Client any and all property or materials belonging to Client.

6.3. ***Termination by Consultant***. If the Consultant makes the determination that a condition material to the performance of this Agreement has changed under any Services Agreement or this Agreement, or that the Client has breached a material term of this Agreement, the Consultant may provide (30) days' notice of its intention to terminate this Agreement. The Consultant agrees, however, to cooperate with the Client in attempting to find a mutually satisfactory resolution to the matter prior to terminating.

6.4. ***Mediation***. Any controversy or claim arising out of or related to this Agreement or the Scope of Work, including, but not limited to, claims for breach of contract, negligence, intentional or unintentional torts, *quantum meruit*, unlawful trade practices, or other statutory violations (collectively "Claims"), must be resolved first by mediation as a condition precedent to commencing arbitration by either party. Unless otherwise agreed, the parties shall engage in non-binding mediation before a mutually acceptable mediator and shall share the mediator's fee and any filing fees equally. If mediation is not successful or the parties agree that mediation would not resolve their dispute, the parties shall resolve any dispute or claim against each other by arbitration according to subparagraph 6.5.

~~6.5. ***Arbitration***. Any Claims not resolved via mediation, shall be resolved by binding arbitration administered by the Arbitration Service of Portland ("ASP"). All parties necessary to resolve such Claims, including but not limited to material suppliers, engineers, architects, construction lenders, bonding companies, and all other related parties involved in the performance of this Agreement or the Scope of Services, shall be made parties to the same dispute resolution process. The demand for arbitration shall be made within a reasonable time after the Claim arose, but in no event after the date when institution of legal or equitable proceeds based on such~~

~~Claim would be barred by the applicable statutes of limitations or ultimate repose. The arbitration shall be conducted by (an) arbitrator(s) mutually agreeable to the parties or, if no such agreement can be reached, by (an) arbitrator(s) selected in accordance with ASP's Rules. The arbitration award shall be final and Judgment upon the award may be entered in any court having jurisdiction pursuant to ORS 36.350 or any successor provision. This Agreement to arbitrate shall be governed by the Uniform Arbitration Act (ORS 36.600, *et seq.*).~~

~~6.6. ***Attorney Fees & Costs***. The prevailing party in any Claim shall be entitled to recovery of its attorney fees, expert fees, legal expenses, costs, and disbursements from the non-prevailing party.~~

ARTICLE VII:
GENERAL PROVISIONS

7.1. ***Remedies Cumulative***. The various rights, options, elections and remedies of the parties hereunder shall be cumulative, and no one of them shall be construed as exclusive of any other, or of any right, priority or remedy allowed or provided for by law and not expressly waived in this Agreement.

7.2. ***Assignment***. The Consultant may not transfer the rights or delegate the duties provided for under the terms of this Agreement without the prior express written consent of the Client, which consent the Client may withhold in its sole and absolute discretion. The Client retains the right to transfer the rights provided for under the terms of this Agreement, without further consent from any other party, at the Client's sole and absolute discretion.

7.3. ***Notice***. Except as otherwise provided herein, any and all notices that either party hereto desires or is required to give to the other party pursuant to this Agreement shall be in writing and delivered in person, sent by overnight courier (with confirmation of delivery) or sent by express, certified or priority U.S. mail postage prepaid (return receipt requested), addressed as follows:

To CONSULTANT:

Cascadia Partners LLC
C.O: Alexander C. Joyce-Peickert
311 NE Monroe St.
Portland OR 97212

To CLIENT:

_Gunnison County_____
__221 N Wisconsin St_____
__Gunnison, CO 81230_____

Or to such other address as the Client or Consultant may, from time to time, designate in writing as its primary address for the purpose of service.

~~7.4. ***Governing Law***. This Agreement shall be construed and interpreted in accordance with and shall be governed and enforced in all respects according to the laws of the State of Oregon, without giving effect to conflicts of laws principles. The Client and the Consultant each agree to the exclusive jurisdiction of any state or federal court within the County of Multnomah, State of Oregon, with respect to any claim or cause of action arising under or relating to this Agreement. The parties each waive any objection based on *forum non conveniens* and waive any objection to venue of any action instituted hereunder.~~

7.5. ***Interpretation***. Plural shall be substituted for the singular form and vice versa in any place or places herein in which the context requires such substitution or substitutions. Each party to this Agreement represents that it has read and understood each provision of this Agreement and has discussed this Agreement

with legal counsel or has been advised to and has been provided the opportunity to discuss this Agreement with legal counsel. The parties hereto therefore stipulate and agree that the rule of construction to the effect that any ambiguities are to be or may be resolved against the drafting party shall not be employed in the interpretation of this Agreement to favor any party against another.

7.6. ***Headings***. The paragraph headings of this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

7.7. ***Severability***. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

~~7.8. ***Attorney's Fees***. If any controversy, dispute, or claim arises between the parties with respect to this agreement, the parties shall make good faith efforts to resolve such matters informally without resorting to litigation. In the event any dispute between the Client and the Consultant should result in litigation, the prevailing party shall be reimbursed for all costs incurred in connection with such litigation, including, without limitation, reasonable attorneys' fees and costs.~~

7.9. ***Waiver***. The parties hereby covenant and agree that no waiver at any time of any of the provision(s) hereof shall be construed as a waiver at any subsequent time of the same provision(s).

7.10. ***Time***. Time is of the essence of this Agreement and all of the terms and conditions hereof.

7.11. ***Entire Agreement***. This Agreement, when properly executed by the parties or their authorized agents, shall constitute the only agreement among the parties with respect to the subject matter stated herein and shall supersede all prior agreements between the parties, whether written or oral.

7.12. ***Amendment***. This Agreement may be amended only by a writing executed by all parties hereto.

7.13. ***Counterparts***. This Agreement may be executed in counterparts and all of such counterparts, taken together, shall be deemed part of one instrument. Facsimile and/or electronically transmitted signatures shall be binding for purposes of this Agreement.

7.14. ***No Third Parties***. This Agreement shall inure to the benefit of, and be binding upon, the parties and their respective successors and assigns. There are no third parties to this Agreement and nothing herein is intended for the benefit of a third person.

IN WITNESS WHEREOF, the parties hereto have caused this **CONSULTANT SERVICES AGREEMENT** to be executed as of the day and year first above written.

CLIENT:

_____

By: _____
(Signature)

_____
(Print Name, Title)

CONSULTANT:

Cascadia Partners, LLC

By: _____
(Signature)

Alexander C. Joyce-Peickert, Managing Partner
(Print Name, Title)

EXHIBIT "A"
SCOPE OF SERVICES

The Consultant's Scope of Services shall include the following:

Task 1: Engagement/Meetings: CP will participate in three meetings: background meeting, meeting with (land) owners/key stakeholders, and a meeting with the POA.

Task 2: Zoning / Development Regulation Analysis: CP will review the CAMP, make notes (track changes) within the latest draft document, perform up to three pro forma analyses on prototypical building forms that could be built, and summarize findings and recommendations for the POA.

Task 3: Strategic Plan Map: CP will meet with the POA and consultants, understand and document the critical elements of the downtown development vision, and create a map that can serve as a reference for key elements at build-out occurs. The map will be added to a short brochure-style PDF layout that explains the key elements in more detail.

The undersigned parties hereby agree to the foregoing description of the Scope of Services, and that all such information shall be incorporated into and governed by the **AGREEMENT FOR CONSULTANT SERVICES** to which this Exhibit is attached.

CONSULTANT	**CLIENT**
By: _____	By: _____
Alexander C. Joyce-Peickert, Managing Partner (Print Name, Title)	_____ (Print Name, Title)

Consultant Initials: _____

EXHIBIT "B"
CONSULTANT FEE

Crested Butte South	Cascadia Partners				
	Alex Joyce, Managing Partner	Designer	Analyst	Hours	Costs
Hourly Rate	$ 175	$ 125	$ 125		
Task 1: Engagment Meetings	**7**	**-**	**-**	**7**	**$ 1,225**
Task 1.1: Background Info Call	1			1	$ 175
Task 1.2: Owners Meeting	2			2	$ 350
Task 1.3: POA Meeting (including prep)	4			4	$ 700
Task 2: Zoning / Dev Regs Analysis	**20**	**-**	**7**	**27**	**$ 4,375**
Task 2.1: Review CAMP	2		1	3	$ 475
Task 2.2: Pro Forma Analysis	12		6	18	$ 2,850
Task 2.3: Recommended Changes Memo	6			6	$ 1,050
Task 3: Strategic Plan Map	**10**	**8**	**8**	**26**	**$ 3,750**
Task 3.1: Design Strategic Plan Map	6	8		14	$ 2,050
Task 3.2: Strategic Plan Vision Document (Brochure-style Graphically Rich Vision)	4		8	12	$ 1,700
Tasks Total	**37**	**8**	**15**	**60**	**$ 9,350**
Expenses: Travel, Materials, and Data Acquisition					$ -
Total					**$ 9,350**

Consultant shall submit invoices on a monthly or near-monthly basis as Tasks are completed; Client shall pay Consultant within 30 days of the Consultant's submission of an invoice, as described in Article II of the Agreement.

The undersigned parties hereby agree to the foregoing description of the Consultant Fee, and that all such information shall be incorporated into and governed by the **AGREEMENT FOR CONSULTANT SERVICES** to which this Exhibit is attached.

CONSULTANT

By: _____

Alexander C. Joyce-Peickert, Managing Partner
(Print Name, Title)

CLIENT

By: _____

_____
(Print Name, Title)

Consultant Initials: _____

SCOPE OF SERVICES

1. PROJECT DESCRIPTION, OBJECTIVES AND REQUIREMENTS

The Project consists of analysis of the Crested Butte South regulations and development of baseline information for **Gunnison County (Grantee)** to analyze land use regulations County-wide. The analysis will include engagement meetings with the County, POA and commercial area property owners, analysis of zoning and development regulations to include; review of the Crested Butte South Special Area Regulations including the Commercial Area Master Plan, Pro Forma Analysis, Recommended Changes and Strategic Plan Map to identify desired public amenities from POA.

Eligible expenses include **consultant services**.

Grantee shall provide **$5,175 in matching funds** to the Project. State shall reimburse its pro-rata share upon review and approval of the submitted costs and associated supporting documentation, and commensurate progress of the Project.

☐ Construction plans and specifications [shall be –or- have been] drawn up by a qualified engineer or architect licensed in the State of Colorado, or pre-engineered in accordance with Colorado law, and hired by the Grantee through a competitive selection process.

☒ A contract shall be awarded to a qualified firm through a formal RFP or competitive selection process.

Copies of any and all contracts entered into by the Grantee in order to accomplish this Project shall be submitted to the Department of Local Affairs upon execution, and any and all contracts entered into by the Grantee or any of its subcontractors shall comply with all applicable federal and state laws and shall be governed by the laws of the State of Colorado.

2. RESPONSIBLE ADMINISTRATOR

Contractor's performance hereunder shall be under the direct supervision of **Cathie Pagano, Director of Community and Economic Development, (cpagano@gunnisoncounty.org)**, an employee or agent of Grantee, who is hereby designated as the responsible administrator of this Project.

3. TIME OF PERFORMANCE

The Project shall commence upon the issuance of this Purchase Order and shall be completed on or before **January 31, 2019**.

4. BUDGET

Budget Line/Project Activities	Total Cost	State Funds	Other Funds	Other Fund Source
Consultant Services	$10,350	$5,175	$5,175	Grantee
Total	$10,350	$5,175	$5,175	