AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Consulting Agreement; David Baumgarten; Temporary

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Agreement for D. Baumgarten to Consult with Gunnison County Attorney's Office in 2021

Fiscal Impact:

Submitted by: Lauren Hibbard **Submitter's Email Address:** lhibbard@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:

Reviewed by: GUNCOUNTY1\kweak Discharge Date: 12/4/2020

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

Comments:

Reveiwed by: Discharge Date: 12/2/2020 Certificate of Insurance Required Yes ( ) No (●)

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 12/4/2020

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

Agenda Date: 12/8/2020

Revised April 2015

CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT ("Agreement") is entered into this ____ day of December, 2020, by and between the Board of Commissioners of the County of Gunnison, Colorado whose address is 200 E. Virginia, Gunnison, Colorado 81230 ("Gunnison County") and David Baumgarten whose address is P.O. Box 905, Gunnison, Colorado 81230 ("Consultant").

RECITALS

Consultant desires to provide to Gunnison County the temporary professional consulting services of Consultant on an as-needed basis regarding legacy issues involving the office of the Gunnison County Attorney; and

Gunnison County desires to engage Consultant to provide such 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:

I. SCOPE OF SERVICES.

Consultant shall be available to consult as an Attorney with the County Attorney, and with the Deputy County Attorney with the authorization of the County Attorney. Consultant shall not be required to prepare written memoranda, briefs or other written instruments, and shall not be required or authorized to represent Gunnison County in judicial or administrative proceedings without further agreement between Gunnison County and Consultant.

At the sole discretion of the County Attorney, Gunnison County may furnish materials, supplies, equipment and administrative and paralegal staff support to facilitate Consultant to commence, diligently pursue, and complete the Services. Consultant shall maintain his own email address and phone number(s), and is ultimately responsible for all information technology (IT) related to the Services, including the expenses associated with such items. Consultant shall confer with the County Attorney and obtain authorization for the use of any materials, supplies, equipment, and staff before utilizing same.

All Services shall be performed in a professional, timely and complete manner by Consultant and in accordance with generally accepted standards for Consultant's profession and all applicable federal, state and local laws and regulations affecting the Services or the subject matter thereof. Consultant acknowledges that this is a non-exclusive Agreement, and Gunnison County may contract with other providers able to furnish the same or similar services, as it deems appropriate to do so. Similarly, Consultant may

contract with third parties, so long as such arrangements do not create any conflicts of interest.

No Services shall be performed except with the prior authorization of County Attorney and not at the direction of any elected official or other employee.

II. TERM.

The term of this Agreement shall commence on January 1, 2021 and shall terminate on December 31, 2021, unless sooner terminated or amended as provided herein.

III. COMPENSATION, BONUS AND EXPENSES.

In exchange for Consultant's performance of the Services, during the term of this Agreement, Gunnison County shall pay Consultant on or about January 1, 2021, a one-time flat fee of Five Thousand and No/100 U.S. Dollars. If the Services require Consultant to travel outside of Gunnison County, Gunnison County shall pay Consultant One Hundred and No/100 U.S. Dollars per hour ($100/hour) for time spent performing Services. Consultant shall also receive Sixty and No/100 U.S. Dollars per hour ($60.00/hour) for travel time portal to portal; $0.56 or current IRS mileage rate/mile for travel from and return to the Consultant's home to the designated place of work as specified by Gunnison County. Billing to Gunnison County shall be submitted according to Gunnison County's standard policies for Consultants. Such travel may not occur without the express approval of the County Attorney.

The Compensation is intended to be full and complete payment to Consultant for performance of the Services; no other compensation, payment or benefit of any kind shall be due or paid by Gunnison County to Consultant, including but not limited to any costs or expenses associated with Bar dues, continuing legal education, and insurance. Consultant shall not own any rights or intellectual property created or maintained as a result of the Services.

IV. DELEGATION AND ASSIGNMENT.

(a) This is a personal services contract with Consultant and, therefore, Consultant shall not delegate or assign duties under this Agreement except to Consultant without the prior written consent of Gunnison County or its designee.

(b) The terms, covenants and conditions of this Agreement shall be binding on the successors and assigns of either party.

V. 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:	Matthew Hoyt Gunnison County Attorney 200 E. Virginia Ave. Gunnison, CO 81230
Consultant:	David Baumgarten P.O. Box 905 Gunnison, CO 81230

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

VI. STATUS OF CONSULTANT.

(a) It is the intention of Gunnison County and the Consultant that, for the purposes of Services performed pursuant to this Agreement, Consultant, personally shall be entitled to all of the protection and benefits of a public employee of Gunnison County pursuant to the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et. seq., for all work performed pursuant to this Agreement.

(b) Notwithstanding anything in Section VI(a), Consultant acknowledges and agrees that Consultant is not entitled to: (i) unemployment insurance benefits; or (ii) workers compensation coverage; or (iii) any other benefit not specifically identified in this Agreement, from Gunnison County; or (iv) the provisions of the Gunnison County Personnel Policy. Further, consultant is obligated to pay federal and state income tax, and any other applicable taxes, on any and all moneys paid it related to the service, and any insurance, fees or dues deemed necessary by Consultant or required by law or rule.

VII. 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. Nothing in this Agreement shall affect Consultant's status as a former County employee under contract with the Gunnison County Board of County Commissioners, and any rights, duties or entitlements

IX. 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.

IX. 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 District Court governing Gunnison, Colorado.

X. 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.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth below to be effective as of the date first above written.

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

By: _____
Jonathan Houck, Chairperson

ATTEST:

_____
Deputy Clerk

CONSULTANT:

By: _____
David Baumgarten, Attorney