

RFQ# 2026-01
REQUEST FOR QUALIFICATIONS

**ARCHITECTURAL, ENGINEERING, AND PROJECT
MANAGEMENT AND CONSTRUCTION CONTRACT
ADMINISTRATION SERVICES**

- ENHANCED BUS STOP FACILITY DESIGN/BID



GUNNISON VALLEY TRANSPORTATION AUTHORITY (GVTA)

PO Box 1911

507 Maroon Avenue

Crested Butte, CO 81224

January 2, 2026

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LEGAL NOTICE

January 2, 2026

REQUEST FOR QUALIFICATIONS

Architectural, Engineering & Project Management Services

– GVTA Enhanced Bus Stop with Offices –

RFQ # 2026-01

Description:

Architectural, Engineering & Project Management and Construction Contract Administration Services – Enhanced Bus Stop Facility Design/Bid

RFQ Documents:

Available online: <https://www.gunnisonvalleyrta.com/rfq> or request by email: struex@gunnisonvalleyrta.org

Clarifications:

Inquiries are to be submitted to Scott Truex via email at struex@gunnisonvalleyrta.org by 5:00 PM MDT, Friday, **January 12, 2026**. GVTA will post all addenda in response on its website: <https://www.gunnisonvalleyrta.com/rfq> by 5:00 pm MDT, Friday, **January 19, 2026**.

Proposal Submission Deadline:

5:00 pm MDT, Friday, **February 6, 2026** Proposals are to be submitted electronically in native PDF format via email only to Scott Truex at struex@gunnisonvalleyrta.org. No hard copy proposals will be accepted.

Notice to all providers is hereby provided, that in accordance with State and Federal laws, GVTA will ensure that Disadvantaged Business Enterprises (DBEs) are afforded full opportunity to submit offers and responses to this solicitation, and to participate in any contract consummated pursuant to this notice.

Compliance with Federal and State laws on Equal Opportunity will also be required as part of any consideration for the award of this contract. As an equal opportunity employer, GVTA prohibits discrimination on the basis of race, creed, color, religion, age, sex, disability, marital status, sexual orientation, political affiliation, national origin, or ancestry.

GVTA reserves the right to accept any proposal, or any part or parts thereof, or to reject any and all proposals. Accepted proposal(s) are subject to and conditioned upon financial assistance availability from, and concurrence by, the Colorado Department of Transportation (CDOT), who is the primary funder of this project.

SECTION 1 - INSTRUCTIONS TO PROPOSERS

1-1 Purpose

The GVTA Request for Qualifications (RFQ) is to engage the services of a qualified, responsive, and responsible architectural and engineering firm that will provide architectural & engineering services (A&E) and project management and construction contract administration services for a proposed new Enhanced Bus Stop with Offices Facility. The selection of a contractor will be qualification-based in accordance with the Brooks Act.

1-2 GVTA Services and Needs

GVTA was formed in 2002 via a sales tax initiative to fund transportation and is supported by the City of Gunnison, Gunnison County, and the Towns of Crested Butte and Mt. Crested Butte in the State of Colorado. The goal of GVTA is to provide a viable air service program to the Gunnison airport and to fund ground transportation in the Gunnison Valley.

Ground transportation in the Gunnison Valley is provided via free commuter bus service between cities/towns of Gunnison and Crested Butte through a contract with a private transportation provider (Destination Systems, LLC). The route is 32 miles in each direction and circles the City of Gunnison before continuing north on Highway 135 to the Towns of Crested Butte and Mt. Crested Butte. The route connects to the local Crested Butte bus service (Mountain Express) in both towns.

Service is provided seven days a week, 365 days per year, between 5:30AM and midnight. Service levels vary seasonally, with 82 one-way trips in the winter and 366 one-way trips in the spring, summer, and fall. Local residents, visitors, and students use the service to get back and forth between the two ends of the valley for work, recreation, shopping, and for medical reasons, as the route also serves Western State Colorado University in Gunnison.

GVTA intends for this facility to provide a safe, sheltered, and convenient location for passengers to wait for, and connect between, various modes of transportation. No current bus stop in Gunnison has conveniently located year-round public restrooms. This facility will provide restrooms for passengers, drivers, and other transit employees. It will also provide a centralized location for dispatchers, transit supervisors, and other transit employees to work and to provide the public information about transit operations. This facility will help to further increase transit use by residents, employees, and guests of the Gunnison Valley.

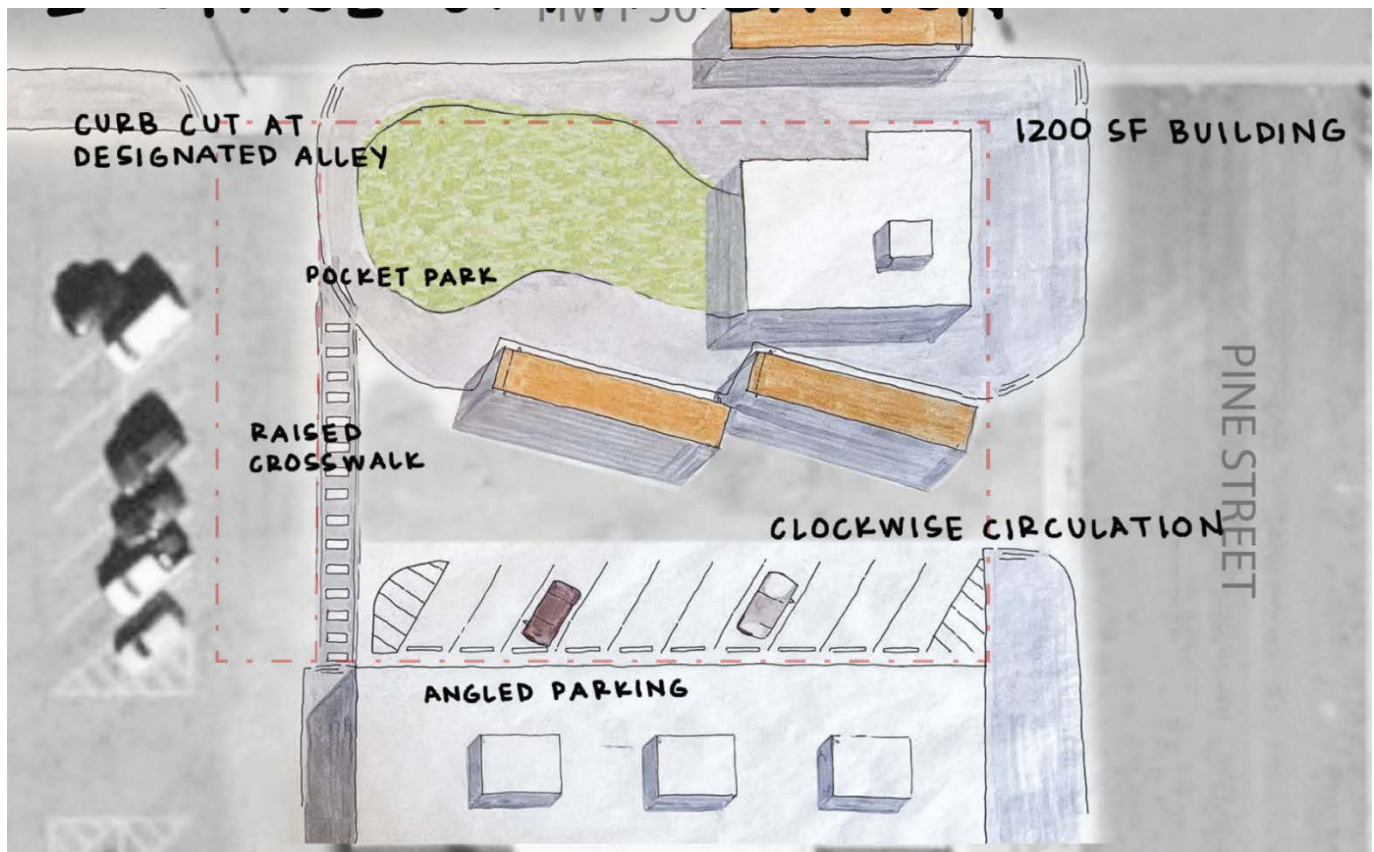
GVTA has been working in conjunction with the Colorado Department of Transportation (CDOT) to locate and build an Enhanced Bus Stop Facility with offices in Gunnison and CDOT has awarded GVTA \$1,000,000 to design and construct the facility.

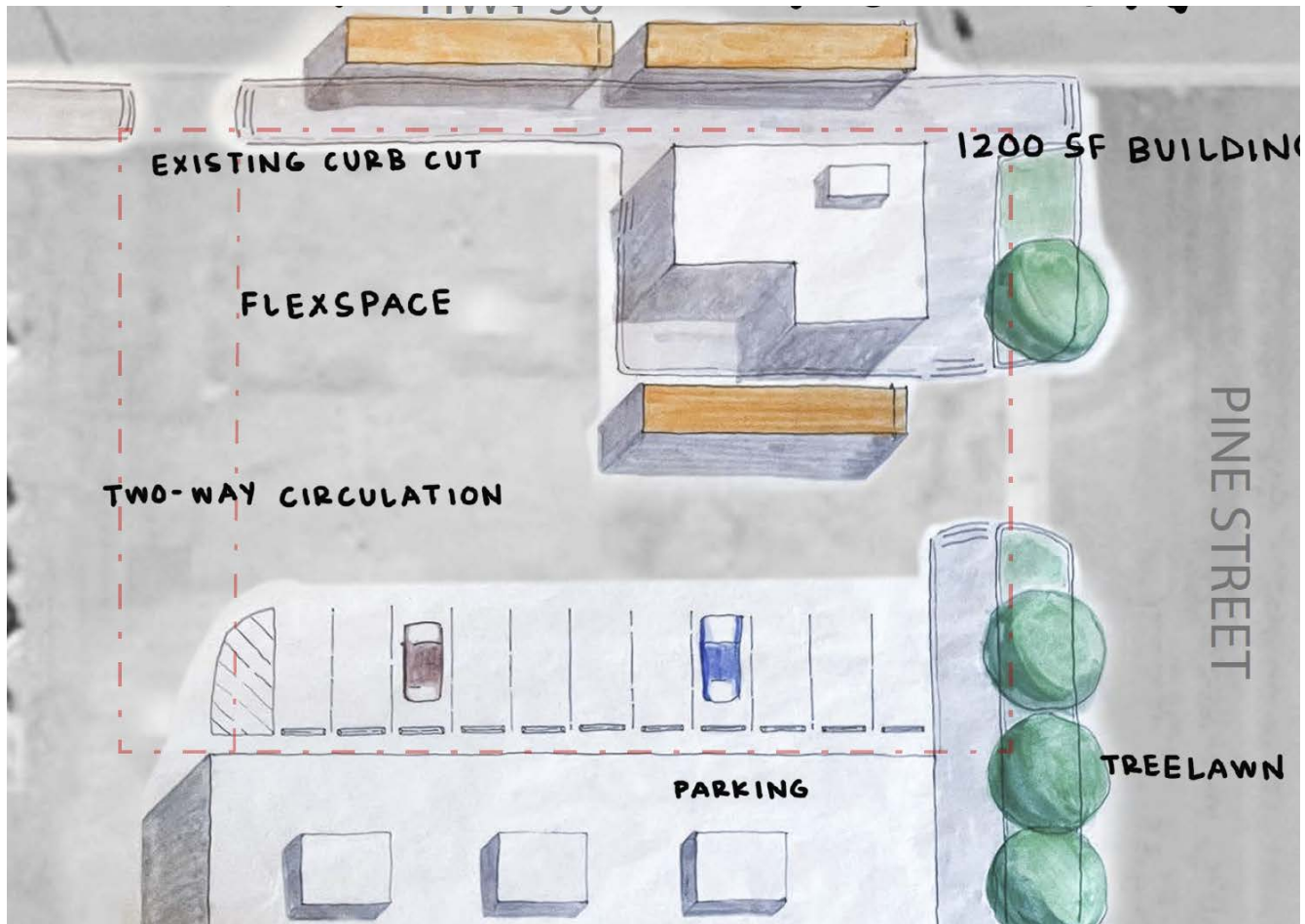
GVTA has already secured a location for the proposed Enhanced Bus Stop Facility. The location will be at 301 W. Tomichi Avenue in Gunnison, Colorado.

The initial concept for the GVTA Facility includes the following:

- o Stick frame or pre-fab building
- o Approximately 1,200 Square Feet
- o Waiting area for passengers
- o Two public restrooms – two stalls each
- o Office space for three employees
 - o Could be one larger space or separate spaces
 - o Window from office space to waiting area for dispatcher to answer questions
 - o One space could be used as a break room
- o Sprinklers to Fire Code
- o Consider two story building if it makes financial sense
- o In-Floor Heat
- o Run Utilities to building
- o Paved Apron and Parking (Approximately 20,000 Square Feet) on *southern* part of property
- o Landscaping on *western* part of property

Below are two possible site development plans.





1-3 Procurement Schedule

RFQ Available:	January 2, 2026
Question/Clarification Deadline:	January 12, 2026
GVTA Question/Clarification Addendum Posted:	January 17, 2026
Proposals Due:	February 6, 2026
Potential Interview(s) Conducted:	February 12-16
Award Recommendation to GVTA Board:	February 20, 2026
Award Notification:	February 25, 2026
Contract Execution/Notice to Proceed:	March 10, 2026

1-4 Inquiries, Questions, and Clarifications

All correspondence should be titled **GVTA Enhanced Bus Stop Facility Design/Bid RFQ # 2026-01**, be in written format, and directed to Scott Truex, GVTA Executive Director, at struex@gunnisonvalleyrta.org. Correspondence will not be accepted by any other means or by any other GVTA related staff member.

1-5 Interpretation of and Addendum to RFQ Documents

No oral interpretations as to the meaning of the RFQ will be made to any proposer. Any explanation desired by a proposer regarding the meaning or interpretation of information provided in the RFQ must be requested in writing and with sufficient time allowed, as defined in 1-3 Procurement Schedule, for a reply to reach all proposers before the submission of proposals.

GVTA reserves the right to revise or amend any portion of this RFQ prior to the date and time for the proposal delivery. Such revisions and amendments, if any, shall be issued through addenda to this RFQ. Copies of such addenda and/or amendments shall be placed on the GVTA website: <https://www.gunnisonvalleyrta.com/rfqs>. All addenda will be furnished as promptly as is practicable and at least seven (7) calendar days prior to the proposal due date. All addenda will become part of the RFQ and any subsequently awarded contract.

Proposers must acknowledge receipt of any addenda issued via **Attachment C – Acknowledgement of Addenda** as part of proposal submission.

If the revisions or addenda require changes in requested information or the format for proposal submission, the established date for submission of proposals contained in this RFQ may be postponed by such number of days as, in the GVTA's opinion, shall enable proposers adequate time to revise their proposals.

GVTA reserves the right to cancel this RFQ at any time or change the date and time for submitting proposals by announcing same prior to the date and time established for proposal submission.

1-6 Proposal Submission

The proposer will submit proposals electronically in native PDF format via email only to Scott Truex, GVTA Executive Director, at struex@gunnisonvalleyrta.org. No hard copy proposals will be accepted.

One original copy of the proposal in native PDF can include all signed affidavits and certifications, or the affidavits and certifications can be submitted in a separate PDF. To satisfy State procurement requirements, documents are to be native PDF and unlocked so that the file can be separated and signed affidavits and certifications can be shared with CDOT as appropriate.

All proposals must be clearly marked as **GVTA Enhanced Bus Stop Facility Design/Bid RFQ # 2026-01** with the time and date proposals are due.

1-7 Proposal Format and Required Content

Proposals shall be prepared in a clear and concise manner. Proposal sections shall be marked/tabbed to coincide with the sections of the RFQ and pages should be numbered in each section.

There is no page limitation or minimum document size, but any information the proposer submits is expected to be concise and relevant to the RFQ. Illustrations may be included in the proposal. Proposals that do not adhere to the required format, are difficult to read, or are deemed illegible by the GVTA may be rejected.

Proposals shall adhere to the following format and contain the following items in the order outlined below:

A. Cover Letter that includes the following information:

1. Identification of the proposer(s), including company/firm name, and name, telephone number, and email address of the appropriate company/firm contact person.
2. Proposed working relationship among proposing companies/firms, i.e. prime-subcontractors, as applicable.

B. Company/Firm Qualifications and Capabilities

1. Name(s) and title(s) of all key personnel proposed for the duration of the project. In the event that interviews are conducted, also provide the designated personnel required to attend. This information should include any subcontractor the proposer has chosen to include, as well as the designation of tasks to the subcontractor's personnel.
2. Brief profile of the proposer company/firm, including principal line of business, year founded, form of organization, and a general description of the company/firm financial condition. Identify any conditions (bankruptcy, pending merger, pending litigation, and/or planned office closures) that may affect the proposer's ability to complete the project.
3. All qualifications and organizational capabilities that will establish the proposer as a satisfactory provider of the required service by reason of its strength and stability.
4. Current information on professional errors and omissions coverage carried by proposer, including name of insurer, coverage limits and deductibles or self-insured retentions.

C. Related Experiences and References

1. Examples of similar contracts the proposer has undertaken (indicating current status of the contract) within the last two years. For each reference cited as related experience, furnish the name, title, email address, and telephone number of the person(s) at the reference organization who is/are the most knowledgeable about the work performed.

D. Technical Proposal

1. Narrative demonstrating understanding of the project.
2. Narrative plan explaining the proposer's project approach, to include a detailed description of the proposer's capability to handle the environmental, civil, structural, mechanical, electrical, plumbing and geotechnical engineering requirements involved with this project.

E. Personnel Availability

1. Narrative description of proposer's current workload and capacity to start work in April, 2026 and complete the work for GVTA in a timely manner.

F. Required Attachments

1. ATTACHMENT A – Proposer Checklist
2. ATTACHMENT B – Proposal Affidavit
3. ATTACHMENT C – Acknowledgement of Addenda
4. ATTACHMENT D – Affidavit of Non-Collusion
5. ATTACHMENT E – Title VI Assurance

1-8 Proposal Signature

Proposals shall include **ATTACHMENT B – Proposal Affidavit** as evidence of the proposer's commitment to bind the company/firm to the terms of the RFQ and potential contract. Proposals signed by an agent are to be accompanied by evidence of that person's authority.

1-9 Interviews & Presentations

GVTA reserves the right to schedule interviews and presentations with proposers after initial review of proposals to allow selected proposers to present approaches to this project in greater detail.

If selected, interviews and presentations would be conducted online via Zoom. The interview and presentation will last approximately one hour, with the presentation portion of the session

limited to 20 minutes. The remainder of the time will be used for follow-up discussion and questions.

1-10 Proposal Acceptance or Rejection

GVTA reserves the right to accept any proposal, or any part or parts thereof, or to reject any and all proposals. Accepted proposal(s) are subject to and conditioned upon financial assistance availability from, and concurrence by, CDOT, who is the primary funder of this project.

1-11 Disadvantaged Business Enterprise (DBE) Participation

Although there is no specific DBE goal for this project, GVTA requests that proposers make every effort to contract with DBEs as appropriate. For proposers to receive credit for the use of a DBE, the Colorado Unified Certification Program (CO-UCP) must certify the proposed DBE company/firm prior to submission of the proposal. Please identify in the **Cover Letter** any use of certified DBEs.

1-12 Examination of RFQ and Contract Documents

Proposers are expected to examine Section 2 - Scope of Work, schedules, compliance requirements, and all instructions. Failure to do so will be at the proposer's risk. It is the intent of these specifications to provide service(s) of first quality. The service(s) proposed must be high quality in all respects. No advantage will be taken by the proposer in the omission of any part or detail which goes to make the service(s) complete. All manner of services not herein contained or specified shall be of the industry standard and shall conform to the best practices known in the industry.

The submission of a proposal shall constitute an acknowledgment upon which GVTA may rely on that the proposer has thoroughly examined and is familiar with the solicitation, instructions and Scope of Work, including any work site identified in the RFQ, and has reviewed and inspected all applicable statutes, regulations, ordinances, and resolutions addressing or relating to the services to be provided hereunder. The failure or neglect of a proposer to receive or examine such documents, work sites, statutes, regulations, ordinances, or resolutions shall in no way relieve the proposer from any obligations with respect to its proposal or to any contract awarded pursuant to this RFQ. No claim for additional compensation will be allowed which is based on lack of knowledge or misunderstanding of the RFQ, work sites, statutes, regulations, ordinances, or resolutions.

SECTION 2 – SCOPE OF WORK

2-1 Project Management

While GVTA is not requiring the proposer to have a physical office in Colorado, the proposer must offer the services of a Licensed Engineer in the State of Colorado and the ability for GVTA to have adequate access to the design team in Colorado, providing some type of physical presence.

The A&E company/firm will manage projects through a process of open and frequent communication. The A&E company/firm will be expected to facilitate regular meetings organized around key deliverables. The A&E company/firm will be able to commit to making staff readily available through the duration of the project.

The A&E company/firm will employ a thorough quality assurance and project management process, which includes multiple levels of review of all draft and final products, as well as meticulous tracking of budget costs. As a result, the A&E company/firm will manage both the budget and the deliverables to maintain project flow and timeliness.

2-2 Project Initiation

To initiate the work, key members of the A&E company/firm team will meet with GVTA staff for a project kick-off meeting to review the scope of work, schedule, and to refine project details. GVTA values the importance of ongoing value-added communication and expects well-established and maintained lines of communication throughout the project. At the kick-off meeting, the A&E firm will:

- A. Clarify project objectives, priorities, and deliverables.
- B. Identify and discuss critical local or regional issues.
- C. Develop a schedule for meetings.
- D. Identify project contacts and establish interface protocols between the consulting team, GVTA, and any other parties that will be involved in the design process.
- E. Discuss data/mapping needs and other resources.
- F. Review the work plan with associated milestones.
- G. Develop a stakeholder and community outreach plan, including objectives, format, and participants.

2-3 Design Development Documents

The A&E company/firm will prepare design development documents for the approved concept, to include the following.

- A. **Geotechnical and Site Survey.** The A&E company/firm is requested to provide site survey and geotechnical services that include:

1. Geotechnical Investigation and Report. The A&E company/firm will obtain test borings in the area of proposed construction. Test borings should be taken in the location of the building and additional borings should be taken at other structural elements and/or retaining wall locations.
 2. A survey including boundary and topographic elements will be provided for GVTA's site.
 3. Additional survey will include the adjacent street, Right of Way, and sidewalk adjacent to the site and shall include survey for anticipated roadway/intersection improvements. All mapping will include contours, site features, roads, structures, existing overhead traffic signals, existing signal equipment, and above and underground utilities.
 4. A hazardous material review of the site will be performed.
- B. Design Development Plans.** The A&E company/firm will provide documents to a 30 percent, a 60 percent and a 90 percent design completion level, that must be approved at each stage by GVTA and the City of Gunnison. This includes the following tasks:
1. GVTA's review of operations and support of permit requests.
 2. Signage and Pavement Marking Layout. Signage and pavement marking plans will be produced for the site and adjacent street network including the proposed site layout, intersection/signal modifications, bus pull-offs, and driveway modifications to the site.
 3. Site specific wayfinding signage should be included both inside and outside of structure.
 4. Erosion and Sediment Control. Provide disturbance limits and identify locations of silt fence, catch basin inserts, and other best management practices (BMP).
 5. Civil Site Plans. Provide Layout Sheet, Grading and Drainage Sheet, General Notes Sheet, and Details Sheet to a 30% design level in full compliance with the Gunnison County's land development standards in preparation for a Building Permit. These plans will include construction on-site and the interface with adjacent street and pedestrian elements to the site.
 6. Drainage, Hydrology, and Hydraulics Calculations. Provide initial calculations and documentation for required water quality devices, detention, site drainage structures, and interface to the existing drainage network at site outfall points.
 7. Required Water Quality. BMP, detention, site drainage, and outfall points will be shown on the Grading & Drainage Sheet.
 8. Utility Coordination and Relocation Plans. Provide waterline and sanitary sewer service line locations and ties to existing adjacent utilities. Provide relocation plans for utilities discovered on-site that conflict with anticipated grading and/or structures.
 9. Facility/Architectural Plans. Provide architectural plans and elevations with overall dimensions and material callouts for the desired facility to a 30% completion level.
 10. Communications Layout - The design of site communications will implement current GVTA standard components with connections using GVTA's communications protocol.

11. A&E company/firm will implement GVTA's standards and designs for any branding or advertising required for the site.
12. Lighting Layouts. Areas of low lighting will be identified and appropriate lighting fixtures designed to fit the community context.
13. Landscaping Layouts. The appropriate level of landscaping for the size of facility, budget, and community context will be provided.
14. Opinion of probable costs.
15. Draft specifications.

2-4 Develop Bid and Final Construction Documents

The A&E company/firm will develop the bid documents incorporating GVTA's comments to a set of 100% complete bid ready and permittable drawings, specifications, and cost estimates.

- A. Architectural. Final floor plans, building sections, wall sections, and details.
- B. Structural. Final foundation and framing plans, sections, and details. Site wall design will be performed in conjunction with information on the completed Grading and Drainage Plan.
- C. Mechanical\HVAC. Final plumbing plans for restrooms, roof and floor drains. HVAC for the restroom structure will be provided.
- D. Communications Layout. The final design of site communications will be completed using GVTA's communications protocol.
- E. Lighting and Electrical. Electrical single line power diagram, building power and lighting plans, site lighting plans, equipment schedules, and details will be provided.
- F. Signage and Pavement Marking Layout. Signage and pavement marking plans will be finalized including construction notes and specifications. Final site-specific wayfinding signage should be included both inside and outside of structures.
- G. Erosion and Sediment Control. Disturbance limits and locations of silt fence, catch basin inserts, and other BMP will be finalized.
- H. The Storm Water Pollution Prevention Plan (SWPPP) for the proposed site will be finalized and a Notice of Intent (NOI) will be submitted.
- I. Civil Site Plans. Provide Layout Sheet, Grading & Drainage Sheet, General Notes Sheet, and Details Sheet to a complete design level in full compliance with the City of Gunnison's land development standards and submitted for a Building Permit. Construction level details notes, and specifications will be added.
- J. Landscape. Final plans and details will be provided.
- K. Drainage, Hydrology, Hydraulics Calculations. Detention and water quality calculations will be finalized for review and approval.
- L. Utility Coordination and Relocation Plans. Construction level details will be added to the utility plans. Permits will be acquired from appropriate utility providers and reviewing agencies.
- M. Architectural renderings will be finalized.
- N. Technical specifications for each discipline and system will be finalized.
- O. The A&E company/firm will coordinate with GVTA on final front end specifications and requirements.
- P. The A&E company/firm will update probable construction costs/engineers estimate.

2-5 Bidding Services

Full Construction Bid Documents will be prepared to allow GVTA to advertise the construction project for competitive bidding. The A&E company/firm will provide copies of the bid documents, distribute the documents to interested firms, and collect the plan deposit. A record of firms that obtained the bid documents (plan holders of record) will be maintained by the A&E company/firm. The A&E company/firm will assist GVTA staff in the review of all bids and make a recommendation concerning contract award. The A&E company/firm will attend pre-bid meeting(s), prepare and distribute bid addenda to all plan holders of record, and attend the bid opening.

2-6 Construction Engineering Assistance / Management Services / Inspection

The A&E company/firm will provide construction management and construction contract administration and assistance based on the needs of GVTA and the complexity of the designed facility. The A&E firm will be required to maintain accurate records and documentation to be in full compliance with the requirements of the designed facility's funding source requirements, which fall under the State of Colorado. The A&E company/firm will have the capabilities to facilitate, manage, and provide oversight for the following tasks:

- A. Preconstruction Meeting
- B. Accurate Records and Documentation of Construction and Materials Required under State of Colorado
- C. Contractor Pay Application Approvals
- D. Weekly/ Biweekly Construction Progress Meetings
- E. Materials Testing / Validation
- F. Limited or Full Time Construction Inspection
- G. Managing Request for Information (RFI)
- H. Manage Change Order Requests
- I. Facilitate and Coordinate Substantial Completion and Final Walkthrough
- J. Preparation of Punch List based on Substantial Completion Walkthrough
- K. Provide and /or Manage the Production of Accurate As-Builts/Record Drawings
- L. Oversee the Collection of Close Out Documentation
- M. Issue Certifications of Substantial Completion and Certifications of Final Completion

SECTION 3 – PROPOSAL SUBMISSION PROVISIONS

3-1 Clarification of Proposals

The GVTA reserves the right to obtain clarification of any point in a proposal or to obtain additional information necessary to properly evaluate a particular proposal. Failure of a proposer to respond to such a request for additional information or clarification may result in proposal rejection.

3-2 Modification or Withdrawal of Proposals and Late Proposals

At any time before the time and date set for final proposal submission, a proposer may request to withdraw or modify its proposal. Such a request must be made in writing by a person with authority as identified on the RFQ Cover Letter, provided his/her identity is made known. All proposal modifications shall be made in writing and submitted in the same format as the original proposal.

3-3 Errors and Administrative Corrections

GVTA will not be responsible for any errors in proposals. Proposers will only be allowed to alter proposals after the submission deadline in response to requests for clarifications by GVTA. GVTA reserves the right to allow corrections to be made that are due to minor administrative errors or irregularities, such as errors in typing, transposition, or similar administrative errors. Erasures or other changes made by the proposer must be initialed by the person signing the proposal.

3-4 Compliance with RFQ Terms and Attachments

GVTA intends to award and negotiate a contract based on the terms, conditions, and attachments contained in this RFQ. Proposers are strongly advised to not take any exceptions and cautioned that exceptions to the terms, conditions, and attachments may result in rejection of the proposal.

3-5 Single Proposal Response

If only one proposal is received in response to the RFQ, a sample of two (2) proposals, if available, awarded to the proposer within the past two (2) years may be requested of the single proposer. A cost/price analysis and/or audit may be performed of the cost proposal in order to determine if the price is fair and reasonable.

3-6 GVTA Protest Procedures

Pre-Proposal Protest

A proposer or interested party may file a written protest of the RFQ language, or procedures involved herein, with the GVTA contact listed in Section 1-4 Inquiries, Questions, and Clarifications, at least five (5) business days before the proposal due date.

Pre-Award Protest

A proposer or interested party may file a written protest with the GVTA contact listed in Section 1-4 Inquiries, Questions, and Clarifications against GVTA's award announcement within ten (10) business days after the notification of a conditional award of a contract by GVTA has been made.

Post-Award Protest

A proposer or interested party may file a written protest with the GVTA contact listed in Section 1-4 Inquiries, Questions, and Clarifications at least five (5) business days after the date of GVTA's issuance of a contract award to a contractor with respect to this RFQ.

Protest Submission Requirements

Each protest must clearly state:

- The name, address, and telephone number of the protester.
- The solicitation/contract number or description thereof.
- A statement of all of the legal and factual grounds upon which the protest is made, to include a description of the resulting prejudice to the protester.
- Copies of relevant exhibits, materials and other documents substantiating the protest.
- Request for a ruling by the Hearing Officer.
- Statement as to the form of relief requested.
- All information establishing that the protester is an interested party for the purpose of filing a protest.
- All information establishing the timeliness of the protest.

Protests are to be in written form and filed by email, return receipt requested to:

Scott Truex
GVTA Executive Director
struex@gunnisonvalleyrta.org

Hearing Procedure

1. A hearing shall be conducted in accordance with Article 109 of the Colorado Procurement Rules Section R-24-109-101 through R-24-109-404-05, as amended, which are incorporated herein, provided that if there is a conflict between Article 109 et al. and these Written Protest Procedures, the latter will prevail. The Hearing Officer shall issue a written decision within twenty (20) calendar days of the last date of such hearing and state in the decision the reasons for the action taken. The Hearing Officer shall respond in detail to each substantive issue raised in the protest.
2. The Hearing Officer shall be the responsible official who has the authority to make
3. the final determination of the protest.
4. The Hearing Officer shall address, in his/her determination, each material issue raised in the protest.

5. The Hearing Officer's determination shall be final and binding upon all parties upon issuance.
6. Within (5) business days from its receipt of the decision of the Hearing Officer, a protester may request reconsideration of the decision, using the same procedure described above. The request for reconsideration shall set forth all of the grounds upon which the request is made.
7. The Hearing Officer shall issue a written decision on the request for reconsideration within ten (10) business days of receipt thereof and state in the decision the reasons for the granting or denial of the request.

SECTION 4 – PROPOSAL EVALUATION AND CONTRACT AWARD

4-1 General

The selection of an A&E company/firm will be qualification-based in accordance with the Brooks Act. Under this procedure, a vendor submits only a technical proposal outlining its qualifications and experience applicable to this solicitation. The vendor does not provide cost data. Following the technical evaluation process, GVTA will select the highest ranked proposer for contract negotiations.

GVTA has selected Proposal Evaluation Committee participants in advance who comprise of GVTA staff and board members.

4-2 Eligibility for Award / Preliminary Proposal Review

A preliminary administrative review of proposal materials is the initial step in the proposal review process in order to gauge the **responsiveness** of the proposer in meeting the RFQ proposal requirements. The proposals will be preliminarily evaluated according to the following criteria:

1. The completeness of the proposal.
2. The proposer has submitted the proposal on or before the required due date and time.
3. The required information, forms, certifications, and deliverables have been submitted.

Failure to meet any or all of the above criteria will result in a non-responsive proposal and said proposal will be rejected in its entirety.

In order to qualify as a **responsible** proposer, a proposer must be prepared to prove to the satisfaction of the GVTA that it has the integrity, skills, and experience to faithfully perform the conditions of the contract and that it has the necessary financial resources to provide the services in a satisfactory manner and within the time specified.

To be considered skilled and experienced, the proposer must show, through submission of **Related Experience and References**, that it has satisfactorily supplied services of the same general type and scope as that which is called for in this RFQ.

The Proposer shall maintain at all times, the necessary licenses, permits, or certifications required to complete work of this nature and may be required to furnish evidence of the same at GVTA request.

4-3 Evaluation of Proposals

All proposal submissions deemed responsive, with proposers deemed responsible, shall be evaluated by the Evaluation Committee. The Evaluation Committee will evaluate the proposals in accordance with the criteria set forth in section 4-4.

The total evaluation points, as separately determined by each Committee member, will be added and each proposer will be ranked in numerical sequence, from the highest to lowest score.

Following the collection of scoring, an Evaluation Committee meeting will be held to complete the evaluation of the submissions. The highest scoring proposer will then be invited to meet with GVTA to begin scope of work and fixed fee negotiations. If a fair and reasonable fee cannot be agreed to between the highest ranked proposer and GVTA, then GVTA staff will meet with the second highest scoring proposer to begin scope of work and fee negotiations. This process will continue on to the third highest scored proposer, etc., until a fair and reasonable scope and fixed fee are agreed to by both parties.

4-4 Scoring and Evaluation Criteria

Each criterion has been assigned a weighting factor that reflects the relative significance or priority each criterion has in determining the quality associated with this service.

The proposal receiving the highest total score shall be deemed the proposal that best meets the established criteria listed herein. Proposals will be rated on a scale from one (lowest rating) to ten (highest rating) with regard to each evaluation criterion. The proposal that is evaluated by an Evaluation Committee member as the best with regard to a particular criterion will receive the maximum number of points or highest rating. Scores for each criterion will then be factored by the weight provided below to determine an overall total score.

The evaluation criteria are listed as follows:

Technical Proposal Components: 40%

The extent to which the A&E company/firm's proposal addresses the key technical areas of importance and tasks as listed in the Scope of Work, and demonstrates a thorough understanding of the project.

Please note, the Evaluation Committee may elect to interview proposers in order to clarify their proposals and/or for the Proposers to make oral presentations. If interviews, presentations, or negotiations are held, the Evaluation Committee may re-evaluate the proposals of those companies/firms interviewed.

Key Personnel/Capacity: 30%

The extent to which the A&E company/firm has the personnel, equipment, capacity, and facilities with the necessary experience and training to perform the work.

Past Performance: 30%

The extent to which the A&E company/firm has demonstrated competence in performing similar work and/or the extent of former client satisfaction.

4-5 Price Proposal

The A&E company/firm that submitted the proposal receiving the highest overall total score will be requested to submit a fixed price proposal. Upon receipt of the price proposal, the GVTA Evaluation Committee will review the proposal and enter into negotiations. If the Evaluation Committee cannot negotiate a fixed price considered fair and reasonable with the highest ranked proposer, negotiations will be terminated and the firm with the next highest ranking will be requested to submit a fixed price proposal.

For work for which hourly billing is appropriate, GVTA and the winning proposer will negotiate rates before the contract is executed. The proposer will be required to submit its audited burdened overhead rates.

4-6 Contract Award

Contract award, if any, will be made by GVTA to the properly licensed, responsible proposer whose proposal best meets the requirements of the RFQ, and will be the most advantageous to GVTA with respect to operational plan, quality, and other factors as evaluated by GVTA. GVTA shall have no obligations until a contract is signed between a proposer and GVTA.

Contract award will occur when GVTA signs the contract or issues a purchase order. No other act of GVTA shall constitute contract award. The contract will establish the contract value and incorporate the terms of this document, but will not be the authorization for the contractor to proceed.

4-7 Execution of Contract and Notice to Proceed

The proposer to whom GVTA intends to award the Contract shall sign the contract and return it to GVTA. Upon authorization by GVTA's Board of Directors, the contract will be countersigned. Upon receipt by GVTA of any required documentation and submittals by the proposer, a Notice to Proceed may be issued, if appropriate.

4-8 Public Disclosure of Proposals – Colorado Open Records Act

GVTA is subject to the Colorado laws in connection with the Colorado Open Records Act (CORA). Therefore, the contents of this RFQ and a proposer's submission in response to this RFQ shall be considered public and are subject to CORA statutes. As such, all proposals submitted to GVTA will be available for inspection and copying by the public after the selection process has been concluded. There are, however, various items that may be exempt under public disclosure laws. If any proprietary, privileged, or confidential information or data is included in a proposer's submission, each page that contains this information or data should be marked as such (e.g., "Proprietary," "Confidential," "Business Secret," or "Competition Sensitive") in order to indicate claims to an exemption provided under CORA. It is GVTA's sole right and responsibility, however, to make the determination whether these items are exempt or not exempt under CORA statutes. All data, documentation, and innovations developed as a result of these contractual services shall become the property of GVTA.

SECTION 5 – CONTRACTUAL TERMS AND CONDITIONS; STATE GRANT AWARD

5-1 Modified AIA B101-2017 Standard Form of Agreement Between Owner and Architect

A copy of the modified AIA B101-2017 Standard Form of Agreement Between Owner and Architect that will be executed by Owner and the selected A&E company/firm for Architectural, Engineering & Project Management and Construction Contract Administration Services for the Project is attached hereto as **EXHIBIT 1** and incorporated herein by this reference (the “Design Agreement”). Significant revisions to the Design Agreement requested by the selected A&E company/firm may result in disqualification.

5-2 CDOT Grant Requirements

The Project will be funded by a combination of state and local funds (“Public Awards”) including a \$1,000,000 grant (“CDOT Grant”) from the Colorado Department of Transportation (“CDOT”). As the recipient of the CDOT Grant, GVTA must comply with the terms and conditions of the CDOT Grant, including without limitation Colorado State requirements and the requirements of the Grant Agreement for the CDOT Grant executed by and between GVTA and CDOT, a copy of which is attached as Exhibit 2 hereto and incorporated herein by this reference (collectively, the “CDOT Grant Requirements”). The CDOT Grant Requirements are also included in the Design agreement. Any awardee under this solicitation must also comply with all CDOT Grant Requirements. Any subawards or contracts entered into by the awardee or its subrecipients or contractors at any tier in connection with the Design Agreement must likewise be in compliance with all applicable CDOT Grant Requirements.

ATTACHMENT A – Proposer Checklist

This form must be completed and returned with the proposal. Failure to return this form may be cause for considering a proposal non-responsive.

Company/Firm Name: _____

	Proposer Check-Off	GVTA Check-Off
Cover Letter	_____	_____
Company/Firm Qualifications & Capabilities	_____	_____
Related Experience / References	_____	_____
Technical Proposal	_____	_____
Personnel Availability	_____	_____
ATTACHMENT A: Proposer Checklist	_____	_____
ATTACHMENT B: Proposal Affidavit	_____	_____
ATTACHMENT C: Acknowledgement of Addenda	_____	_____
ATTACHMENT D: Affidavit of Non-Collusion	_____	_____
ATTACHMENT E: Title VI Assurance	_____	_____

ATTACHMENT B – Proposal Affidavit

The undersigned hereby declares that he/she has carefully read and examined the Legal Notice, the Scope of Work, the RFQ Proposal Submission Requirements, and the Contractual Provisions, and is providing a proposal with all required documents and supporting certificates and affidavits, for the provision of services specified.

Signed: _____

Date: _____

Name and Title: _____

Company/Firm Name: _____

Subscribed and sworn to before me this ____ day of _____, 20____

Notary Public: _____

My commission expires on _____

ATTACHMENT C – Acknowledgement of Addenda

The undersigned acknowledges receipt of the following addenda to this RFQ.

(Include the number and date for each entry.)

Addendum Number _____ Dated_____

Addendum Number_____ Dated_____

Addendum Number_____ Dated_____

Addendum Number_____ Dated_____

Failure to acknowledge the receipt of all addenda may cause the proposal to be considered non-responsive, which will require rejection of the proposal.

Signed: _____

Date: _____

Name and Title: _____

Company/Firm Name: _____

ATTACHMENT D – Affidavit of Non-Collusion

I hereby swear (or affirm) under the penalty for perjury:

1. That I am the proposer (if the proposer is an individual), a partner in the proposal (if the proposer is a partnership), or an officer or employee of the proposing corporation having authority to sign on its behalf (if the proposer is a corporation);
2. That the attached proposal has been arrived at by the proposer independently and has been submitted without collusion and without any agreement, understanding, or planned common course of action with any other proposer or materials, supplies, equipment, or service described in the Request for Qualifications designed to limit independent proposals or competition;
3. That the contents of this proposal has not been communicated by the proposer or its employees or agents to any person not an employee or agent of the proposer or its surety on any bond furnished with the proposal, and will not be communicated to any such person prior to the official opening of the proposal; and
4. That I have fully informed myself regarding the accuracy of the statements made in the affidavit.

Signed: _____

Date: _____

Name and Title: _____

Company/Firm Name: _____

Subscribed and sworn to before me this ____ day of _____, 20____

Notary Public: _____

My commission expires on _____

ATTACHMENT E – Title VI Assurance

GVTA, in accordance with the provisions of the Title VI of the Civil Rights Act of 1964 and the Regulations, hereby notifies all proposers that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit proposal in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- 1) Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- 2) Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- 3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- 4) Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the GVTA or the COLORADO DEPARTMENT OF TRANSPORTATION to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the GVTA, or the COLORADO DEPARTMENT OF TRANSPORTATION as appropriate, and shall set forth what efforts it has made to obtain the information.
- 5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provision of this contract, the GVTA shall impose contract

sanctions as it or the **COLORADO DEPARTMENT OF TRANSPORTATION** may determine to be appropriate, including but not limited to:

- a) Withholding of payments to the contractor under the contract until the contractor complies; and/or
- b) Cancellation, termination, or suspension of the contract, in whole or in part.

6) **Incorporation of Provisions**: The contractor shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the **GVTA** or the **COLORADO DEPARTMENT OF TRANSPORTATION** may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the **GVTA** to enter into such litigation to protect the interests of the **GVTA**, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Signed: _____

Date: _____

Name and Title: _____

Company/Firm Name: _____

EXHIBIT 1

Form of Modified AIA B101-2017 Standard Form of Agreement Between Owner and Architect

[see attached]

AIA[®] Document B101[™] – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the «____» day of «____» in the year 2025.
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

Gunnison Valley Transit Authority
P.O. Box 1911
507 Maroon Avenue
Crested Butte, Colorado 81224
Attn: Scott Truex, Executive Director

and the Architect:
(Name, legal status, address and other information)

for the following Project:
(Name, location and detailed description)

Design, engineering and construction of an Enhanced Bus Stop Facility with offices, public restrooms, passenger seating area and related bus and other vehicle parking and associated site improvements at 301 W. Tomichi Avenue in Gunnison, Colorado.

The Owner and Architect hereby agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1 1 and the attached Exhibits. All Services (as defined herein, below) performed by Architect and all designs developed pursuant thereto shall conform to the requirements of the Agreement and attached Exhibits (collectively the "Agreement"), with Owner approved changes, and all (a) applicable federal, state and local laws, codes, ordinances and regulations ("Applicable Laws") in accordance with the Standard of Care (defined herein, below), and (b) all Project site requirements directed by Owner. In the event that there is any conflict or ambiguity between this Agreement and the Exhibits to this Agreement, then the terms and conditions of this Agreement shall govern. The Architect shall notify the Owner in writing in the event of such conflict.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

The Owner's program consists of the follows:

Full architectural and MEP, civil, structural, environmental and geotechnical engineering services for the design, engineering and construction of the Enhanced Bus Stop Facility with offices, public restrooms, passenger waiting area and related bus and other vehicle parking and associated site improvements.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

The Enhanced Bus Stop Facility will include offices of approximately 1200 square feet (stick frame or pre-fab) and may be 1 or 2 stories, to include in-floor heat, two (2) public restrooms (2 stalls each), passenger waiting area, and office space for three (3) employees. Site is located at 301 N. Tomichi Avenue in Gunnison, Colorado and consists of approximately ____ square feet.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)

The Architect's Services shall be provided in conjunction with the services of a general contractor ("Contractor") to be selected later by Owner through a RFQ/RFP process after Architect's design for the Project has been completed. The delivery method of the Project will be schematic, design development and construction phase documents with a Guaranteed Maximum Price (defined below) at 100% Complete Construction Documents (defined below). The provisions of this Section 1.1.3 shall be interpreted consistently with Section 6.4 and each Subsection thereof, provided, however, that in the event of any conflict between the terms and provisions of this Section 1.1.3 and the terms and provisions of Section 6.4 and each Subsection thereof, the terms and provisions of Section 6.4 and each Subsection thereof, as applicable, shall govern and control.

The Owner's approved budget for the Project consists of the Cost of the Work and Contractor's Fee ("budget" or "approved budget") and is initially established at [\$1,250,000.00] and may be refined in accordance with this Agreement by Owner and the Architect. The contract sum ("Contract Sum") for the Contractor's Work on the Project shall be based on the Contractor's Cost of the Work plus its Fee, with a guaranteed maximum price (the "Guaranteed Maximum Price") to be established in the contract for construction of the Project, modified AIA Document 104-2019 Standard Abbreviated Form of Agreement between Owner and Contractor where the Basis of Payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price ("Construction Contract") between Owner and Contractor. Capitalized terms used herein but not defined herein shall have the meanings given them in the Construction Contract, as modified by such parties, as and when the context so requires.

§ 1.1.3.1 Architect, with input from the Owner, will develop a program (the "Program") for the Project that will establish performance requirements, building square footage, design requirements, project goals and objectives and other specific elements to be incorporated into the Project and will include all required functional programming. Upon Owner's written approval of the Program, Architect shall commence work on the schematic design documents for the Project. Upon Architect's completion of what it believes, in its professional judgment consistent with the Standard of Care (hereinafter defined), are 100% complete Schematic Design Documents (approximately 30% complete Construction Documents) (the "30% Complete Design"), the Architect shall prepare a high level preliminary opinion of probable cost for the Project (the "Preliminary OPC") for Owner's review and approval. Material, equipment and labor costs in such Preliminary OPC will be based on historical cost per square foot data using system studies, area, volume and/or similar conceptual estimating techniques.

Following completion of the Preliminary OPC, Owner's review and approval of the same and provided such Preliminary OPC is trending within the Owner's approved budget for the Project, the Architect will proceed to prepare the Design Development Phase Documents for the Project. Upon Architect's completion of what it believes in its professional judgment, consistent with the Standard of Care, are 100% Complete Design Development Phase Documents (approximately 60% Complete Construction Documents) (the "60% Complete Design"), the Architect will generate a secondary opinion of probable cost (the "Secondary OPC"). Material, equipment and labor costs in such Secondary OPC will be based on historical cost per square foot data using system studies, area, volume and/or similar conceptual estimating techniques. The Secondary OPC will be submitted by Architect to Owner for Owner's review and approval.

Following Architect's completion of the Secondary OPC and provided the same is trending within the Preliminary OPC and the Owner's approved budget for the Project and has been approved by Owner, the Architect will proceed to work on the Construction Documents to the point at which Architect, in its professional judgment consistent with the Standard of Care, believes the Construction Documents are 90% complete (the "90% Complete Design"), at which time the Architect shall generate a third opinion of probable cost of the Project (the "Third OPC"; together with the Preliminary OPC and Secondary OPC, the "OPCs" and each individually an "OPC") for the Owner's review and approval. If the Third OPC is trending within the prior OPCs and Owner's approved budget for the Project and provided Owner approves the same, the Architect shall complete the Construction Documents to one hundred percent

completion (the “100% Complete Construction Documents”) Completion of the 100% Complete Construction Documents may be referred to as the 100% Complete Design (together with the 30% Complete Design, 60% Complete Design and 90% Complete Design, the “Completed Design Phases” and each individually a “Completed Design” or “Completed Design Phase”)

Following Architect’s completion of the fully permitted 100% Complete Construction Documents and provided construction of the Project based on such 100% Completed Construction Documents remains within the Owner’s approved budget for the Project and the OPCs, the Architect shall prepare the Request for Qualifications and Request for Proposal Package (the “RFQ/RFP Package”) for Owner’s review and approval and distribution to prospective general contractors for solicitation of bids for the Work identified and as described in the fully permitted 100% Complete Construction Documents. The Construction Contract will include a contract sum (“Contract Sum”) based on the Cost of the Work plus the Contractor’s Fee with a guaranteed maximum price (the “GMP” or “Guaranteed Maximum Price”).

The GMP for the entire Project shall be undertaken in accordance with Section 6.4 and each Subsection thereof. The Guaranteed Maximum Price is subject to adjustments made pursuant to Change Orders approved by the Owner in accordance with the other terms and conditions of this Agreement.]

»

§ 1.1.4 The Owner’s anticipated design and construction milestone dates:

- .1 Design phase milestone dates, if any:

See **Exhibit B** attached hereto and incorporated herein by this reference (the “Schedule”) for Architect’s schedule for delivery of services.

- .2 Construction commencement date:

«[] [TBD] »

- .3 Substantial Completion date or dates:

«[] [TBD] »

- .4 Other milestone dates:

«See Design Delivery Schedule»

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:

(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Competitive bid

§ 1.1.6 The Owner’s anticipated Sustainable Objective for the Project:

(Identify and describe the Owner’s Sustainable Objective for the Project, if any.)

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner’s Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Gunnison Valley Transit Authority
P.O. Box 1911
507 Maroon Avenue
Crested Butte, Colorado 81224
Attn: Scott Truex, Executive Director

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

»

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1

.2

.3 Other, if any:
(List any other consultants and contractors retained by the Owner.)

« »

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services (hereinafter defined):

.1 Structural Engineer:

«

.2 Mechanical Engineer:

.3 Electrical Engineer:

.4 Plumbing:

.5 Civil Engineer:

.6 Environmental Engineer:

.7 Site Survey:

.8 Geotechnical/Soils:

See Responsibility Matrix, attached hereto as **Exhibit C** and incorporated herein by this reference, for a further description of consultants to be retained by Owner and Architect.

§ 1.1.11.2 Consultants retained under Additional Services:

«N/A »

§ 1.1.12 Other Initial Information on which the Agreement is based:

« »

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall work together in good faith to determine what adjustments, if any, should be made to the Architect's Services, schedule for the Architect's Services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§1.2.1 In the event Contractor makes a claim for an increase in Contract Sum for the Project following its establishment and acceptance by Owner by reason of a claimed change in scope, Owner shall submit such claim to Architect and the Architect shall, as part of its Basic Services hereunder, render to Owner its analysis and interpretation of Contractor's claim for an increase in the Contract Sum for the Project and set forth recommendations as to maintaining the Contract Sum for the Project. If, after Owner's analysis of the Contractor's claim for an increase in the Contract Sum for the Project and Architect's interpretation of such claim, the Owner determines that the Contractor's claim for an increase in such Contract Sum is appropriate due to a change in scope caused by the Architect's acts, errors or omissions, Architect will, as a Basic Service, undertake a redesign of the Work in cooperation with Owner, Contractor and the appropriate subcontractors to bring the Project back within the Owner's approved budget. If the change in scope is due to Owner's changes or Contractor's changes or mistakes, then Architect will undertake a redesign of the Work as an Additional Service.

§1.2.2 The Architect's fee hereunder is not based on the Contract Sum for the Project but rather on the level and scope of the Architect's Basic Services provided by the Architect hereunder and Architect shall only be entitled to an increase in its fee hereunder on the basis that the scope or level of services provided by the Architect hereunder exceeds the scope or level of the services described in the Architect's Basic Services, and then only with the prior written approval of the Owner.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form.

§ 1.3.1 Intentionally Omitted.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement and specified in **Exhibit A** attached hereto (hereinafter referred to as "Services"). To the extent additional Services are properly authorized pursuant to this Agreement, such additional services shall be deemed to be "Additional Services" as set forth in the Agreement, and subject to all provisions hereof regarding performance of Basic Services more fully described in Article 3 herein, below. The term "Services" includes Basic Services and Additional Services. The Architect shall execute the Services described in the Agreement and all Exhibits attached hereto, and reasonably inferable therefrom or a logical extension thereof. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.1.1 Architect represents that it is a business entity that possesses a level of experience and expertise in design, construction, and contract administration of projects of similar or like size, complexity, and nature as the Project. The Architect further acknowledges that the Owner is relying on the Architect's representation that it possesses sufficient skill, knowledge, experience, and ability to fully perform the Architect's Services and obligations under this Agreement, and that it will assign to this Project similarly qualified individual professional architects, managing those professionals as needed.

§ 2.2 The Architect shall perform its Services consistent with the level of professional skill, diligence and care provided by other fully competent, qualified architect and design professionals experienced in performing similar design services on projects of similar complexity and sophistication, in similar locations, for similar clients, and within a similar time frame (“Standard of Care”). The Architect shall perform its Services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.2.1 In the event of any error, omission or inconsistency in the Services provided by or on behalf of the Architect under this Agreement, (a) the Architect shall promptly furnish all professional design services necessary to correct such error, omission or inconsistency at no additional cost to the Owner or adjustment in the time permitted for performance of the Services; and (b) the Architect shall be liable to the Owner for all costs and damages incurred by the Owner on account thereof.

§ 2.2.2 Architect shall coordinate and align its efforts and the performance of its Services with Contractor and Owner and other consultants working on behalf of the Owner, and shall participate in regular communications and Project meetings to achieve an integrated team approach to the design and development of the Project. Architect shall cooperate with Owner’s other contractors, consultants and design professionals with respect to its Services and all work on the Project.

§ 2.2.3 The term “approved” and its derivatives as used in this Agreement in reference to the Owner shall be interpreted to mean either (1) written acceptance, in general concept, by the Owner of a proposal, or (2) written authorization by the Owner to proceed with a particular action, as the case may be. The Owner’s review and approval of any and all Instruments of Service or other matters required herein is not for the purposes of determining the adequacy, accuracy and completeness of such Instruments of Service and other matters and in no way shall create any liability or responsibility on the part of the Owner for errors, inconsistencies or omissions in any approved Instruments of Service. The Architect hereby acknowledges and agrees that any such approval by the Owner is made in reliance on the Architect’s professional skill, judgment and recommendations, without any independent investigation, review or evaluation by the Owner. In no event shall any approval by the Owner relieve the Architect of any responsibility or liability under this Agreement unless such approval is made by Owner against Architect’s written advice.

§ 2.3 The Architect shall identify, in writing to Owner, a representative authorized to act on behalf of the Architect with respect to the Project. Once identified, the designated representative shall not be changed without the Owner’s written authorization, except in the event of the death, disability, or termination of employment of such designated representative.

§ 2.3.1 The Architect shall coordinate with Owner all personnel assigned to and sub-consultants to be engaged on the Project and seek Owner’s approval of such assignments and engagements. The Architect agrees that the key personnel in Architect’s firm who shall be associated with the Services and perform in the capacity described are set forth in **Exhibit D** (“Key Personnel”). The Architect acknowledges and agrees that the services provided by Key Personnel shall be deemed personal services and that the designation and dedication of such Key Personnel and the availability of all Key Personnel to work on the Project is a material inducement to the Owner entering into this Agreement. The Architect shall not change any of the Key Personnel without prior written approval by Owner, unless said personnel cease to be employed by Architect. In either case, Owner shall be allowed to interview and approve replacement personnel. If any designated Key Personnel fails to perform to the satisfaction of the Owner, then, upon written notice, the Architect shall immediately remove that person from the Project. Architect shall within seven (7) days provide a permanent replacement person acceptable to the Owner.

§ 2.4 Except with the Owner’s knowledge and written consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect’s professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance, at its sole cost and expense, for the duration of this Agreement until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability Insurance with limits of not less than «One Million Dollars (\$1,000,000.00) for each occurrence, «Two Million Dollars» (\$2,000,000.00) General Aggregate and «Two Million Dollars» (\$2,000,000.00) Products-Completed Operations Aggregate with a sublimit of \$50,000 for any one fire.

§ 2.5.2 Insurance covering “any auto” or all owned, non-owned, and hired automobiles. Such insurance shall provide coverage not less than that of a standard Insurance Services Office (ISO) Business Auto Coverage policy with limits not less than listed below. Contractual Liability, if not provided in the policy form, is to be provided by endorsement. One Million Dollar (\$1,000,000) Combined Single Limit each occurrence for Bodily Injury and Property Damage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers’ Compensation at statutory limits.

§ 2.5.5 Employers’ Liability with policy limits of not less than One Million Dollars (\$1,000,000) Each Accident for Bodily Injury, One Million Dollars (\$1,000,000) Policy Limit Bodily Injury by Disease; One Million Dollars (\$1,000,000) Each Employee for Bodily Injury by Disease.

§ 2.5.6 Professional Liability insurance coverage in an amount not less than Two Million Dollars (\$2,000,000) per claim, Three Million Dollars (\$3,000,000) in the aggregate. If such insurance is written on a claims made basis, the Architect and its Consultants shall maintain the insurance for the minimum period of the State of Colorado’s applicable statutes of limitation and/or repose after Substantial Completion of the entire Work and have a retroactive date prior to the effective date of this Agreement or the Consultant’s consulting agreement with Architect, as applicable.

§ 2.5.7 Architect shall maintain fidelity and crime insurance including third party client coverage, covering all employees of Architect or its affiliates who handle or have access to funds, with limits of liability of no less than what is required in Section 2.5.1 above, including third party coverage and with deductible of not greater than \$100,000 unless approved by the Owner in writing, in advance.

§ 2.5.8 Architect shall maintain cyber risk insurance with limits of liability no less than what is required in Section 2.5.1 above. Such insurance must cover first and third party losses/liability, where applicable, for data breaches, disclosure of personal information, credit monitoring, data breach response costs, reputational loss, business interruption, business income loss and dependent business income loss, data/network restoration costs, theft of proprietary corporate assets, funds transfer fraud, social engineering, and cyber extortion (ransomware), as well as costs, attorney’s fees, fines, settlements, and judgments resulting from legal or regulatory proceedings.

§ 2.5.9 To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect’s negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner’s insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.10 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

§ 2.5.11 The Architect shall require that any and all of its consultants engaged or employed by the Architect carry and maintain similar insurance with appropriate levels of coverage given the scope of services of such sub-consultants unless otherwise agreed to in writing by Architect and Owner. The Architect and Architect’s consultants shall submit proof of such insurance to the Owner in the form of Certificates of Insurance and original endorsements showing applicable coverage, all of which shall be in force prior to commencement of its and their Services hereunder, at the anniversary date(s) of the first submittal, and at any time when a material change in coverage, carriers, or underwriters

occurs. The maintenance in full current force and effect of such coverages shall be a condition precedent to the Owner's obligation to pay under this Agreement. The insurance policies shall incorporate a provision requiring written notice to the Owner at least thirty (30) days prior to any cancellation, nonrenewal, or material modification of the policies.

§ 2.5.12 All such insurance coverages required of Architect under this Agreement shall be issued by companies authorized to do business in the State of Colorado with an A.M. best rating of A-IX or better.

§ 2.5.13 The policies of insurance for Commercial General Liability and Automobile Liability shall name the Owner, its offices, directors, and employees as additional insureds or loss payees, as their interest may appear, shall state that these coverages are primary as respects the additional insured and shall contain a waiver of subrogation endorsement in favor of the Owner, its offices, directors and employees.

§ 2.5.14 The limits of liability required herein shall be considered the minimum limits acceptable to the Owner and in no way should they be construed to limit the liability of the Architect unless otherwise expressly provided herein.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's "Basic Services" consist of and are defined as those described in this Article 3 and **Exhibit A** hereto and include all professional services necessary for the complete design, engineering and documentation of the Project, including usual and customary structural, civil, mechanical, electrical, plumbing, environmental, and geotechnical engineering services and all other services set forth in this Agreement which are not specifically designated as Additional Services in Article 4 below. The Architect agrees that the compensation for Basic Services set forth in Section 11.1 below constitutes sufficient consideration for the provision of all professional services (including all fees and expenses of Architect's consulting structural, mechanical, electrical, plumbing, environmental, geotechnical and civil engineers and all other consultants) necessary to properly design and engineer the Project and prepare the documents that are necessary for construction, the only exceptions to this being (i) the cost of those services that are provided by third parties and that are expressly designated herein as being the "Owner's responsibility" or are "Owner-provided" and (ii) the cost of those engineering or consulting services that become necessary as a result of a change in Project scope affecting the Architect and that are the subject of a written agreement between the Owner and the Architect. Services not set forth in this Article 3 or in Part I of **Exhibit A** hereto are Additional Services. In the event of any conflict between this Article 3 and **Exhibit A** hereto, the terms and provision of **Exhibit A** shall govern and control.

§ 3.1.1 The Architect shall manage the Architect's Services and the services of its Consultants, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its Services with those services provided by its Consultants and by the Owner, the Owner's consultants and the Contractor. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information. The Architect shall be responsible for coordination and internal checking of all drawings and for the accuracy of all dimensional and layout information contained therein, as fully as if each drawing were prepared by the Architect. The Architect shall coordinate its Services with its Consultants (as defined below) and the consultants retained by the Owner and the Project's Contractor so as to ensure that the Architect's design for the Project is free from overlaps, inconsistencies, gaps or interferences and is fully integrated with and into the design of Owner's consultants and the consultants of others, including the Projects' Contractor. The Owner shall direct its consultants to coordinate services with the Architect.

The Architect's duty to coordinate shall include a review of the services and documentation of the Owner's consultants for general consistency with the Services and documents of the Architect, the Architect's consultants and other consultants retained by the Owner or the Project's contractor. The Architect shall notify the Owner of the Owner's consultants in writing of any noncompliance or inconsistency discovered within three (3) days of discovery. The Architect shall be responsible for the completeness and accuracy of all drawings and specifications submitted to or through the Architect and for their compliance with Applicable Laws and the requirements of all applicable industry

accreditation organizations. Construction Documents may be prepared in media compatible with the Owner's requirements. Elements of the design which are depicted in the plan view are required to be drawn in CAD medium.

3.1.2.1 The Architect's duty to coordinate shall include a review and documentation of the Owner's consultants for general consistency with the Services and documents of the Architect, the Architect's consultants and other consultants retained by the Owner and the Project's Contractor. The Architect shall notify the Owner or the Owner's consultants in writing of any noncompliance or inconsistency discovered within three (3) days following discovery of the same. Architect will promptly advise Owner and the Project Contractor of any inconsistencies, errors or omissions observed by Architect in documents prepared by others, will be responsible for the completeness and accuracy of all drawings and specifications submitted to or through the Architect and for their compliance with Applicable Laws and the requirements of all applicable industry accreditation organizations. The Architect shall at all times remains liable for the acts, errors and omissions of all Consultants at any tier retained by or through Architect for the Project, including any defective or incomplete design or engineering produced or prepared by such Architect-retained Consultants.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's Services. The Schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The Schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project, design activities, document preparation, coordination efforts with other consultants and documentation and printing. The Schedule sets forth the dates on which the Architect plans to complete the schematic design phase, design development phase, construction document phase, and the bidding or negotiations phase. The Architect shall monitor the Schedule for conformance and shall promptly advise the Owner of any delay or potential delays to the approved Schedule. Once approved by the Owner, time limits established by the Schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the Schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities as required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review Applicable Laws applicable to the Architect's Services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's written approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other

documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing. Architect will meet with Owner as necessary to present and review the material, including any cost estimate prepared by Owner's cost estimator or general contractor.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as an Additional Service under Section 4.2

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall assist the Owner in preparing an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall assist the Owner in updating the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner in accordance with the Schedule, advise the Owner of any potential adjustments to the estimate of the Cost of the Work, take any actions required under Section 6.5, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Construction Documents shall describe and reflect the work necessary to permit and construct the Project. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents. If necessary and as a Basic Service, the Architect and/or Architect's consultants shall attend all meetings with governmental authorities as required to obtain appropriate permits.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also

compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements to the subcontractors and sample forms.

§ 3.4.4 The Architect shall consult with and advise the Owner in Owner's efforts to update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner in accordance with the Schedule, provide input to and advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.4 and each Subsection thereof, and request the Owner's approval.

§ 3.4.6 Construction Documents will include all details reasonably necessary (including those reasonably inferable therefrom or a logical extension thereof) to allow an experienced general contractor to bid and construct all components of the Work, and shall include any and all specifications necessary to establish the quality of the supplies and materials to be employed and systems required.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the fully permitted 100% Complete Construction Documents, the Architect shall (1) prepare and distribute the RFQ/RFP Package to prospective general contractors, (2) obtain either competitive bids or negotiated proposals from prospective contractors, subcontractors and suppliers of all tiers; (3) confirm, in consultation with Owner, responsiveness of bids or proposals; (4) assist Owner in determining the successful bids or proposals, if any; and, (5) assist Owner in awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 procuring the reproduction of Bidding Documents for distribution to the selected Contractor, who will distribute to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Basic Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A104-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor, as modified by Owner and Contractor, all modifications to which shall automatically modify the corresponding provisions of this Agreement unless otherwise agreed in writing by the Owner and the Architect. The Architect shall cooperate fully with Contractor and shall not interfere with or hinder Contractor's performance of its work. Architect shall timely and properly respond to Contractor's inquiries and requests for information.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall have no power, authority, right, or obligation to supervise, direct or control the activities of any contractor or subcontractor, or the Contractor, their agents, servants or employees. The Architect shall be responsible for the Architect's and its employees' and Consultants' at all tiers' acts or omissions, but shall not be responsible for the acts or omissions of the Contractor or of any Subcontractors or other persons or entities not under Architect's control performing any portion of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment. Notwithstanding the foregoing Architect shall, as a part of its Basic Services hereunder conduct six (6) month and eleven (11) month warranty walk-throughs of the Project for purposes of observing the Project's operations and assisting Owner in evaluating any defective Work that may need correction by the Project's Contractor during such Contractor's one (1) year correction period required under the Construction Contract for the Project.

§ 3.6.1.4 During construction, Architect will promptly review and respond to written requests for information and material, product and equipment submittals from the Contractor. Architect will not approve the substitution of specified materials, products or equipment without prior written approval of the Owner. Architect will periodically visit the Project during construction of the Work and advise Owner of the progress and quality of Work completed. During such site visits, Architect will, consistent with the Standard of Care, identify any readily observable deficiencies in the Work, and otherwise determine if the Work is being performed in a manner consistent with the Construction Documents and in compliance with Applicable Laws. Architect will notify Owner and Contractor of any known deviations from the approved schedule for completion of the Work.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to observe and to become familiar with the progress and quality of the portion of the Work completed, and to determine if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. On the basis of the Architect's observations at site visits, the Architect shall keep the Owner fully informed about the progress and quality of the portion of the Work completed, and promptly report in writing to the Owner and Contractor (i) known deviations from the Contract Documents, (ii) known deviations from the most recent construction schedule submitted by the Contractor, and (iii) defects and deficiencies observed in the Work. In the event that the deviations, defects or deficiencies observed may have any future impact on the construction schedule or cost, the Architect shall also notify the Owner and Contractor in writing immediately of such deviations, defects, or deficiencies.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and shall immediately provide the Owner and Contractor written notice of all such occurrences. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work

in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work. The Architect shall submit a written report to the Owner within forty-eight (48) hours following the Architect's taking any action under this Section 3.6.2.2. If costs are associated with the Architect's direction related to this Section 3.6.2.2, the Architect must first receive written approval from the Owner prior to taking any action (in addition to just making observations) under this Section 3.6.2.2.

§ 3.6.2.3 The Architect shall promptly interpret and advise on matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise within three (3) business days following its receipt of such invoice.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from or a logical extension of, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either.

§ 3.6.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents. Any decisions made related to cost, schedule and/or quality shall be in cooperation with the Owner and shall not be binding upon Owner absent Owner's written consent.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. Architect shall review and confirm the amounts due Contractor and issue the certificates for payment within seven (7) calendar days after submission by Contractor of each of its Owner-approved applications for payment. Architect shall be responsible to Owner for any claims or extra costs asserted by Contractor against Owner for Architect's failure to process applications for payment in a timely manner. Architect shall defend and hold Owner harmless from any such claims for failure to process applications for payment in a timely manner, including but not limited to any and all attorneys' fees and expenses incurred by Owner in defending such claims. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect and acceptable to Owner in its reasonable discretion, and (5) adequate documentation backup being provided by the Contractor.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness (but in no event later than ten (10) days following receipt) while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility, except to the extent the Contractor has requested assistance of the Architect to determine dimensions or quantities because of conflicts between the Contract Documents and existing field conditions or because dimensions or quantities in the Contract Documents contain erroneous, inconsistent, or incomplete information for which clarification is necessary. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy and shall coordinate the work of such design professionals with and into the design developed by the Architect pursuant to this Agreement and the other Contract Documents. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, but shall, consistent with the Standard of Care, promptly notify the Owner and Contractor of any errors or omissions in such design professionals' work discovered by the Architect and shall be liable to the Owner for any loss or damage incurred by the Owner as a result of such errors or omissions that are discovered by the Architect and not promptly reported to the Owner and Contractor.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect shall assume and maintain design liability for all drawings and specifications produced or generated by Architect or its Consultants at any level that may be impacted by a request for information. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise within three (3) business days. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information. All supplemental drawings and specifications will be clouded for clarity and ease of recognition. Under no circumstances shall the Contractor, Owner or Owner's Representative, if any, take on or otherwise be responsible for the design liability for the accuracy or completeness of any requests for information or clarifications.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 Subject to Owner's prior written approval, Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution or rejection in accordance with the Contract Documents. The Architect shall review and respond in writing to Change Order requests within five (5) business days following Architect's receipt of such requests, or sooner if feasible.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work. Such records shall be made available to the Owner upon request at no additional cost or expense to the Owner.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected. The Architect and its Consultants shall prepare a separate punch list of incomplete items that are not included in the Contractor's list.

§ 3.6.6.3 Subject to Owner's approval, when Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; (3) temporary and final certificates of occupancy issued by the applicable governmental agency having jurisdiction over the Project and the Work; and (4) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year following the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Intentionally Omitted.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall include the cost of these Additional Services and schedule impact, if any. The Architect shall not proceed to provide the following Additional Services unless and until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a material change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method that have a direct financial impact on the Architect's Services but only to the extent any of the foregoing changes are not required in whole or in part as a result of the Architect's negligence or failure to perform and are not a logical extension of or reasonably inferable from the Initial Information or Owner's program for the Project;
- .2 Services necessitated by the enactment or revision of Applicable Laws, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of Applicable Laws not in force at the start of design or that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Intentionally omitted.

- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 Intentionally Omitted.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Three (3) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 [TBD (TBD)] visits to the site by the Architect during construction
- .3 Three (3) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Three (3) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for Services required under Section 3.6.6.5, those Services that do not exceed the limits set forth in Section 4.2.3, and the six (6) and eleven (11) month warranty walkthrough of the Project (which shall be completed by Architect as part of its Basic Services hereunder), Construction Phase Services provided more than ninety (90) days after the date of Substantial Completion of the Work shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 Intentionally Omitted

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner, with the Architect's input, shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner, with the Architect's input, shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's Services.

§ 5.4 To the extent available, the Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 Intentionally Omitted.

§ 5.6 Intentionally Omitted.

§ 5.7 Intentionally Omitted.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 If additional Owner-provided information regarding the Project (other than that which is listed in this Article) is needed for complete performance of the Architect's Services, the Architect shall notify the Owner in writing as to exactly what additional information is needed and the Architect's basis for that opinion.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests; however, if the need for such Services is the result of the Architect's errors, omissions or nonperformance under this Agreement the cost of the Services shall be the Architect's responsibility.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's Services or professional responsibilities and shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to Architect's Services. Communications by and with the Architect's consultants shall be through the Architect. Architect may communicate directly with the others involved with the Project for the purpose of sharing information, but Architect may only receive authorization with respect to the Services directly from Owner or Owner's designated representative.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's Services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 To the extent Architect actually becomes aware of an inaccuracy in the information provided by the Owner, Architect will promptly notify Owner. Owner makes no representations or warranties, express or implied, to Architect or its Consultants as to the accuracy, completeness or correctness of any reports, plans, specifications, documents and other information provided by Owner to Architect, and Owner hereby disclaims all such representations and warranties, including, but not limited to, any and all express or implied representations and warranties of merchantability, suitability, fitness for a particular purpose and compliance with Applicable Law with regard to any reports, plans and other information provided by Owner to Architect.

§ 5.15 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.16 Within fifteen (15) days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect, and as determined by Owner, and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; compensation for any Project consultants, the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2 and 6.4. Evaluations of (i) the Owner's budget for the Cost of the Work; (ii) the Preliminary OPC; (iii) Secondary OPC; and (iv) Third OPC, each prepared by Architect, represent the Architect's judgment as a design professional. The Architect recognizes that its design directly impacts the Cost of the Work and therefore must be prepared to revise construction documents, at no additional cost or expense to the Owner, to allow the Contract Sum to align with the Owner's budget for the Project at the time the GMP is established by Owner and Contractor for the Project.

§ 6.3 In preparing evaluations of estimates of the Cost of Work, the Architect shall be permitted to take into account contingencies for design, bidding, and price escalation; to recommend what materials, equipment, component systems, and types of construction should be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be recommended to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's evaluation of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate as a Basic Service of the Architect.

§ 6.4 As described in Section 1.1.3, hereof, in order for the Owner to determine if the Project can be constructed for the Owner's approved budget, upon the Architect's achieving what it believes, using its professional skill and judgment and consistent with the Standard of Care, based on the Program requirements and Initial Information, is the 30% Completed Design, 60% Completed Design or 90% Completed Design, as applicable, for the Project, the Architect shall undertake a cost trending analysis of each such Completed Design Phase. Such analysis shall be completed in a mutually agreeable time following Architect's submission of such Completed Design to the Owner, during which time Architect may continue working on the next phase of design in order that the next Completed Design Phase for the Project is timely submitted to the Owner in accordance with the Schedule established on **Exhibit B** hereto.

§ 6.4.1 If following completion of Architect's cost trending analysis at each of the milestones as described in Section 6.4 above, Architect and Owner determine that each Completed Design is trending within the Owner's approved budget and at each of the milestones and the applicable OPCs previously established for the Project by Architect, the Architect shall commence and diligently complete within the Architect's Schedule described on **Exhibit B** hereto the next Completed Design Phase for the Project, which shall coordinate and integrate all necessary design and engineering elements or components of the Architect's Consultants, and be coordinated and integrated with the services of the Owner's separate consultants and any design-build and design-assist subcontractors, if any. Architect and Owner shall fully communicate during the completion of the 100% Complete Construction Documents through meetings and exchange of progress drawings so as to coordinate the Architect's completion of the 100% Complete Construction Documents and so as to maintain the Project within the Owner's approved budget and the OPCs previously established for the Project and minimize, to the extent reasonably possible, any claims for scope increases. Upon completion of the 100% Complete Construction Documents, Architect shall include them in the RFQ/RFP Package prepared by Architect for distribution to and bidding by prospective general contractors. If the results of such bidding and selected Contractor's GMP proposal based thereon indicate that such GMP proposal will remain within the Owner's approved budget and the OPCs previously established for the Project, the Owner and selected Contractor will execute the Construction Contract for construction of the Project incorporating such GMP proposal.

§ 6.4.2 If, following completion of Architect's detailed cost estimates and cost trending analyses, as described in Sections 6.4 and 6.4.1 above, Architect and Owner determine that any Completed Design is exceeding the Owner's approved budget and any OPCs previously established by the Architect for the Project, the Architect shall, as part of its Basic Services hereunder: (i) render an interpretation of the OPCs and trending analysis for the Project and set forth recommendations to the Owner for maintaining the Owner's approved budget, as modified, if appropriate, for the Project; (ii) attend such meetings with the Owner and other parties as may be necessary, in the Owner's judgment, to reach an agreement as to the manner of maintaining any GMP for the Project within the Owner's approved budget and OPCs previously established for the Project, the Architect understanding and acknowledging that its collaboration, coordination and cooperation in this process is critical to the success of the Project, and (iii) when requested by the Owner, undertake and diligently complete within the Architect's Schedule described on **Exhibit B** hereto a redesign of the Project as may be necessary to bring the Cost of the Work back within the Owner's approved budget and the OPCs previously established for the Project, except for scope increases not caused by Architect's failure to comply with the Owner's approved budget and OPCs previously established for the Project. It is the Owner's intent that the

process contained in this Section 6.4.2 shall not delay the Project and the Architect shall use all necessary resources and means to stay within the Architect's Schedule to bring the Cost of the Work for the Project back within the Owner's approved budget and any OPCs previously established for the Project.

§ 6.4.3 Notwithstanding anything to the contrary contained herein, Owner may terminate this Agreement upon notice to the Architect in the event an OPC for the Project established by Architect exceeds any OPC previously generated by Architect for the Project or the Owner's approved budget for the Project, and Owner, in its sole discretion, is not satisfied with the redesign alternatives available to it. In the event of such termination: (i) Architect shall be compensated for the portion of Architect's Service's performed to the date of termination, together with Reimbursable Expenses then due and documented out-of-pocket expenses incurred in closure of the Project files, but the Architect shall not be entitled to compensation for work not performed or for incidental, direct or actual damages, exemplary or punitive damages, or lost profits or other consequential or special damages resulting from or related to such unperformed Work, all of which the Architect hereby expressly waives. Such compensation shall be Architect's sole remedy for termination of the Agreement; and (ii) Architect, upon request of the Owner, shall assign to Owner any subcontracts specified by Owner and grant and assign to Owner any licenses required or necessary to use the Instruments of Service to complete the Project. The provisions of the immediately preceding sentence shall be included in all subcontracts entered into by Architect with its Consultants.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 Plans, drawings, specifications, reports, documents and related materials prepared by the Architect and any other products of the Architect's work (collectively, "Instruments of Service") are Instruments of Service. The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 Upon payment of all amounts due to Architect, the Architect shall assign to the Owner, without reservation, all copyrights to all project-related documents, models, photographs, and other expression created by the Architect. Among those documents are certain "Instruments of Service," including the design drawings and the drawings and specifications that are included in the Contract Documents not including Architect's pre-existing intellectual property. Also, the Owner's obligation to pay the Architect is expressly conditioned upon the Architect's obtaining a valid written comprehensive assignment of copyrights from the Architect's consultants in terms identical to those that obligate the Architect to the Owner as expressed in this subparagraph, which copyrights the Architect, in turn, hereby assigns to the Owner. The Owner, in return, hereby grants the Architect a nonexclusive license to reproduce the documents for purposes relating directly to the Architect's performance of this Project, for the Architect's archival records, and for the Architect's reproduction of drawings and photographs in the Architect's marketing materials. No other project-related documents may be reproduced for any other purpose without the express written permission of the Owner. No other copyrights are included in this grant of nonexclusive license to the Architect. This nonexclusive license shall terminate automatically and immediately upon the occurrence of either a breach of this Agreement by the Architect or the commission by the Architect of a tort or a crime potentially affecting the Owner or the Project. This nonexclusive license is granted to the Architect alone and shall not be assigned by the Architect to any other person or entity. Other provisions of this Agreement notwithstanding, this nonexclusive license shall terminate automatically upon an Architect's assignment of this nonexclusive license to another or Architect's attempt to do so without Owner's prior written consent. However, nothing in this paragraph shall be construed to preclude the Architect from, in turn, assigning to Architect's consultants a nonexclusive license coextensive with the Architect's applying to the documents originally created by that consultant.

§ 7.3 Prior to transfer and assignment of the ownership (including copyrights) of the Instruments of Service to Owner in accordance with Section 7.2 hereof, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing Services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses; provided, however, that the foregoing shall not limit Architect's liability for its own negligence or willful misconduct or for errors or omissions contained in the Instruments of Service, except to the extent such liability directly arises from: (a) any modification of the Instruments of Service by Owner or any third party (including other design professionals) acting at the request of Owner or (b) the negligence of Owner or any third party (including other design professionals) acting at the request of Owner in using or interpreting such Instruments of Service or any request for information concerning such Instruments of Service. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the ownership rights and licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by Applicable Law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in modified AIA Document A104–2017 Standard Abbreviated Form of agreement between Owner and Contractor. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect waives consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This waiver is applicable, without limitation, to all consequential damages due to Owner's termination of this Agreement.

§ 8.1.4 The Architect agrees to the fullest extent permitted by law to indemnify and hold harmless Owner, its officers, directors, agents, and employees (collectively "Related Parties") from and against all third party judgments, liabilities, damages, losses, and expenses, including attorneys' fees and costs, suffered or incurred by Owner and/or any Related Party to the extent caused by or arising out of any of the following: (i) any breach of Architect's obligations under this Agreement, and/or (ii) any negligent errors, omissions, or acts in connection with the performance of the Architect's Services and duties contemplated by this Agreement to be performed by the Architect or any of its Consultants, whether such errors, omissions, or acts are committed by Architect or any Consultants retained by the Architect, or any other agents or employees of Architect or such Consultants or any other parties engaged by Architect in order to discharge its duties hereunder. The indemnification and hold harmless provisions set forth in this Section 8.1.4 shall not preclude or in any manner limit the other rights or remedies Owner may have under this Agreement, at law or in equity against Architect. This indemnity shall survive termination of this Agreement. The amount recoverable by Owner in any event shall not in any way be limited by the amount of insurance required as set forth in this Agreement.

§ 8.2 Mediation

§ 8.2.1 Informal Dispute Resolution. At the written request of either the Owner or the Architect, and as a condition precedent to either mediation or litigation, the parties will attempt to resolve any dispute arising under or relating to this Agreement through the informal means described in this Section. Each party will appoint a senior management representative who does not devote substantially all of his or her time to performance of this Agreement. The

representatives will furnish to each other all non-privileged information with respect to the dispute that the parties believe to be appropriate and germane. The representatives will use commercially reasonable efforts to resolve the dispute without the necessity of any formal proceeding. Formal proceedings for the resolution of the dispute may not be commenced until the earlier of: (i) the designated representatives conclude that resolution through continued negotiation does not appear likely; or (ii) thirty (30) days have passed since the initial request to negotiate the dispute was made; provided, however, that a party may file earlier to avoid the expiration of any applicable limitations period, to preserve mechanic's lien rights, or to apply for interim or equitable relief. Either party may then file for mediation at any time after such date, subject to the terms of Section 8.2.2.

§ 8.2.2 Either party may, within thirty (30) days following the date of Informal Dispute Resolution as required in Section 8.2.1 above, file a Demand for Mediation with the other party. The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the Judicial Arbitrator Group in Gunnison, Colorado in accordance with the American Arbitration Association's Construction Industry Mediation Procedures in effect on the date of the Agreement. A Demand for Mediation shall be made in writing, delivered to the other party to the Agreement. The Demand for Mediation may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Such mediation shall be held for a period not to exceed one (1) day unless otherwise agreed in writing by the parties. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other *(Specify)*

§ 8.3 LITIGATION

§ 8.3.1 Litigation. This Agreement, and all matters interpreting it and arising under it shall be enforced in, and all parties do now submit to, the exclusive jurisdiction and venue of the Superior Court of Gunnison County, Colorado, in the event of any litigation concerning this Agreement, and regardless of where this Agreement may be executed. Each party consents to and agrees to file a general appearance in the event that it receives service of process.

§ 8.3.2 Jury Trial Waiver. To the fullest extent permitted by law, Owner and Architect specifically waive any right to a trial by jury in any court with respect to any contractual, tortious or statutory claim, counterclaim or cross-claim against the other arising out of or connected in any way to the Project or the Contract Documents. The complex commercial and professional aspects of the Agreement make a jury determination neither desirable nor appropriate. Architect shall include this provision in all agreements with its Consultants.

§ 8.3.3 Attorneys Fees. In the event that either party brings legal action to enforce any provision of this Agreement, the prevailing party shall be awarded all of its reasonable costs and expenses, including attorney's fees, incurred by such party in connection with such action, including all attorneys' fees and costs of any associated appeal.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension

of performance of Services under this Agreement. If the Architect elects to terminate or suspend services, the Architect shall give fifteen (15) days' written notice to the Owner before terminating this Agreement or suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's Services. The Architect's fees for the remaining Services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for Services performed prior to notice of such suspension, except to the extent Owner disputes payment for such Services in good faith. When the Project is resumed, the Architect shall be compensated for reasonable and verifiable expenses incurred (at cost) in the interruption and resumption of the Architect's Services. The Architect's fees for the remaining Services and the time schedules shall be equitably adjusted, except when suspension was necessitated by the acts, errors or omissions of Architect or its Consultants at any tier or anyone one else for whom Architect is legally responsible.

§ 9.3 If the Owner suspends the Project for more than one hundred (120 consecutive calendar days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 The Owner may terminate this Agreement upon seven (7) days' written notice should the Architect materially breach the Agreement or fail to perform in accordance with the terms of this Agreement. If the Owner terminates this Agreement for cause, then Architect is not entitled to any further compensation, if any, until the Services are fully completed by Owner and all costs and damages incurred by Owner as a result of the Architect's breach and the termination are fully reimbursed and paid.

§ 9.5 The Owner may terminate this Agreement upon not less than seven (7) days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for Services properly performed prior to termination, Reimbursable Expenses then due, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements. In no event shall Architect be entitled to payment of fees or other compensation on Services not performed or for lost profits or other consequential or special damages resulting from such terminations for convenience.

§ 9.7 Intentionally Omitted.

§ 9.8 Except as otherwise expressly provided herein (including, without limitation, Section 12.1 hereof), this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

§ 10.2 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. The Architect shall not assign or delegate any rights, duties or obligations under this Agreement without the written consent of the Owner, which consent may be withheld in Owner's sole discretion. The Owner shall have the right, without Architect's consent, to assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect, in each case first arising or accruing after such lender's election to assume this Agreement. The Owner shall have the further right to assign this Agreement to any affiliate, subsidiary, or parent company of Owner without Architect's consent. Except as otherwise specifically set forth herein, the Owner shall not assign this Agreement without the written consent of the Architect, which consent shall not be unreasonably withheld, conditioned, or delayed.

§ 10.3 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least five (5) days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least five (5) prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.4 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.5 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.6 If the Architect or Owner receives information specifically designated as “confidential” or “business proprietary,” the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.6.1. This Section 10.6 shall survive the termination of this Agreement.

§ 10.6.1 The receiving party may disclose “confidential” or “business proprietary” information after 7 days’ notice to the other party, when required by law, arbitrator’s order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.6.

§ 10.7 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties’ intentions and purposes in executing the Agreement.

§ 10.8 The Architect’s Services will include the services of the consultants identified in Section 1.1.11 of this Agreement and on **Exhibit E** hereto (the “Architect’s Consultants”). However, acceptance of Architect’s Consultants or approval of new or changed Consultants shall not impose any liability on the Owner for the sufficiency of the Consultant’s services nor diminish the Architect’s responsibility for the work product, acts and conduct of the Consultants and Architect shall be and at all times remain liable for the acts, errors and omissions of its Consultants at all tiers. Each agreement of the Architect with any Consultant shall be in writing, shall be executed within thirty (30) days of the date of this Agreement, shall be assignable to the Owner without the consent of the Consultant, and shall specifically make the Owner an express third party beneficiary thereof. Each of the Consultant agreements shall also require each Consultant to discharge for the benefit of the Owner all of those responsibilities with respect to the work of such Consultant that the Architect agrees to discharge hereunder toward the Owner, including without limitation, the provisions of indemnification of the Owner, maintaining of insurance in the amounts and coverages required by this, compliance of the Consultant’s work with Applicable Laws, project management and collaboration software system, and ownership of documents. Each of the Consultants shall be contractually obligated to perform during each phase of the Architect’s Services those services with respect to such phase, including, without limitation, such Consultants providing construction contract administration services of the same nature and extent required of the Architect as to their respective specialty during the Construction Contract Administration Phase. The Architect shall cause each Consultant to be available during Construction Contract Administration for purposes of rendering interpretations and clarifications regarding the portion of the Construction Documents prepared by such Consultant, as a part of the compensation for the Architect’s Services.

§ 10.9 Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa and the masculine gender shall include the feminine and neuter genders and vice versa.

§ 10.10 Any notice or communication (which shall include, but not be limited to, a consent, an approval, a progress report, a statement or a demand) provided to a party hereto under this Agreement shall be in writing and shall be deemed given: (i) upon delivery, if by hand; (ii) after one (1) business day, if sent by United Parcel Service, Federal Express, or such other recognized express mail or air courier. All Notices hereunder shall be given as follows:

If to the Owner: Gunnison Valley Transit Authority
 P.O. Box 1911
 507 Maroon Avenue
 Crested Butte, Colorado 81224
 Attn: Scott Truex, Executive Director

With a copy to: Polsinelli P.C.
 1401 Lawrence Street, Suite 2300
 Denver, Colorado 80202
 Attn: Paul V. Franke

If to the Architect: _____

With a copy to: _____

§ 10.11. The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not in any way affect the meaning or interpretation of this Agreement.

§ 10.12 Any failure of any of the parties to comply with any obligation, covenant, agreement or condition herein may be waived by the party or parties entitled to the benefits thereof only by a written instrument signed by the party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure of the same or any other obligation, covenant, agreement or condition.

§ 10.13 This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this document by facsimile or other generally accepted electronic means (i.e., PDF signature) shall be effective as delivery of a manually executed counterpart of this document.

§ 10.14 The Architect and the Owner agree that all Services, if any, performed by the Architect in connection with the Project prior to the execution of this Agreement are subject to the provisions of this Agreement.

§ 10.15 This Agreement and the Exhibits contain the entire understanding between the parties hereto with respect to the subject matter hereof. All previous contracts or agreements between Architect and Owner are hereby superseded by the terms of this Agreement and in the event of a conflict between the terms and provisions of a previous contract or agreement and the terms and provisions of this Agreement, the terms and provisions of this Agreement shall prevail or govern. Except as otherwise expressly stated herein, in the event of a conflict between the provisions of any Exhibit and this Agreement, this Agreement shall govern.

§ 10.16 The Architect is performing the Services under this Agreement as an independent contractor and not as an employee, agent, partner, or joint venturer with the Owner. It is understood and agreed that the Architect and its Consultants, together with their agents, servants, and employees, is at all times acting as an independent contractor, and that neither has any express or implied authority to assume or create any obligation or responsibility on behalf of, or in the name of, the other party. The Architect shall satisfy all tax and other governmentally-imposed responsibilities with regard to its own personnel, including, but not limited to, payment of social security taxes, workers' compensation, self-employment taxes, and all other payroll taxes.

§ 10.17 To facilitate the execution of the Project, the Owner and other parties performing work and services in connection with the Project shall, as requested by the Owner, have access to electronic files or, at the Owner's option, CAD files. The Owner recognizes that the CAD files are furnished for the convenience of the Owner and they do not supersede or replace information contained on the record hard copies of the documents as issued by the Architect.

§ 10.18 All matters that relate to the termination or expiration of the Agreement, that relate to ownership of Instruments of Service, as well as all rights and obligations of the parties hereto that may by their nature be expected to survive any termination or expiration of this Agreement, such as, but not limited to, requirements for insurance, Architect's duty to indemnify, and Architect's liability for defective design or other negligent or intentionally wrongful acts, errors or omissions of the Architect and its Consultants at any time shall, in each case, survive any termination or expiration of the Agreement and shall be given full force and effect notwithstanding any termination or expiration of the Agreement, but such survival shall not operate to extend any applicable statute of limitations or repose.

§ 10.19 Inasmuch as Architect is an independent contractor, it is understood and agreed that Owner is not responsible for verification of the work authorization of the Architect, the Architect's employees and/or any of Architect's Consultants at any tier that are retained by Architect to perform Services in relation to this Agreement. Architect represents, warrants and covenants to and for the benefit of Owner that Architect, its employees and Architect's Consultants at any tier and their employees are each authorized to work and are not acting, and will not act at any time during the term of this Agreement, in violation of (a) the Immigration Reform and Control Act of 1986 and/or any amendments and regulations existing thereunder; (b) the immigration laws of any country in which the work under this Agreement is to be performed; and/or (c) the requirements of any other Applicable Laws prohibiting or regulating the employment undocumented workers. Architect shall defend, indemnify and hold Owner harmless against any and against any and all fines, penalties, costs, attorneys' fees and/or other outlays which are incurred because of Architect's or its Consultants' (at any tier) breach of this Section.

§ 10.20 In connection with the performance of Services under this Agreement, the Architect agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation, against any person otherwise qualified on the basis of race, color, religion, national origin, gender, gender variance, age, military status, sexual orientation, marital status or physical or mental disability; and further agrees to insert the foregoing provision in all agreements with its Consultants.

§ 10.21 Neither party to this Agreement shall use the name of the other party in any advertising, marketing or promotional materials without the express written consent of the other party.

§ 10.22 Time is of the essence in the performance of all of the Architect's and its Consultants' covenants, obligations, terms, conditions and other provisions under this Agreement and all of the other exhibits, schedules, addenda and attachments to this Agreement.

§ 10.23 The Owner and the Architect agree that this Agreement and all exhibits and attachments thereto shall not be subject to any rule of contract interpretation or construction requiring that, in the event of ambiguity, the same be construed against the drafting party, and the parties hereto hereby waive the benefit of any such rule of contract interpretation or construction.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum

(Insert amount)

« »

.2 Intentionally Omitted
(Insert percentage value)

.3 Intentionally Omitted
(Describe the method of compensation)

« »

§ 11.2 Intentionally Omitted.

« »

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

« »

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect with no mark-up.
(Insert amount of, or basis for computing, Architect's consultants' compensation for Additional Services.)

« »

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Programming Phase	« »	percent (	« »	%)
Schematic Design Phase	« »	percent (	« »	%)
Design Development Phase	« »	percent (	« »	%)
Construction Documents Phase	« »	percent (	« »	%)
Procurement Phase	« »	percent (	« »	%)
Construction Phase	« »	percent (	« »	%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 Intentionally Omitted

§ 11.6.1 The Architect shall be entitled to compensation in accordance with this Agreement for all Services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for Services of the Architect and the Architect's consultants are set forth on **Exhibit F** attached hereto and incorporated herein by this reference. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

«See Exhibit F hereto. »

Employee or Category

Rate (\$0.00)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Local transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's or Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect or the Architect's Consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses actually incurred by the Architect and the Architect's Consultants, with no mark-up. The approved budget for such Reimbursable Expenses is \$_____, and in no event shall such Reimbursable Expenses exceed \$_____ -without written authorization from Owner prior to such Reimbursable Expenses being incurred. If Architect fails to obtain Owner's written approval in advance of incurring such Reimbursable Expenses, then Owner shall have no obligation to make payment to Architect for such Reimbursable Expenses. Architect shall provide Owner with written notice when the total Reimbursable Expenses incurred total \$_____.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

« »

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 Intentionally Omitted.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for Services shall be made monthly in proportion to Services performed. Payment of undisputed amounts are due and payable within thirty (30) days following Owner's receipt of an Owner-approved-invoice from the Architect. In the event that Owner fails to make payment when due and owing to Architect, Architect shall provide Owner with written notice and a ten (10) day cure period before Architect may exercise any other rights provided in this Agreement. The Architect shall submit an invoice on or about the twentieth (20th) day of the month, for Services performed during the prior month. The Architect shall submit with each invoice a current, itemized cumulative statement of amounts invoiced, amounts received, reimbursable expenses invoiced and received, all other funds sought and received by the Architect, and remaining contract billing limits. All invoices shall be sequentially numbered with a unique identification number for the Project. When the Owner specifies that a payment is to be applied in satisfaction of a certain invoice or portion of an invoice, the Architect shall apply the payment to the account as specified and shall indicate that specific application on subsequent monthly statements. Amounts not properly paid when due after the expiration of any applicable cure period shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

The lesser of six percent (6%) per annum or the rate allowed pursuant to applicable law.

§ 11.10.2.2 The Owner may withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work if the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and Services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

The Architect hereby waives all rights to payment by the Owner for otherwise reimbursable expenses when (a) the expense was incurred more than ninety (90) days before the date on which the Owner receives the invoice from the Architect initially requesting reimbursement for that expense; or (b) the first invoice for that expense is not accompanied by detailed documentation indicating the Project-related nature of the expense; or (c) that evidence is produced in a form that is inconsistent with the form of the invoice.

§11.10.3 Invoices

- .1 The Architect will provide with each invoice copies of receipts for Reimbursable Expenses. Each invoice for Reimbursable Expenses will provide descriptions of the expenses incurred.
- .2 Each invoice for fees will provide detailed descriptions of Services performed as Basic Services and Additional Services on an hourly rate basis and percentage of completion of Services performed on a lump sum basis including cumulative totals. Time shall be billed in not more than tenth (10th) of an hour increments.
- .3 If requested by the Owner, the Architect's invoice shall include a current architect's lien waiver (conditional and unconditional) in the form reasonably satisfactory to Owner and a duly executed and acknowledged sworn statement indicating all consultants with whom the Architect has entered into a contract, the amount of such contract, and the amount requested for such progress payment. At Owner's sole election, Owner may also require executed lien waivers (both conditional and unconditional) from any or all of Architect's Consultants, all of which shall be in form and content reasonably satisfactory to Owner.
- .4 Invoices for reimbursable expenses received more than ninety (90) days after the date on which such expenses were incurred by Architect will not be reimbursed by Owner.

§11.10.4 PAYMENT OF CONSULTANTS

The Architect agrees to promptly pay any and all sums due and owing to the Consultants for their work in connection with the Project when payment is made by the Owner, subject to the terms and conditions of the Architects' Agreements with its Consultants. In the event any mechanics' lien is filed by an Architect's Consultant against Owner or the Project in any circumstance in which Owner has paid Architect for the Services of such Consultant covered in such mechanics lien filing, the Architect shall indemnify, defend and hold the Owner harmless from and against any and all claims, including but not limited to mechanics' liens, filed or asserted by or on behalf of any of the Architect's Consultants, with respect to nonpayment of fees. At the Owner's request, the Architect will provide documentation of payments by the Architect to Consultants. Owner may also pay Architect's Consultants directly or require dual signature checks in the event of the filing of any such mechanic's lien. In the event any mechanics' lien is filed by an Architect's Consultant against the Owner or the Project in any circumstance in which Owner has paid for the Services of such Consultant covered in such mechanics' lien filing, the Architect shall either furnish the Owner a bond sufficient to discharge such lien or deposit in an escrow approved by the Owner and the Architect a sum sufficient to discharge the lien. Architect shall have the right and opportunity, in cooperation with the Owner, to contest the validity of any such mechanics' lien so long as during the pendency of any such contest, the Architect shall effectively stay or prevent any official or judicial sale of any of the real property or improvements comprising the Project or the property of which it is a part, upon execution or otherwise, and so long as the Architect pays any final judgment enforcing any such mechanics' lien and thereafter procures, within a reasonable time, the record satisfaction thereof; provided that if the Owner's lender(s) shall require release of such lien from the Project as a condition to further disbursement of loan proceeds, the Architect shall cause such lien to be effectively released from the Project as a condition to its right to contest such lien. In the event the Architect should fail to provide a bond or cash escrow as provided above, the Architect shall be obligated to pay and/or refund to the Owner all monies that the Owner may pay in discharging any such lien including all costs and reasonable attorneys' fees incurred by the Owner in settling, defending against,

appealing or in any manner dealing with such lien. In the event a mechanics' lien claim is filed against the Owner or the Project for any Services of the Architect for which the Owner has previously made payment, the Owner shall have the further right to withhold from payments due or to become due to Architect an amount equal to one hundred fifty percent (150%) of the amount of the mechanics' lien claim until the same is released.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

§ 12.1 Owner's Right to Inspect and Audit.

§ 12.1.1 The Owner may inspect, and audit at any time, up to four (4) years after the completion of this Agreement, amounts paid to the Architect for Basic Services, Additional Services or Reimbursable Expenses under this Agreement and may reject any or all such Basic Services, Additional Services or Reimbursable Expenses if they are not in accordance with requirements of this Agreement. Such audits may be conducted by the Owner on a monthly or more frequent basis. The failure of the Owner's representative to inspect or reject any such request for Basic Services, Additional Services or Reimbursable Expenses shall not be construed as an acceptance of such expenses by the Owner.

§ 12.1.2 The Architect shall maintain accurate and complete records for all Basic Services, Additional Services and Reimbursable Expenses incurred in connection with each work assignment, including but not limited to timesheets, invoices, consultant records, and insurance records. Said records shall be maintained in conformance with generally accepted accounting principles and procedures. The Owner reserves the right at any time and from time to time for a period of four (4) years following the Final Completion of the Project, on a quarterly or more frequent basis as required by Applicable Law, to inspect, copy and audit said records, on the Architect's and its Consultants premises, during the Architect's and its Consultants business hours. The terms of this subsection shall appear in all of the Architect's subcontracts. The Owner will give the Architect and its Consultants at least five (5) business days' advance notice of any pending audit.

§ 12.1.4 The Architect and its Consultants shall make available knowledgeable personnel for interviews by the auditor and the Architect and its Consultants must make available reasonable work space for the auditor on their premises.

§ 12.1.5 The Architect and its Consultants shall provide the Owner with copies of records in computer-readable format as well as hard copy.

§ 12.1.6 The Owner may interview any of the Architect's current or former employees during the audit.

§ 12.1.7 Following an inspection or audit requiring corrective action, the Owner shall provide the Architect with a written description of the corrections required by the Owner and the date by which such corrections must be made. The Architect must advise the Owner when the corrections are made in order for the Owner to re-inspect the corrected work.

§ 12.2 Reduction in Scope of Project and Early Termination. Architect acknowledges that the Architect's Services to be provided by Architect and its Consultants are based on calculations and specifications requiring the design and construction of the Project, as more fully described above. Notwithstanding anything to the contrary contained herein or in any of the other documents or agreements executed in connection herewith, including, without limitation, any of the Contract Documents, if the Owner for any reason or no reason desires to reduce the scope of the Project and in connection with such reduction in scope provides Architect with a written request to provide it with an estimate of the cost to re-design the same to Owner's reduced scope, Architect agrees to provide Owner with a written proposal setting forth in detail the cost to undertake such re-design. Such proposal shall be provided to Owner no later than ten (10) days following Owner's written request therefor. If Owner and Architect reach agreement on the cost to re-design the Project and Owner and Contractor have reached agreement on a new Guaranteed Maximum Price for the reduced Project, Owner and Architect shall undertake to execute a new Standard Form of Agreement between Owner and Architect AIA Form B101, 2017 Edition on terms and conditions mutually acceptable to Owner and Architect. In the event Owner is not satisfied, in its sole and absolute discretion, with Architect's proposal to re-design the Project, the Contractor's revised Guaranteed Maximum Price, any other aspect of such Project or the documents and agreements to be executed, delivered and/or produced in connection therewith, or Owner for whatever reason otherwise elects not to proceed with the Project, Owner shall have the absolute and unconditional right to immediately terminate this

Agreement and the Contract Documents. In such event, Architect shall only be compensated for the portion of the Architect's Services performed to the date of termination, together with Reimbursable Expenses then due and payable and documented out-of-pocket expenses incurred in closure of the Project files, but the Architect shall not be entitled to compensation for work not performed or for incidental, direct or actual damages, exemplary or punitive damages, or lost profits or other consequential or special damages resulting from or related to such unperformed Work, all of which the Architect hereby expressly waives. In the event of any termination pursuant to the Agreement, any compensation paid pursuant to this Section shall be deemed a final and complete settlement of all amounts owed to Architect and shall be Architect's sole and exclusive remedy for termination of the Agreement. Any termination of the Agreement pursuant to this Section shall be deemed a termination for convenience in accordance with Section 9.5 hereof, subject, however, to the limitations set forth in this Section.

« »

§ 12.3 TABOR REQUIREMENTS THE PARTIES ACKNOWLEDGE THAT APPROPRIATION OF MONEYS BY THE OWNER IS A GOVERNMENTAL FUNCTION TO WHICH THE OWNER CANNOT CONTRACTUALLY COMMIT IN ADVANCE AND THAT THIS AGREEMENT DOES NOT CONSTITUTE: (I) A MULTIPLE FISCAL YEAR DIRECT OR INDIRECT DEBT OR FINANCIAL OBLIGATION (II) AN OBLIGATION PAYABLE IN ANY FISCAL YEAR BEYOND THE FISCAL YEAR FOR WHICH FUNDS ARE LAWFULLY APPROPRIATED; OR (III) AN OBLIGATION CREATING A PLEDGE OF OR A LIEN ON TAX OR GENERAL REVENUES. IN THE EVENT THAT THE OWNER DOES NOT APPROVE AN APPROPRIATION OF FUNDS AT ANY TIME DURING THE TERM OF THIS AGREEMENT FOR ANY PAYMENT DUE OR TO BECOME DUE FOR A FISCAL YEAR DURING THE TERM HEREOF, OWNER SHALL HAVE THE RIGHT TO TERMINATE THIS AGREEMENT ON THE LAST DAY OF THE FISCAL PERIOD FOR WHICH SUFFICIENT APPROPRIATIONS WERE RECEIVED, WITHOUT PENALTY OR EXPENSE. OWNER MAY TERMINATE THIS AGREEMENT BY GIVING NOTICE IN WRITING THAT (A) FUNDS HAVE NOT BE APPROPRIATED FOR THE FISCAL PERIOD, AND (B) OWNER HAS EXHAUSTED ALL FUNDS LEGALLY AVAILABLE FOR THE PAYMENT. IN SUCH EVENT SUCH TERMINATION SHALL BE DEEMED A TERMINATION FOR CONVENIENCE PURSUANT TO ARTICLE 9 HEREOF FOR WHICH NO FURTHER SUMS SHALL BE DUE OR PAYABLE TO DESIGN-BUILDER, ANYTHING CONTAINED IN THIS AGREEMENT OR THE OTHER CONTRACT DOCUMENTS TO THE CONTRARY NOTWITHSTANDING.

12.4 AGREEMENT SUBJECT TO CDOT GRANT FUNDING REQUIREMENTS. Architect has been advised by Owner that funding for the Project is being obtained, in part, from grant funding from the Colorado Department of Transportation ("CDOT") in furtherance of the Statewide Transit Plan Administered by CDOT. Such grant funding (estimated in the amount of approximately \$1,000,000.00 (the "CDOT Grant Funding")) imposes various contractual, legal and other requirements on Owner, as the grantee and recipient of the CDOT Grant Funding, as well as Owner's contractors, architects, engineers, consultants, vendors and other Project participants receiving the proceeds of such CDOT Grant Funding, including Architect. Accordingly, Architect hereby agrees that, notwithstanding anything to the contrary contained in this Agreement or the other Contract Documents: (i) Architect shall at all times comply with, perform, observe, and be bound all terms, covenants and conditions of the CDOT Grant Funding applicable to it, including, without limitation, those set forth in the Grant Agreement between Owner and CDOT for the CDOT Grant Funding attached hereto as **Exhibit G** and incorporated herein by this reference (the "CDOT Grant Agreement") and Architect shall assume toward Owner all the covenants, obligations and responsibilities that Owner, by the CDOT Grant Agreement, assumes toward CDOT; (ii) CDOT shall be a third party beneficiary of all of Owner's rights, remedies, benefits and privileges under this Agreement; and (iii) in the event of any conflict between this Agreement and the CDOT Grant Agreement, the terms and provisions of CDOT Grant Agreement shall govern and control the respective rights, duties and obligations of the parties hereto. The terms of this Section 12.4 shall survive the termination of this Agreement and/or Substantial Completion of the Work.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™–2017, Standard Form of Agreement Between Owner and Architect
- .2 Exhibits:

(Check the appropriate box for any exhibits incorporated into this Agreement.)

[☐] Other Exhibits incorporated into this Agreement:

(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

Exhibit A	Scope of Services
Exhibit B	Schedule
Exhibit C	Responsibility Matrix
Exhibit D	Architect's Key Personnel
Exhibit E	Architect's Consultants
Exhibit F	Hourly Rate schedule
Exhibit G	CDOT Grant Agreement

- .4 Other documents:

(List other documents, if any, forming part of the Agreement.)

☐ ☐

OWNER:

ARCHITECT:

GUNNISON VALLEY TRANSIT AUTHORITY

By: _____
Title: _____

By: _____
Title: _____

Exhibit A

Scope of Services

This Exhibit A is attached to and forms and integral part of the Standard Form of Agreement between Owner and Architect, AIA Form B101-2017 (the “Agreement”), dated _____, 2025, between Gunnison Valley Transit Authority (“Owner”) and _____ (“Architect”). Capitalized terms used herein but not defined herein shall have the meanings given them in the Agreement.

Basic Services. The scope of Basic Services required of the Architect for the entire Project includes, but is not limited to, the following Services:

Full professional design services are required with all related engineering disciplines and must comply with all obligations and requirements of the governing jurisdictions of the site. These services include, but are not limited, to the following:

1. Full Architectural Services (Program Verification, Concept Design, Schematic Design, Design Development, Construction Documents, Contractor Selection, Bidding and Award and Construction Administration and Close-out)
2. Interior Design
3. Structural Engineering
4. Mechanical and Plumbing
5. Civil Engineering
6. Site Survey
7. Environmental
8. Geotechnical
9. Landscape Architecture
10. Entitlement
11. Fire Protection Engineering
12. Electrical, Lighting & Fire Alarm Engineering
13. Signage and Wayfinding Design
14. Cost Estimating (coordination with Owner)
15. Low Voltage Systems

16. Coordination with User Groups, Owner, and Owners Consultants and Vendors
17. Security

Coordination: Coordination meetings with Owner, other consultants, vendors, and user groups shall be a continuing work item for the Architect from contract execution through programing and conceptual design, schematic design, design development, construction documents, and contractor selection through the construction administration and warranty phase.

Immediately upon execution of the Agreement, the Architect will work to finalize the program/concept with Owner. Once the Architect has confirmed and validated the program plan and concept design, the Owner will release the Architect to move into Schematic Design.

CPM Schedule: Within 1 weeks of receipt of an executed contract, the Architect shall prepare a preliminary integrated Project Design Schedule. This schedule shall show all design phases, identify critical milestone dates, lead time for budget updates and cost trending analysis, including dues dates for the Architect's Preliminary, Secondary and Third Opinions of Probable Cost, Architect and Owner's Consultants' involvement and document coordination, Owner review and approval for each design phase and pricing exercise, print timelines and issue dates to the Owner and potential contractors to whom the RFQ/RFP package will be distributed.

Design Evolution:

Architect will design the Project in accordance with the terms and conditions of the Agreement, including, without limitation, Sections 1.1.3 and 6.4 and Article 3 thereof.. As the design evolves through the completion (Construction Documents), OPCS will be provided by the Architect in accordance with the Agreement to ensure that the Project does not exceed the Owner's approved budget including adequate contingency. Modifications of the drawings and specifications to keep the Project aligned with the budget will be made by Architect throughout design, if required, at no additional cost to the Owner, in accordance with the Agreement and other Contract Documents.

The Architect will work with the Owner to be certain that as the design evolves the Project remains within the Owner's approved budget for the same and within all OPCS generated by Architect during the course of its design and engineering for the Project and in accordance with the Agreement and other Contract Documents, in each case while maintaining the Owner's stated Project goals including schedule, quality, and performance.

The Architect will be expected to provide drawings files using 2024 CAD design software or newer, unless otherwise determined by the Owner.

Project Initiation:

To initiate the work, key members of the Architect's design team will meet with Owner staff for a project kick-off meeting to review the scope of work, schedule, and to refine project details. Owner values the importance of ongoing value-added communication and expects well-established and maintained lines of communication throughout the project. At the kick-off meeting, the Architect will:

- A. Clarify project objectives, priorities, and deliverables.
- B. Identify and discuss critical local or regional issues.
- C. Develop a schedule for meetings.
- D. Identify project contacts and establish interface protocols between the Architect team, Owner, and any other parties that will be involved in the design process.
- E. Discuss data/mapping needs and other resources.
- F. Review the work plan with associated milestones.
- G. Develop a stakeholder and community outreach plan, including objectives, format, and participants.

Design Development Documents:

Architect will prepare design development documents for the approved concept, to include the following.

- A. **Geotechnical and Site Survey.** Architect shall provide site survey and geotechnical services that include:
 - 1. Geotechnical Investigation and Report. Architect will obtain test borings in the area of proposed construction. Test borings should be taken in the location of the building and additional borings should be taken at other structural elements and/or retaining wall locations.
 - 2. A survey including boundary and topographic elements will be provided for Owner's site.
 - 3. Additional survey will include the adjacent street, Right of Way, and sidewalk adjacent to the site and shall include survey for anticipated roadway/intersection improvements. All mapping will include contours, site features, roads, structures, existing overhead traffic signals, existing signal equipment, and above and underground utilities.
 - 4. A hazardous material review of the site will be performed.
- B. **Design Development Plans.** In accordance with Sections 1.1.3 and 6.4 of Agreement, Architect shall provide design and engineering documents to a 30 percent, a 60 percent and a 90 percent design completion level, that must be approved at each stage by Owner and the City of Gunnison. This includes the following tasks:
 - 1. Owner's review of operations and support of permit requests.
 - 2. Signage and Pavement Marking Layout. Signage and pavement marking plans will be produced for the site and adjacent street network including the proposed site layout, intersection/signal modifications, bus pull-offs, and driveway modifications to the site.
 - 3. Site specific wayfinding signage should be included both inside and outside of structure.
 - 4. Erosion and Sediment Control. Provide disturbance limits and identify locations of silt fence, catch basin inserts, and other best management practices (BMP).
 - 5. Civil Site Plans. Provide Layout Sheet, Grading and Drainage Sheet, General Notes Sheet, and Details Sheet to a 30% design level in full compliance with the Gunnison County's land development standards in preparation for a Building Permit. These

- plans will include construction on-site and the interface with adjacent street and pedestrian elements to the site.
6. Drainage, Hydrology, and Hydraulics Calculations. Provide initial calculations and documentation for required water quality devices, detention, site drainage structures, and interface to the existing drainage network at site outfall points.
 7. Required Water Quality. BMP, detention, site drainage, and outfall points will be shown on the Grading & Drainage Sheet.
 8. Utility Coordination and Relocation Plans. Provide waterline and sanitary sewer service line locations and ties to existing adjacent utilities. Provide relocation plans for utilities discovered on-site that conflict with anticipated grading and/or structures.
 9. Facility/Architectural Plans. Provide architectural plans and elevations with overall dimensions and material callouts for the desired facility to a 30% completion level.
 10. Communications Layout - The design of site communications will implement current Owner standard components with connections using Owner's communications protocol.
 11. Architect shall implement Owner's standards and designs for any branding or advertising required for the site.
 12. Lighting Layouts. Areas of low lighting will be identified and appropriate lighting fixtures designed to fit the community context.
 13. Landscaping Layouts. The appropriate level of landscaping for the size of facility, budget, and community context will be provided.
 14. Opinions of probable costs at the intervals and in accordance with the requirements of the Agreement and other Contract Documents.
 15. Draft specifications.

Prepare the RFQ/RFP Package, including Development of Bid and Final Construction Documents

Architect, with Owner's input, will prepare the RFQ/RFP Package to general contractors for construction of the Project, such RFQ/RFP Package to include bidding documents that incorporate Owner's comments to a set of 100% complete bid ready and permittable drawings, specifications, and cost estimates.

- A. Architectural. Final floor plans, building sections, wall sections, and details.
- B. Structural. Final foundation and framing plans, sections, and details. Site wall design will be performed in conjunction with information on the completed Grading and Drainage Plan.
- C. Mechanical\HVAC. Final plumbing plans for restrooms, roof and floor drains. HVAC for the restroom structure will be provided.
- D. Communications Layout. The final design of site communications will be completed using Owner's communications protocol.
- E. Lighting and Electrical. Electrical single line power diagram, building power and lighting plans, site lighting plans, equipment schedules, and details will be provided.
- F. Signage and Pavement Marking Layout. Signage and pavement marking plans will be finalized including construction notes and specifications. Final site-specific wayfinding signage should be included both inside and outside of structures.

- G. Erosion and Sediment Control. Disturbance limits and locations of silt fence, catch basin inserts, and other BMP will be finalized.
- H. The Storm Water Pollution Prevention Plan (SWPPP) for the proposed site will be finalized and a Notice of Intent (NOI) will be submitted.
- I. Civil Site Plans. Provide Layout Sheet, Grading & Drainage Sheet, General Notes Sheet, and Details Sheet to a complete design level in full compliance with the City of Gunnison's land development standards and submitted for a Building Permit. Construction level details notes, and specifications will be added.
- J. Landscape. Final plans and details will be provided.
- K. Drainage, Hydrology, Hydraulics Calculations. Detention and water quality calculations will be finalized for review and approval.
- L. Utility Coordination and Relocation Plans. Construction level details will be added to the utility plans. Permits will be acquired from appropriate utility providers and reviewing agencies.
- M. Architectural renderings will be finalized.
- N. Technical specifications for each discipline and system will be finalized.
- O. Architect shall coordinate with Owner on final front end specifications and requirements.
- P. Architect shall update opinion of probable construction costs/engineers estimates.

Bidding Services:

Full 100% Complete Construction Bid and Permittable Documents shall be prepared to allow Owner to advertise the construction project for competitive bidding. Architect shall provide copies of the bid documents, distribute the documents to interested firms, and collect the plan deposit. A record of firms that obtained the bid documents (plan holders of record) will be maintained by the Architect. Architect shall assist Owner staff in the review of all bids and make a recommendations concerning selection of a contractor for the Project and award of the construction contract for same. Architect shall attend pre-bid meeting(s), prepare and distribute bid addenda to all plan holders of record, and attend the bid opening.

Construction Engineering Assistance/Management and Construction Contract Administration Services/Inspection:

Architect shall provide construction management and contract administration assistance based on the needs of Owner and the complexity of the designed facility. Architect shall be required to maintain accurate records and documentation to be in full compliance with the requirements of the designed facility's funding source requirements, which fall under the State of Colorado. Architect shall have the capabilities to facilitate, manage, and provide oversight for the following tasks:

- A. Preconstruction Meeting
- B. Accurate Records and Documentation of Construction and Materials Required under State of Colorado
- C. Contractor Pay Application Approvals
- D. Weekly/ Biweekly Construction Progress Meetings
- E. Materials Testing / Validation
- F. Limited or Full Time Construction Inspection
- G. Managing Request for Information (RFI)

- H. Manage Change Order Requests
- I. Issue ASIs and PRs
- J. Provide detailed coordination with the Owner's other consultants and vendors and perform other services as required by Owner to complete the construction Project
- K. Facilitate and Coordinate Substantial Completion and Final Walkthrough
- L. Preparation of Punch List based on Substantial Completion Walkthrough
- M. Provide and /or Manage the Production of Accurate As-Builts/Record Drawings
- N. Oversee the Collection of Close Out Documentation
- O. Issue Certifications of Substantial Completion and Certifications of Final Completion

Exhibit B
Design Schedule

Exhibit C

Responsibility Matrix

<u>SERVICE TO BE PROVIDED AND CONSULTANT NAME:</u>	<i>SOLE SOURCED TO ARCHITECT</i>	<i>ARCHITECT HIRES CONSULTANT BASED ON QUALIFIED BIDS</i>	<i>OWNER WILL HIRE DIRECTLY</i>	<i>OWNER WILL EITHER COMPLETE WITH ITS FORCES AND/OR RETAIN OUTSIDE VENDOR WITH EQUIPMENT</i>	<i>DESIGN-BUILD SUB-CONTRACTOR</i>	<i>PART OF ARCHITECT'S BASIC SERVICES</i>
Interior Design:						
Casework: Architect						
Irrigation Design:						
Hardware: Architect						
LEED: Architect						
Specialty Lighting: Architect						
Special Systems:						
Fire Protection Design:						
Site and Bldg Signage and Wayfinding: Architect						
IT (Cable, Satellite Systems, Computers, In-Wall and Above Ceiling Cabling, Printers, Telephones, PVX, Computer Hardware, TVs:						
Security & Safety:						
Building Code Consulting:						
Equipment						
Building Operations & Maintenance: Parking Control						
Phase I Environmental						
Contractor:			X			
Site Survey:						
Low Voltage Systems:						
Geotechnical / Soils:						
Information Technology:						
Parking:						
Traffic:						

All such consultants and contractors shall be mutually acceptable to the Owner and Architect.

Exhibit D

Architect's Key Personnel

Exhibit E

Architect's Consultants

Exhibit F

Hourly Rate Schedule

Exhibit G

CDOT Grant Agreement

EXHIBIT 2

CDOT Grant and CDOT Grant Agreement

[see attached]

STATE OF COLORADO GRANT AGREEMENT
COVER PAGE

State Agency Department of Transportation	Agreement Number/PO Number 26-HTR-ZL-00245 / 491003960
Grantee Gunnison Valley Transportation Authority	Agreement Performance Beginning Date The Effective Date
Grant Agreement Amount Initial Term	Initial Agreement Expiration Date July 31, 2027
SB-267 Funds Maximum Amount	Fund Expenditure End Date July 31, 2027
	Agreement Authority
Total for all Agreement Terms	Authority to enter into this Agreement exists in CRS §§43-1-106, 43-1-110, 43-1-117, 43-2-101(4)(c), 43-4-811(2), SB18-001, SB17-228 and SB17-267.
\$1,000,000.00	
\$1,000,000.00	

Agreement Purpose
The purpose of this Grant is for CDOT to disburse SB-267 Program Funds to Grantee to conduct work within the provisions of this Grant.

- Exhibits and Order of Precedence**
The following Exhibits and attachments are included with this Agreement:
- 1. Exhibit A, Statement of Work and Budget.
 - 2. Exhibit B, Sample Option Letter.
 - 3. Exhibit C, Title VI-Civil Rights.

In the event of a conflict or inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- 1. Exhibit C, Title VI-Civil Rights.
- 2. Colorado Special Provisions in §17 of the main body of this Agreement.
- 3. The provisions of the other sections of the main body of this Agreement.
- 4. Exhibit A, Statement of Work and Budget.
- 5. Executed Option Letters (if any).

Principal Representatives For the State: Brian Saller Division of Transit and Rail 2829 W. Howard Place Denver, CO 80204 brian.saller@state.co.us	For Grantee: Scott Truex Gunnison Valley Transportation Authority P.O. Box 1911 Crested Butte, CO 81224-1911 struex@gunnisonvalleyrta.org
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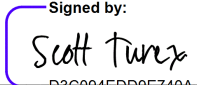
SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that the signer is duly authorized to execute this Agreement and to bind the Party authorizing such signature.

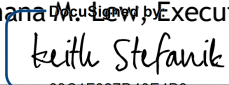
GRANTEE SIGNATURE

Gunnison Valley Transportation Authority

Signed by:

 By: _____
 Name: Scott Turex
 Title: Executive Director
 Date: 10/29/2025

STATE OF COLORADO

Jared S. Polis, Governor
 Department of Transportation
 Shoshana M. Levi, Executive Director

Signed by:

 By: _____
 Name: Keith Stefanik
 Title: Chief Engineer
 Date: 10/29/2025

Second Grantee Signature if needed

By: _____
 Name: _____
 Title: _____
 Date: _____

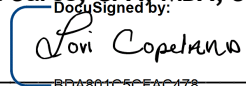
LEGAL REVIEW

Philip J. Weiser, Attorney General

By: _____
 Name: _____
 Title: _____
 Date: _____

In accordance with §24-30-202, C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

Signed by:

 By: Department of Transportation
 Effective Date: 10/29/2025

1. PARTIES

This Agreement is entered into by and between Grantee named on the Cover Page for this Agreement (the "Grantee"), and the STATE OF COLORADO acting by and through the State agency named on the Cover Page for this Agreement (the "State"). Grantee and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and the Grant Funds shall be expended by the Fund Expenditure End Date shown on the Cover Page for this Agreement. The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Grantee for any Work performed or expense incurred before the Effective Date, except as described in **§5.D**, or after the Fund Expenditure End Date. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in **Exhibit A**.

B. Initial Term

The Parties' respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Cover Page for this Agreement and shall terminate on the Initial Agreement Expiration Date shown on the Cover Page for this Agreement (the "Initial Term") unless sooner terminated or further extended in accordance with the terms of this Agreement.

C. Extension Terms - State's Option

The State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for successive periods, of one year or less at the same rates and under the same terms specified in this Agreement (each such period an "Extension Term"). In order to exercise this option, the State shall provide written notice to Grantee in a form substantially equivalent to Sample Option Letter attached to this Agreement.

D. End of Term Extension

If this Agreement approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Grantee in a form substantially equivalent to the Sample Option Letter attached to this Agreement, may unilaterally extend such Initial Term or Extension Term for a period not to exceed two months (an "End of Term Extension"), regardless of whether additional Extension Terms are available or not. The provisions of this Agreement in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement Agreement or modification extending the total term of this Agreement.

E. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, the State, in its discretion, may terminate this Agreement in whole or in part. A determination that this Agreement should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Agreement by the State for Breach of Agreement by Grantee, which shall be governed by **§12.A.i**.

i. Method and Content

The State shall notify Grantee of such termination in accordance with **§14**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Grantee shall be subject to the rights and obligations set forth in **§12.A.i.a**.

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Grantee for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Grantee which are directly attributable to the uncompleted portion of Grantee's obligations, provided that the sum of any and all reimbursement shall not exceed the Grant Maximum Amount payable to Grantee hereunder.

F. **Grantee's Termination Under State Requirements**

Grantee may request termination of this Grant by sending notice to the State, which includes the reasons for the termination and the effective date of the termination. If this Grant is terminated in this manner, then Grantee shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **"Agreement"** means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. **"Breach of Agreement"** means the failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Grantee is debarred or suspended under §24-109-105, C.R.S., at any time during the term of this Agreement, then such debarment or suspension shall constitute a breach.
- C. **"Budget"** means the budget for the Work described in Exhibit A.
- D. **"Business Day"** means any day other than Saturday, Sunday, or a legal holiday as listed in §24-11-101(1), C.R.S.
- E. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1, et seq., C.R.S.
- F. **"Deliverable"** means the outcome to be achieved or output to be provided, in the form of a tangible or intangible Good or Service that is produced as a result of Grantee's Work that is intended to be delivered by Grantee.
- G. **"Effective Date"** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this Agreement.
- H. **"End of Term Extension"** means the time period defined in §2.D.
- I. **"Exhibits"** means the exhibits and attachments included with this Agreement as shown on the Cover Page for this Agreement.
- J. **"Extension Term"** means the time period defined in §2.C.
- K. **"Goods"** means any movable material acquired, produced, or delivered by Grantee as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- L. **"Grant Funds"** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- M. **"Grant Maximum Amount"** means an amount equal to the total of Grant Funds for this Agreement.
- N. **"Incident"** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, et seq., C.R.S. Incidents include, without limitation (i) successful attempts to gain unauthorized access to a State system or State Records regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a

State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State's knowledge, instruction, or consent.

- O. **"Initial Term"** means the time period defined in §2.B.
- P. **"Matching Funds"** (Local Funds) means the funds provided by Grantee as a match required to receive the Grant Funds.
- Q. **"Party"** means the State or Grantee, and **"Parties"** means both the State and Grantee.
- R. **"PII"** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101, C.R.S.
- S. **"Services"** means the services to be performed by Grantee as set forth in this Agreement, and shall include any services to be rendered by Grantee in connection with the Goods.
- T. **"State Confidential Information"** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to PII, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Grantee which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Grantee without restrictions at the time of its disclosure to Grantee; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Grantee to the State; (iv) is disclosed to Grantee, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- U. **"State Fiscal Rules"** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.
- V. **"State Fiscal Year"** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- W. **"State Records"** means any and all State data, information, and records, regardless of physical form.
- X. **"Subcontractor"** means any third party engaged by Grantee to aid in performance of the Work. "Subcontractor" also includes sub-grantees of Grant Funds.
- Y. **"Work"** means the Goods delivered and Services performed pursuant to this Agreement.
- Z. **"Work Product"** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, information, and any other results of the Work. "Work Product" does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined elsewhere in this Agreement or in an Exhibit shall be construed and interpreted as defined in that section.

4. STATEMENT OF WORK

Grantee shall complete the Work as described in this Agreement and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

5. PAYMENTS TO GRANTEE

A. Grant Maximum Amount

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Agreement that exceeds the Grant Maximum Amount

for that State Fiscal Year shown on the Cover Page of this Agreement as "SB-267 Funds Maximum Amount".

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Grantee in the amounts and in accordance with the conditions set forth in Exhibit A.
- b. Grantee shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. Any advance payment allowed under this Agreement, shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement and its Exhibits. Eligibility and submission for advance payment is subject to State approval and must include approved documentation in the form and manner set forth and approved by the State.
- d. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Grantee and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Grantee shall make all changes necessary to correct that invoice.
- e. The acceptance of an invoice shall not constitute acceptance of any Work performed or Deliverables provided under this Agreement.

ii. Interest

Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Grantee shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of days' interest to be paid and the interest rate.

iii. Payment Disputes

If Grantee disputes any calculation, determination or amount of any payment, Grantee shall notify the State in writing of its dispute within 30 days following the earlier to occur of Grantee's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Grantee and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Grantee beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Grant Funds, the State's obligation to pay Grantee shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and the State's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§2.E**.

C. Matching Funds

Grantee shall provide Matching Funds as provided in **§5.A** and Exhibit A. Grantee shall have raised the full amount of Matching Funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Grantee's obligation to pay all or any part of any Matching Funds, whether direct or contingent, only extends to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Grantee and paid into Grantee's treasury or bank account. Grantee represents to the State that the amount designated "Grantee's Matching Funds" in Exhibit A has been legally appropriated for the purposes of this Agreement by its authorized representatives and paid into its treasury or bank account. Grantee does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of Grantee. If Grantee is a public entity, Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee's laws or policies.

D. Reimbursement of Grantee Costs

- i. Any costs incurred by Grantee prior to the Effective Date shall not be reimbursed.
- ii. The State shall reimburse Grantee's allowable costs, not exceeding the Grant Maximum Amount shown on the Cover Page of this Agreement and on Exhibit A for all allowable costs described in this Agreement and shown in Exhibit A, except that Grantee may adjust the amounts between each line item of Exhibit A without formal modification to this Agreement as long as the Grantee provides notice to the State of the change, the change does not modify the Grant Maximum Amount of this Agreement or the Grant Maximum Amount for any State Fiscal Year, and the change does not modify any requirements of the Work.
- iii. The State shall only reimburse allowable costs described in this Agreement and shown in the Budget if those costs are:
 - a. Reasonable and necessary to accomplish the Work and for the Goods and Services provided; and
 - b. Equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred.)
- iv. Grantee's costs for Work performed after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. Grantee shall initiate any payment request by submitting invoices to the State in the form and manner set forth and approved by the State.

E. Close-Out

Grantee shall close out this Award within 45 days after the Fund Expenditure End Date shown on the Cover Page for this Agreement. To complete close-out, Grantee shall submit to the State all Deliverables (including documentation) as defined in this Agreement and Grantee's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete.

6. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to any other Exhibit, for any Agreement having a term longer than three months, Grantee shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than five Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

B. Litigation Reporting

If Grantee is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Grantee's ability to perform its obligations under this Agreement, Grantee shall, within 10 days after being served, notify the State of such action and deliver copies of such

pleading or document to the State's Principal Representative identified on the Cover Page for this Agreement.

C. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than 45 calendar days after the end of the Initial Term if no Extension Terms are exercised, or the final Extension Term exercised by the State, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

D. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State, all violations of State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. The State may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

7. GRANTEE RECORDS

A. Maintenance

Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work and the delivery of Services (including, but not limited to, the operation of programs) or Goods hereunder (collectively, the "Grantee Records"). Grantee shall maintain such records for a period of three years following the date of submission to the State of the final expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively (the "Record Retention Period"). If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Grantee in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property.

B. Inspection

Grantee shall permit the State and any other duly authorized agent of the State to audit, inspect, examine, excerpt, copy and transcribe Grantee Records during the Record Retention Period. Grantee shall make Grantee Records available during normal business hours at Grantee's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State and any other duly authorized agent of the State, in its discretion, may monitor Grantee's performance of its obligations under this Agreement using procedures as determined by the State. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work.

D. Final Audit Report

Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee's records that relates to or affects this Agreement or the Work, whether the audit is conducted by Grantee or a third party.

8. CONFIDENTIAL INFORMATION - STATE RECORDS

A. Confidentiality

Grantee shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Grantee shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Agreement, permitted by law or approved in writing by the State. Grantee shall provide for the security of all State Confidential

Information in accordance with all applicable laws, rules, policies, publications, and guidelines. Grantee shall immediately forward any request or demand for State Records to the State's Principal Representative identified on the Cover Page of this Agreement.

B. Other Entity Access and Nondisclosure Agreements

Grantee may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

C. Use, Security, and Retention

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Grantee becomes aware of any Incident, Grantee shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Grantee can establish that Grantee, and its agents, employees, and Subcontractors are not the cause or source of the Incident, Grantee shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may adjust or direct modifications to this plan, in its sole discretion and Grantee shall make all modifications as directed by the State. If Grantee cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Grantee shall reimburse the State for the reasonable costs thereof. The State may, in its sole discretion and at Grantee's sole expense, require Grantee to engage the services of an independent, qualified, State-approved third party to conduct a security audit. Grantee shall provide the State with the results of such audit and evidence of Grantee's planned remediation in response to any negative findings.

E. Data Protection and Handling

Grantee shall ensure that all State Records and Work Product in the possession of Grantee or any Subcontractors are protected and handled in accordance with the requirements of this Agreement, including the requirements of any Exhibits hereto, at all times. As used in this section, the protections afforded Work Product only apply to Work Product that requires confidential treatment.

F. Safeguarding PII

If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S., and shall maintain security procedures and practices consistent with §§24-73-101, *et seq.*, C.R.S.

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Agreement. Such a conflict of interest would arise when a Grantee or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement.

B. Apparent Conflicts of Interest

Grantee acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

D. Grantee acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Grantee further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S., with regard to this Agreement. For the avoidance of doubt, an actual or apparent conflict of interest shall exist if Grantee employs or contracts with any State employee, any former State employee within six months following such employee's termination of employment with the State, or any immediate family member of such current or former State employee. Grantee shall provide a disclosure statement as described in §9.C. no later than ten days following entry into a contractual or employment relationship as described in this section. Failure to timely submit a disclosure statement shall constitute a Breach of Agreement. Grantee may also be subject to such penalties as are allowed by law.

10. INSURANCE

Grantee shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the State.

A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Grantee or Subcontractor employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any 1 fire.

C. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

D. Protected Information

Liability insurance covering all loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.

E. Professional Liability Insurance

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

F. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

G. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Grantee and Subcontractors.

H. Primacy of Coverage

Coverage required of Grantee and each Subcontractor shall be primary over any insurance or self-insurance program carried by Grantee or the State.

I. Cancellation

All insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Grantee and Grantee shall forward such notice to the State in accordance with §14 within 7 days of Grantee's receipt of such notice.

J. Subrogation Waiver

All insurance policies secured or maintained by Grantee or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

K. Public Entities

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"), Grantee shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Grantee shall ensure that the Subcontractor maintain at all times during the terms of this Grantee, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

L. Certificates

For each insurance plan provided by Grantee under this Agreement, Grantee shall provide to the State certificates evidencing Grantee's insurance coverage required in this Agreement prior to the Effective Date. Grantee shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement prior to the Effective Date, except that, if Grantee's subcontract is not in effect as of the Effective Date, Grantee shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within seven Business Days following Grantee's execution of the subcontract. No later than 15 days before the expiration date of Grantee's or any Subcontractor's coverage, Grantee shall deliver to the State certificates

of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Grantee shall, within seven Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

11. BREACH OF AGREEMENT

In the event of a Breach of Agreement, the aggrieved Party shall give written notice of Breach of Agreement to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §12 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in this Agreement in order to protect the public interest of the State; or if Grantee is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Agreement in whole or in part or institute any other remedy in this Agreement as of the date that the debarment or suspension takes effect.

12. REMEDIES

A. State's Remedies

If Grantee is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in §11, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach of Agreement

In the event of Grantee's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Grantee shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Grantee shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Grantee shall assign to the State all of Grantee's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee but in which the State has an interest. At the State's request, Grantee shall return materials owned by the State in Grantee's possession at the time of any termination. Grantee shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Grantee for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Grantee was not in breach or that Grantee's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under §2.E.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Grantee shall remain liable to the State for any damages sustained by the State in connection with any breach by Grantee, and the State may withhold payment to Grantee for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due Grantee as the State deems necessary to protect the State against loss including, without limitation, loss as a

result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Grantee's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Grantee to an adjustment in price or cost or an adjustment in the performance schedule. Grantee shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Grantee after the suspension of performance.

b. Withhold Payment

Withhold payment to Grantee until Grantee corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Grantee's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the State; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal of any of Grantee's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Grantee shall, as approved by the State (i) secure that right to use such Work for the State and Grantee; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

B. Grantee's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Grantee, following the notice and cure period in §11 and the dispute resolution process in §13 shall have all remedies available at law and equity.

13. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Grantee for resolution.

B. Resolution of Controversies

If the initial resolution described in §13.A fails to resolve the dispute within 10 Business Days, Grantee shall submit any alleged breach of this Agreement by the State to the Procurement Official of the State Agency named on the Cover Page of this Agreement as described in §24-101-301(30), C.R.S., for resolution following the same resolution of controversies process as described in §§24-106-109, and 24-109-101.1 through 24-109-505, C.R.S., (collectively, the "Resolution Statutes"), except that if Grantee wishes to challenge any decision rendered by the Procurement Official, Grantee's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, in the same manner as described in the Resolution Statutes before Grantee pursues any further action. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations regardless of whether the Colorado Procurement Code applies to this Agreement.

14. NOTICES and REPRESENTATIVES

Each individual identified as a Principal Representative on the Cover Page for this Agreement shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Agreement. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement. Either Party may change its principal representative or principal representative contact information, or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative, by notice submitted in accordance with this section without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Whether or not Grantee is under contract with the State at the time, Grantee shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire. Grantee assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, all State Records, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and information provided by or on behalf of the State to Grantee are the exclusive property of the State (collectively, "State Materials"). Grantee shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Grantee's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Grantee shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Grantee

Grantee retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Grantee including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Grantee under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Grantee Property"). Grantee Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

16. GENERAL PROVISIONS

A. Assignment

Grantee's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

B. Subcontracts

Grantee shall not enter into any subgrant or subcontract in connection with its obligations under this Agreement without providing notice to the State. The State may reject any such Subcontractor, and Grantee shall terminate any subcontract that is rejected by the State and shall not allow any Subcontractor to perform any work after that Subcontractor's subcontract has been rejected by the State. Grantee shall submit to the State a copy of each such subgrant or subcontract upon request by the State. All subgrants and subcontracts entered into by Grantee in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.

C. Binding Effect

Except as otherwise provided in **§16.A.**, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

H. Digital Signatures

If any signatory signs this Agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

I. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the Colorado State Controller.

J. Statutes, Regulations, Fiscal Rules, and Other Authority

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

K. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Grantee's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

L. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of this Agreement.

M. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

N. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.*, C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the State imposes such taxes on Grantee. Grantee shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Grantee may wish to have in place in connection with this Agreement.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in §16.A., this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to this Agreement, and do not create any rights for such third parties.

P. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Grantee shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Grantee's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations.

- i. Grantee shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.
- ii. Grantee, if a foreign corporation or other foreign entity transacting business in the State of Colorado, shall obtain prior to the Effective Date and maintain at all times during the term of this Agreement, at its sole expense, a certificate of authority to transact business in the State of Colorado and designate a registered agent in Colorado to accept service of process.

T. Indemnification

i. General Indemnification

Grantee shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of

the Indemnified Parties in relation to any act or omission by Grantee, or its employees, agents, Subcontractors, or assignees in connection with this Agreement.

ii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Grantee in violation of §8 may be cause for legal action by third parties against Grantee, the State, or their respective agents. Grantee shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys' fees and costs) incurred by the State in relation to any act or omission by Grantee, or its employees, agents, assigns, or Subcontractors in violation of §8.

iii. Intellectual Property Indemnification

Grantee shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

iv. Accessibility Indemnification

Grantee shall indemnify, save, and hold harmless the Indemnified Parties against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to Grantee's failure to comply with §§24-85-101, et seq., C.R.S., or the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

U. Accessibility

- i. Grantee shall comply with and the Work Product provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by the Governor's Office of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Grantee shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.
- ii. The State may require Grantee's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Grantee's Work Product and software is in compliance with §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

17. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all agreements except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Agreement shall not be valid until it has been approved by the Colorado State Controller or designee. If this Agreement is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), C.R.S., then this Agreement shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR.

Subrecipient shall perform its duties hereunder as an independent contractor and not as an employee. Neither Subrecipient nor any agent or employee of Subrecipient shall be deemed to be an agent or employee of the State. Subrecipient shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Subrecipient and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Subrecipient or any of its agents or employees. Subrecipient shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Subrecipient shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

Subrecipient shall 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.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Agreement that requires the State to indemnify or hold Subrecipient harmless; requires the State to agree to binding arbitration; limits Subrecipient's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Agreement shall be construed as a waiver of any provision of §24-106-109, C.R.S.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Subrecipient hereby certifies and warrants that, during the term of this Agreement and any extensions, Subrecipient has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Subrecipient is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. Subrecipient has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Subrecipient's services and Subrecipient shall not employ any person having such known interests.

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Subrecipient in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Subrecipient by

deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Subrecipient, or by any other appropriate method for collecting debts owed to the State.

K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, *et seq.*, C.R.S.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Subrecipient certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement, through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Subrecipient shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a Subcontractor that fails to certify to Subrecipient that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Subrecipient (i) shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment (“Department Program”) to undertake pre-employment screening of job applicants while this Agreement is being performed, (ii) shall notify the Subcontractor and the contracting State agency or institution of higher education within three days if Subrecipient has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Agreement, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Subrecipient participates in the Department program, Subrecipient shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Subrecipient has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Subrecipient fails to comply with any requirement of this provision or §§8-17.5-101, *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Agreement for breach and, if so terminated, Subrecipient shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, *et seq.*, C.R.S.

Subrecipient, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Subrecipient (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of §§24-76.5-101, *et seq.*, C.R.S., and (iii) has produced one form of identification required by §24-76.5-103, C.R.S., prior to the Effective Date of this Agreement.

EXHIBIT A, STATEMENT OF WORK AND BUDGET

Project Description	2025-SB267: Gunnison Transit Center Project		
Project End Date	July 31, 2027		
Subrecipient	Gunnison Valley Transportation Authority (GVRTA)	UEID #	R3B5CW1J9NS7
Contact Name	Scott Truex	Vendor #	2100090
Address	PO Box 1911 Crested Butte, CO 81224-1911	Phone #	(970) 275-0111
Email	struex@gunnisonvalleyrta.org	Indirect Rate	N/A
WBS*	26990.10.30 26990.20.10	ALI	N/A
Total Project Budget (SB267 and Local In-Kind Funds)			\$1,810,117.00
Total Design Budget			\$100,000.00
State SB267 Funds for Design (at 80% or less)			\$80,000.00
Local In-Kind Funds for Design (at 20% or more)			\$20,000.00**
Total Construction Budget			\$1,150,000.00
State SB267 Funds for Construction (at 80% or less)			\$920,000.00
Local In-Kind Funds for Construction (at 20% or more)			\$230,000.00**
Local In-Kind Overmatch Funds			\$560,117.00**
Total Project Amount Encumbered via this Grant Agreement			\$1,000,000.00

*The WBS numbers may be replaced without changing the amount of the grant at CDOT's discretion.

**GVRTA expended \$810,117.00 for the purchase of the property in the first step of this project. These funds are considered the local in-kind match for design and construction.

A. Project Description

GVRTA shall use 2025 SB267 funds, along with local in-kind matching funds, to complete the design and construction of the Gunnison Transit Center Project (Capital Facility) as more fully described below. The project will support the goals of the Statewide Transit Plan.

GVRTA's mission is to provide a sustainable and energy efficient public transit system in Gunnison County, Colorado. GVRTA operates a commuter bus service between the north and south ends of the Hwy 35 corridor. In 2023, GVRTA provided approximately 25,800 service hours, 750,000 service miles, and carried 327,692 passengers between Gunnison and Mt. Crested Butte. To continue to fulfill their mission, GVRTA purchased land on Hwy 50 in Gunnison on which it will build a new transit facility. The new facility will serve its passengers and house administrative functions.

The new transit facility is expected to include indoor and outdoor waiting areas and public restrooms for passengers, as well as dispatch and administrative offices for GVRTA staff.

Project Address: 301 W. Tomichi Avenue, Gunnison, CO 81230

National Environmental Policy Act (NEPA):

GVRTA is not seeking CatEX approval or environmental clearance for this project and, in so doing, confirms its understanding that this facility will be ineligible for FTA funding for the duration of its useful life.

Deliverable(s) from GVRTA:

Unless otherwise instructed herein, GVRTA shall:

- Submit monthly Reimbursement Requests in COTRAMS which include detailed Progress Reports
- Provide a copy of the preliminary design drawings/plans to the CDOT Project Manager

- Submit final design (construction) drawings/plans to the CDOT Project Manager
- Submit construction cost estimates and phasing plan to the CDOT Project Manager
- Notify the CDOT Project Manager of the time and location of the pre-construction conference
- If required, obtain utility agreements and submit to the CDOT Project Manager
- Submit a copy of the Certificate of Occupancy with the Final Reimbursement Request in COTRAMS

B. Performance Standards

1. Design Project Milestones

Design Milestone Description	Original Estimated Completion Date
Submit Procurement Concurrence Request (PCR) to CDOT Project Manager for Approval	9/30/2025
Submit Procurement Authorization (PA) and solicitation docs CDOT Project Manager for Approval	10/30/2025
Submit First Reimbursement Request in COTRAMS	1/30/2026
Submit First Progress Reports to GU Manager	1/30/2026
Submit Final Reimbursement Request in COTRAMS	7/30/2027
IMPORTANT NOTE: All milestones in this Statement of Work (except for the final reimbursement request) must be completed no later than the expiration date of this Grant Agreement: 7/30/2027 .	

2. Construction Project Milestones

Milestone Description	Original Estimated Completion Date
Request for Proposal (RFP) for Construction Manager/General Contractor (CMGC) Publication	2/1/2026
RFP Mandatory Pre-bid Virtual Meeting	2/21/2026
Schematic Design Review	2/30/2026
Submit Procurement Concurrence Request (PCR) to CDOT Project Manager for Approval	3/4/2026
Submit Procurement Authorization (PA) and solicitation documents to CDOT Project Manager for Approval	4/3/2026
Notice-to-Proceed (NTP) for selected CMGC	5/1/2026
Design Development Review	11/3/2025
90% Design/Construction Documents Review	12/2/2025
Construction Begins	5/28/2026
Construction Complete	1/31/2027
Receive Certificate of Occupancy	1/31/2027
Submit Reimbursement Request in COTRAMS	Monthly or quarterly
Submit Progress Reports to CDOT Project Manager	Monthly or quarterly (with reimbursement requests)

3. GVRTA shall use the Capital Facility in its transit operations and shall perform regularly recurring maintenance with specific performance measures tied to GVRTA's written maintenance plans, including manufacturer's recommendations and warranty program(s). GVRTA will measure whether this project is successful and improves the efficiency, effectiveness, and safety of transportation.
4. GVRTA shall submit all required reimbursements and project documents, including the placement of a "Use Covenant" on the title of the property to have the primary use of the facility be a transit facility for the next forty (40) years, as a condition of project closeout.

5. Performance will be reviewed throughout the duration of this Grant Agreement. GVRTA shall report to the CDOT Project Manager whenever one or more of the following occurs:
 - a. Budget or schedule changes;
 - b. Scheduled milestone or completion dates are not met;
 - c. Identification of problem areas and how the problems will be resolved; and/or
 - d. Expected impacts and the efforts to recover from delays.
6. GVRTA will be responsible for performing and adhering to the following design and construction requirements:
 - a. Design
 - i. Prepare and provide preliminary and final design (Construction Plans) including drawings, plans, plats, descriptive or supportive material or special provisions and estimates (collectively known as “Plans”), as required to communicate the design intent and to achieve all required local and state approvals, including planning approvals as required by the Local Authority Having Jurisdiction (LAHJ), adopted County or Town Codes, and applicable federal and state requirements.
 - ii. Ensure all stages of design are in compliance with the requirements of the Americans with Disabilities Act (ADA), FTA guidance, and any other federal, state, and/or local laws, rules and/or regulations, as well as the standards contained in the document “ADA Accessibility Requirements in CDOT Transportation Projects” and CDOT Procedural Directive 605.1, “ADA Accessibility Requirements.
 - iii. Prepare special provisions and estimates in accordance with any specifications as approved by CDOT.
 - iv. Include details of any required detours in the Plans, in order to prevent any interference in the construction work and to protect the traveling public.
 - v. Afford CDOT ample opportunity to review and comment on the Plans and make changes to the Plans as directed by CDOT to comply with federal and state requirements.
 - vi. Ensure the Plans produced are stamped by Colorado Registered Professional Engineers and Architects. Plans must be reviewed and approved in accordance with all Town or LAHJ requirements and be permitted through the LAHJ.
 - vii. Prepare final design construction plans in accordance with the requirements of the latest editions of the American Association of State Highway Transportation Officials (AASHTO) manual and the International Building Code, and as adopted by GVRTA, as applicable.
 - viii. Maintain final assembly of Plans and contract documents for construction.
 - b. Construction
 - i. Perform construction in accordance with the approved design plans and/or administer construction all in accordance with Section A. Project Description above (the Work). Such administration shall include project inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving, and securing the funding for contract modification orders and minor contract revisions; processing contractor claims; construction supervision; and meeting quality control requirements as described in CDOT design and construction standards and policies, and in accordance with Local Building Codes and Building Permit Requirements.
 - ii. GVRTA shall appoint a qualified professional engineer or architect, licensed in the State of Colorado, as the Local Agency Project Engineer (LAPE), to perform construction administration. The LAPE shall administer the Work in accordance with this Grant Agreement, the requirements of the construction contract, and all applicable federal, state, and local laws, regulations, and/or procedures.
 - iii. By entering into this Grant Agreement, GVRTA, acting by or through its duly authorized representatives, agrees to provide additional funds, subject to their availability and appropriation for that purpose, if required to complete the Work, if no additional SB267 funds are made available.

- iv. At CDOT's sole risk, representatives of CDOT shall be allowed access to the Project Address at all reasonable times upon reasonable prior notice and subject to compliance with all site safety requirements following the date of the execution of this Subaward Agreement for the purpose of inspection of the Work and materials. Upon written notice from CDOT concerning any deviations from the plans and specifications regarding the Work required to be performed, GVRTA shall take immediate actions, as proposed by CDOT, to correct such deviations.
- v. CDOT shall have the authority to suspend the Work, wholly or in part, by giving written notice thereof to GVRTA, due to the failure of GVRTA and/or its contractor to correct project conditions which are unsafe for workers or for such periods as CDOT may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by CDOT to be in the public interest.
- vi. GVRTA shall require its general contractor and any subcontractor who works on the project to provide certificates of insurance.

7. Progress Reports

- a. GVRTA shall submit to CDOT on a quarterly basis a report describing the progress and expenditures made regarding the Work. Progress reports may include but are not limited to:
 - i. Description of project component(s) completed to date,
 - ii. Total project expenditures made to date,
 - iii. Total SB267 expenditures made to date, and/or
 - iv. Anticipated completion date of the remaining, incomplete project component(s).
- b. GVRTA shall submit progress reports via email to the CDOT Project Manager, unless otherwise agreed to between them, as follows: Brian Saller at brian.saller@state.co.us.

C. Project Budget

- 1. The Total Project Budget is \$1,810,117.00, comprising \$1,000,000.00 in SB267 funds, \$250,000.00 in Local In-Kind Funds, and \$560,117.00 in Local In-Kind Overmatch Funds. CDOT will pay no more than 80% of the eligible, actual project costs, up to the maximum amount of \$1,000,000.00. CDOT will retain any remaining balance of the state share of SB267 Funds. GVRTA shall be solely responsible for all costs incurred in the project in excess of the amount paid by CDOT from SB267 Funds for the state share of eligible, actual costs. For CDOT accounting purposes, the SB267 Funds of \$1,000,000.00 will be encumbered for this Grant Agreement.
- 2. No refund or reduction of the amount of GVRTA's share to be provided for the project will be allowed unless there is at the same time a refund or reduction of the state share of a proportionate amount.
- 3. GVRTA may use eligible federal funds for the Local Funds share. GVRTA's share, together with the State SB267 Funds share, shall be enough to ensure payment of the Total Project Budget.
- 4. Per the terms of this Grant Agreement, CDOT will have no obligation to provide state funds for use on this project. CDOT will administer SB267 funds for this project under the terms of this Grant Agreement, provided that the state share of SB267 funds to be administered by CDOT are made available and remain available. GVRTA shall initiate and prosecute to completion all actions necessary to enable GVRTA to provide its share of the Total Project Budget at or prior to the time that such funds are needed to meet the Total Project Budget.

D. Procurement

Procurement of the Work by GVRTA shall comply with state procurement procedures and the DTR Quick Procurement Guide. In addition to the state requirements outlined below, state and federal procedures for design and construction, including 2 CFR 200.320 (where applicable) shall be followed and outlined prior to procurement.

1. The first step in the procurement process will be to obtain an Independent Cost Estimate (ICE).
2. The second step, *and prior to soliciting a contractor*, shall be to obtain Procurement Concurrence Request (PCR) approval from the CDOT Project Manager through COTRAMS. The request for PCR approval shall include a copy of the proposed solicitation documents and the ICE.
3. The third step, *and prior to entering into a purchasing agreement or contract with the selected contractor*, will be to obtain Purchase Authorization (PA) approval from the CDOT Project Manager through COTRAMS. The request for PA approval must include a copy of the solicitation documents. Per state guidelines, GVRTA shall enter into a professional services contract with an architect/engineer or construction design manager and should use an industry approved contract. At CDOT's discretion, CDOT may request review of the draft contract to ensure that the terms and conditions of the contract meet the requirements set forth in this Statement of Work and all federal and state requirements.
4. GVRTA shall ensure, prior to the effective date of its contract with its chosen contractor that (a) its contractor has secured all licenses, certifications, permits, and other authorizations required to perform their obligations under such contract, and (b) shall ensure that all employees, agents, and subcontractors secure and maintain at all times during the term of their employment, agency, or subcontract, all licenses, certifications, permits, and other authorizations required to perform their obligations in relation to any subcontracts, and (c) all contractors and subcontractors agree to indemnify, save, and hold harmless CDOT, its employees, agents, and assignees (Indemnified Parties), against any and all costs, expenses, claims, damages, liabilities, court awards, and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by such contractor or its employees, agents, subcontractors, or assignees in connection with any contract or subcontract.
5. GVRTA shall be responsible for reimbursing the selected contractor within **forty-five (45) calendar days after acceptance** of the Capital Facility.

E. Reimbursement Eligibility

Requests for reimbursement for eligible project costs will be paid to GVRTA upon submission of a complete reimbursement packet in COTRAMS for those eligible costs incurred during the Grant Agreement effective dates.

Accepted reimbursement packets shall include the following completed documents:

- Independent Cost Estimate (ICE) (with the first reimbursement request)
- Procurement Concurrence Request (PCR) (with the first reimbursement request)
- Purchase Authorization (PA) (with the first reimbursement request)
- Invoice
- Proof of Payment

Accepted final reimbursement packet shall include any applicable documents listed above as well as the following completed documents:

- Final Invoice and Proof of Payment
- Operations and Maintenance (O&M) manuals for the facility constructed and equipment installed
- Certificate of Beneficial Occupancy – including punch list of open items for the contractor to complete
- Guarantees and warranties associated with the facility and equipment
- Record or As-built Drawings
- Final Inspection Report
- Commissioning Report

GVRTA shall submit the final request for reimbursement within sixty (60) calendar days of payment of the final invoice to the contractor and submit a Grant Closeout and Liquidation (GCL) Form in COTRAMS within fifteen (15) calendar days of issuance of the final reimbursement payment.

F. State Interest-Service Life

The useful life of the Capital Facility begins on the date it is placed in transit service and continues until it is removed from transit service. The useful life in years refers to total time in transit service, not time spent idle or otherwise unavailable for

transit use. Periods of extended removal from service do not count towards useful life. Changes in operating circumstances or local law are not exemptions from useful life requirements.

Minimum useful life is the minimum number of years that must be accumulated in transit service before the Capital Facility can be disposed of, in accordance with the State Management Plan. The minimum useful life of this Capital Facility has been determined to be forty (40) years, in accordance with the provisions of FTA C 5010.1F Chapter IV, Subsection 3, paragraphs k-l, and the State Management Plan.

CDOT maintains its share of the remaining state interest upon disposition of the Capital Facility before the minimum useful life has been met and for a fair market value greater than \$5,000 after the minimum useful life has been met, according to the provisions of the State Management Plan.

GVRTA must appropriately maintain and report data about the Capital Facility. A description of the improvements, expansions, retrofits, and maintenance of the Capital Facility must be properly documented in the COTRAMS Capital Inventory along with parcel ID, physical address or location, useful life, date placed in service, original cost, and current condition information in order to accurately determine an equitable valuation of state interest at the time of disposition of the Capital Facility.

GVRTA shall not dispose or otherwise release the Capital Facility to any other party while there is state interest in the Capital Facility without prior approval from the CDOT Project Manager. GVRTA is responsible for making the request to the CDOT Project Manager in a timely manner, providing appropriate documentation, if indicated, when a disposition is being requested in order to allow CDOT to process the disposition.

G. Restrictions on Lobbying

GVRTA is certifying that it complies with 2 CFR 200.450 by entering into this Grant Agreement.

H. Special Conditions

1. GVRTA shall comply with all requirements imposed by CDOT on GVRTA so that the state award is used in accordance with state statutes, regulations, and the terms and conditions of the state award.
2. GVRTA shall permit CDOT and their auditors to have access to GVRTA's records and financial statements as necessary, with reasonable advance notice.
3. Except as provided in this Grant Agreement, GVRTA shall not be reimbursed for any purchase, issued purchase order, or leased capital equipment prior to the execution of this Grant Agreement.
4. GVRTA shall document any loss, damage, or theft of FTA- or state-funded property, equipment, or rolling stock in COTRAMS.
5. GVRTA shall ensure that it does not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color, national origin, sex, age or disability in accordance with Title VI of the Civil Rights Act of 1964.
6. GVRTA shall agree to maintain documentation that supports compliance with the Americans with Disabilities Act (ADA) and produce said documentation to CDOT upon request.
7. GVRTA shall develop and maintain an ADA Program in accordance with 28 CFR Part 35, Nondiscrimination on the Basis of Disability in State and Local Government Services, FTA Circular 4710.1, and any additional requirements established by CDOT for transit grant subrecipients. requirements established by CDOT for transit grant subrecipients.

EXHIBIT B, SAMPLE OPTION LETTER**State Agency**

Department of Transportation

Grantee

[Insert Grantee's Full Legal Name, including "Inc.", "LLC", etc.]

Current Agreement Maximum Amount**Initial Term**

SB-267 Funds Maximum Amount

State Fiscal Year [20xx] [\$0.00]

Extension Terms

State Fiscal Year [20xx] [\$0.00]

State Fiscal Year [20xx] [\$0.00]

State Fiscal Year [20xx] [\$0.00]

State Fiscal Year [20xx] [\$0.00]

Local Funds [\$0.00]

Total for All Agreement Terms [\$0.00]

Option Letter Number

[Insert the Option Number (e.g. "1" for the first option)]

Original Agreement Number

[Insert CMS number or Other Contract Number of the Original Contract]

Option Agreement Number

[Insert CMS number or Other Contract Number of this Option]

Agreement Performance Beginning Date

[Month, Day, Year]

Current Agreement Expiration Date

[Month, Day, Year]

1. OPTIONS:

A. Option to extend for an Extension Term

2. REQUIRED PROVISIONS:

A. **For use with Option 1(A):** In accordance with Section(s) 2.B/2.C of the Original Agreement referenced above, the State hereby exercises its option for an additional term/end of term extension, beginning Insert start date and ending on the current agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.

3. OPTION EFFECTIVE DATE:

A. The effective date of this Option Letter is upon approval of the State Controller or or [Enter date], whichever is later.

STATE OF COLORADO

Jared S. Polis, Governor

Department of Transportation

Shoshana M. Lew, Executive Director

In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER

Robert Jaros, CPA, MBA, JD

By: [Name & Title of Person Signing for Agency or IHE]

Date: _____

By: _____
Department of Transportation

Option Effective Date: _____

EXHIBIT C, TITLE VI - CIVIL RIGHTS

Nondiscrimination Requirements

The Parties shall not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color, national origin, sex, age or disability. During the performance of this Agreement, the Grantee, for itself, its assignees and successors in interest (hereinafter referred to as the "Grantee") agrees as follows:

- (1) **Compliance with Regulations:** The Grantee shall comply with the Regulation relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.
- (2) **Nondiscrimination:** The Grantee, with regard to the Work performed by it during the Agreement, shall not discriminate on the grounds of race, color, national origin, or sex in the selection and retention of subgrantees, including procurements of materials and leases of equipment. The Grantee shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subgrantees, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the Grantee for Work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subgrantee or supplier shall be notified by the Grantee of the Grantee's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, national origin or sex.
- (4) **Information and Reports:** The Grantee shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Colorado Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Grantee is in the exclusive possession of another who fails or refuses to furnish this information the Grantee shall so certify to the Colorado Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the Grantee's noncompliance with the nondiscrimination provisions of this Agreement, the Colorado Department of Transportation shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to the Grantee under the Agreement until the Grantee complies, and/or
 - (b) cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) **Incorporation of Provisions:** The Grantee shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The Grantee shall take such action with respect to any subcontract or procurement as the Colorado Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that, in the event a Grantee becomes involved in, or is threatened with, litigation with a subgrantee or supplier as a result of such direction, the Grantee may request the Colorado Department of Transportation to enter into such litigation to protect the interests of the Colorado Department of Transportation.