



SOUTHWEST COLORADO COUNCIL OF GOVERNMENTS

Regular Meeting Agenda

Thursday, 2 November, 1:30pm-4:00pm

1188 E 2nd Ave., Durango CO

- I. Introductions
- II. Consent Agenda
 - a. 5 October 2017 SWCCOG Meeting Minutes
 - b. September 2017 Financials
- III. Reports (Staff will be available for questions on the written reports)
 - a. Director's Report
 - b. Broadband Report
 - c. Transportation Report
 - d. VISTA Report
- IV. Discussion Items
- V. Decision Items
 - a. Executive Committee Meeting Minutes from September 21, 2017
 - b. Contractor Selection for FTA 5340 Regional Transit Planning Project RFP
 - c. Contract for Fiscal Management of Southwest Incident Management Team
 - d. Contract with Region 9 for Enterprise Zone
 - e. Contract with Haynie and Company for Audit Services
 - f. RREO Mini Grant Application Approval
 - g. DOLA 8011 Downtown Improvement Planning Grant Extension
- VI. Other Items
- VII. Community Updates

PO Box 963, Durango, CO 81301

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www.swccog.org

2017-10-30

Consent Agenda

**Southwest Colorado Council of Governments
October Board Meeting
Thursday, 05 October 2017, 1:30pm
1188 E. 2nd Ave., Carnegie Bldg., Durango, CO 81301**

In Attendance:

John Egan – Town of Pagosa Springs
Michael Whiting – Archuleta County
Fred Brooks – Town of Mancos
Gwen Lachelt – La Plata County
Mark Garcia – Town of Ignacio
Chris La May – Town of Bayfield (via video)
William Tookey – San Juan County (via video)

Staff in Attendance:

Miriam Gillow-Wiles – Southwest Colorado Council of Governments
Jessica Laitsch – Southwest Colorado Council of Governments
Dylan Lucas – Southwest Colorado Council of Governments
Sara Trujillo – Southwest Colorado Council of Governments

Guests in Attendance:

Ann McCoy-Harold – Senator Gardner’s Office
John Whitney – Senator Bennet’s Office
Elizabeth Garner – State Demography Office

I. Introductions

The meeting was called to order at 1:46 pm, everyone introduced themselves.

II. Consent Agenda

- a. 7 September, 2017 SWCCOG Meeting Minutes
- b. August 2017 Financials

Michael Whiting motioned to approve the consent agenda, Gwen Lachelt seconded, unanimously approved.

III. Reports

Director’s Report

Miriam reported that the board packet includes a memo from Laura Lewis Marchino regarding the Four Corners Film Office. This was requested at the September meeting; Laura was unable to attend the October meeting, staff will be happy to compile any additional questions to send to Laura.

The Southwest Colorado Incident Management Team (SWIMT) has asked that the SWCCOG become the fiscal agent again. Miriam said staff is working on a contract with the same conditions as the previous contract from 2013, which expired in 2016. The SWCCOG will receive 10% of any funds for management and administration, including reimbursements from call outs, state funding, and any grant funding. This should be on the November agenda as staff is still working on ironing out some questions in regards to the contract.

Miriam reported that health and dental rates have increased for 2018; medical 5.5% and dental 2%. The SWCCOG utilizes CEBT for health/vision/dental/life insurance. Staff has looked at

other carriers, but the cost savings was minimal, and would require a switch to an HMO from a PPO plan, which staff was very hesitant about.

The CIRSA (property/casualty and worker's compensation insurance) will see a reduction in rates for 2018 as there have been zero losses reported. However, if FCC funding is awarded, CIRSA rates will increase. These increases will be based on the amount of funding received and is one of the aspects creating challenges with the 2018 budget.

Miriam said she will be at the National Association of Regional Councils (NARC) Executive Director conference October 23-25. She has been asked to present on building relationships. Mark asked if Miriam sits on the NARC board. Miriam responded yes, she is part of the Executive Director Committee.

Broadband Report

Miriam reported that staff has been in communication with Colorado Telehealth Network (CTN) to help with the FCC funding application/process as it is tremendously complicated. CTN is a statewide nonprofit whose mission is "...to maximize access to health care services, especially in underserved regions of the state, through information and communications technology." They are experts in rural healthcare FCC funding and have successfully received funding for multiple areas and agencies across the state. While there will be a fee to utilize their services, staff is discussing the cost and benefits and will present more specifics at the November board meeting regarding specifics of proposed costs and benefits. CTN does not request upfront payment and is flexible on a fixed rate vs percentage of the overall cost.

Miriam said in regards to broadband legislation the overall expectation is that not much will get done at the State Capitol. Chris said at a CML meeting last week there were indications of activity on broadband. Miriam said there is potential legislation regarding the broadband high cost fund as there is talk about putting more money in that fund to help more private companies build out, not just CenturyLink. John asked how board members felt the September meeting went and in what direction the board wants to address issues with CenturyLink. Miriam said Mayor Sheek had mentioned that an education campaign for our elected officials and citizens would be useful this year. Ideally, an educational push will have lasting impacts on future legislation and could help further citizen engagement with the legislative process and proposed legislation from incumbents. Michael said a morning meeting was held with CenturyLink about Archuleta broadband deployment prior to the September COG meeting with CenturyLink and CenturyLink was more defensive in the regional conversation. If CenturyLink's goal is to divide and conquer, Archuleta County will maintain regional relationships first and Michael will ensure the COG is kept up-to-date with Archuleta and CenturyLink communications. In addition, Michael said if CenturyLink contacts him for regional discussions of broadband, he will refer them to Miriam. Gwen asked if the COG has a project list from CenturyLink and what they are committed to. Miriam said this information is difficult to find. John Whitney and Ann McCoy-Herald both have tried obtaining this information from the FCC with no documents received still. Michael said the information is based on census block versus customer and that this information is considered proprietary even though it is public money. Archuleta will agree to sign a non-disclosure because this information must be known in order to fill the gaps on the map. Miriam mentioned that at the September meeting CenturyLink had said the Lemon Reservoir area was not covered under the CAFII funding; however, it is clearly covered and funds were given to CenturyLink according to the FCC website for the Lemon area. John said the COG should send a letter to CenturyLink saying that according to the FCC information, they are obligated to provide broadband to the Lemon area. The COG needs to keep pushing them to be responsible

for our region. Ann asked if she could be copied on that letter. Miriam said she will write the letter to CenturyLink and copy the FCC chair.

Transportation Report

Jessica reported that last Friday the Regional Transit Council met. The Southwest Center for Independence is starting a transportation service. The SUCAP service to Grand Junction is having issues with busses and being able to get them out of service in a timely fashion and keep on the road.

The TPR board had an update on the road usage charge pilot and what issues need to be explored before implementation. Miriam said there was a presentation that she will email to the board members for review.

VISTA Report

Dylan reported that he is working on a potential RREO recycling grant. The application would request \$25,000 out of a \$400,000 pot. This would help put together lesson plans that will provide leverage as it will make talking to other schools much easier. Mark said Ignacio recently put out an RFP for recycling and received a competitive proposal from a company out of Bayfield. The town plans to implement a curb-side recycling pick-up starting early in 2018 for \$5 per month. He is willing to share information with Dylan and Miriam. Dylan reported that the Spanish recycling website will be going live soon. In addition, Dylan is looking to update the COG website with more relevant information.

IV. Presentation by State Demographer: Elizabeth Garner

Elizabeth Garner from the State Demography office gave a presentation on transitions in the population and economic trends for Colorado and Region 9. Elizabeth discussed details and said some transitions to watch include:

- Migration
- Disparate growth across the state
- Industrial transitions – retail, manufacturing, construction
- Aging
- Increase racial and ethnic diversity
- Slowing income growth
- Growing and slowing population

Miriam will send the power point presentation to all board members.

V. Discussion Items

a. 2018 Preliminary Budget

Miriam said the 2018 preliminary budget has many uncertain parts because of the tentative FCC funding, how funding will flow with FCC funding, increased staff, etc. Staff did budget for insurance rate increases, health insurance for 4 staff (currently 2 eligible) and other increases that will be seen with a large budget change. Staff will have more information in December when the 2018 budget is adopted. John asked that members bring any questions on the 2018 budget to the November meeting.

Mark asked if the 2017 budget is ending in a deficit. Miriam said yes and that this deficit has been known and talked about since the March 2017 meeting. William said it looks like the fund balance is moving in the wrong direction. Miriam said yes and that a fund balance explanation

can be sent out. She summarized that grants are not covering staff time or project management, which hurts the bottom line. Essentially, grantors want to cover projects but not the people to do the projects.

VI. Decision Items

a. Enterprise Zone Contract

Miriam said the state approved the SWCCOG Broadband Enterprise Zone application in June. This Enterprise Zone (EZ) is specifically for broadband development. The project would allow private land owners to donate rights-of-way, private companies to donate equipment (such as conduit, switches, or fiber) and labor, and private companies or land owners to donate cash. Of note, the EZ cannot accept more than \$750,000 in donations per year, though likely will likely not be an issue. This contract formalizes the relationship between Region 9 as the Enterprise Zone Administrator and the SWCCOG. The SWCCOG will be approving applications and the day to day work. Region 9 is ultimately responsible for our work on the EZ. A significant portion of this contract is standard contract language from SWCCOG Legal Counsel.

Quorum was lost before this item was presented; therefore, no vote could be made.

b. Contract with Haynie and Company

Miriam said earlier this year that the SWCCOG Board awarded the SWCCOG 2017, 2018, and 2019 audit to Haynie & Company. A basic Professional Services Agreement developed by legal was included in the board packet. Miriam said there will be an update to exhibit A, the letter, as it erroneously states on page two and paragraph one that the SWCCOG does not want a management discussion and analysis (MD&A) presented with the basic financial statements. This will be corrected in the final version of exhibit A for the contract as we do want an MD&A included as has been done in the past.

Quorum was lost before this item was presented; therefore, no vote could be made.

Other Items

None

VII. Community Updates

Chris La May – Town of Bayfield:

- The bridge will be complete mid-November.

William Tookey – San Juan County:

- A 1.5% increase in sales tax will be on the November ballot.

Fred Brooks – Town of Mancos:

- The town is working on the main street bridge.

Gwen Lachelt – La Plata County:

- A life size horse statue has been donated to the county; two more donations were received after, so there will be three horse statues placed.
- Budget deliberations begin next week. The county is cutting millions due to declining revenues from oil and gas.
- The county advertised for an assistant county manager and will hold a meeting for the finalists on October 16 from 5:00 pm-6:30 pm in the board room.

Mark Garcia – Town of Ignacio:

- The town is wrapping up their wayfinding project and has a new brand – Ignacio rooted in culture.
- The gas piping project is wrapping up.
- The 2018 budget is underway. The board is sifting through raises and absorbing health insurance costs.

John Whitney – Senator Bennet's Office:

- Senator Bennet's office continues to hear concerns about the CAFII funding and CenturyLink from the COG and other folks. They have asked the FCC to provide additional information several times with no information received. A more formal letter of request is being considered.
- They are monitoring the national monument issue.
- Senator Bennet introduced a plan for how government could measure the cost of climate pollution that would create a bench mark for how local governments could calculate their own and set standards.

Gwen Lachelt motioned to adjourn the meeting, Mark Garcia seconded, unanimously approved.

The next meeting is November 2, 2017.

End 3:56 pm

September 2017 Financials

To: SWCCOG Board of Directors
From: Sara Trujillo
Date: 2 November 2017

Comments: The following attachments include:

- Balance Sheet as of September 30, 2017
- January – September 2017 Profit & Loss

Items to Note:

P&L: I typically provide a P&L versus Budget but with the approved 2017 budget having changed significantly, I am providing a P&L without a budget comparison.

2017 Budget: Due to timing of the January meeting, a 2017 budget amendment will be presented February 2018.

2018 Budget: I am still working to refine the 2018 budget as more clear information will be known closer to December. However, the final budget presented in December could vary vastly from what actually happens in 2018 as there will still be many unknowns going into 2018.

Fiscal Impact: High, Budget changes throughout the year

Staff Recommendation: Approve the September 2017 Financials allowing staff to move forward with the 2017 budget.

Legal Review: Not Applicable

Balance Sheet

As of September 30, 2017

	Sep 30, 17
ASSETS	
Current Assets	
Checking/Savings	
Alpine Bank	
Alpine Bank Account (UR)	78,004.00
Total Alpine Bank	78,004.00
Petty Cash	
AmeriCorps VISTA	348.58
Jessica Laitsch	29.10
Petty Cash - Other	29.07
Total Petty Cash	406.75
Total Checking/Savings	78,410.75
Accounts Receivable	
Accounts Receivable	8,929.76
Total Accounts Receivable	8,929.76
Other Current Assets	
Prepaid Expense	11,994.00
Total Other Current Assets	11,994.00
Total Current Assets	99,334.51
TOTAL ASSETS	99,334.51
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	-3,441.74
Total Accounts Payable	-3,441.74
Credit Cards	
Credit Cards	
Miriam	33.99
Total Credit Cards	33.99
Total Credit Cards	33.99
Total Current Liabilities	-3,407.75
Total Liabilities	-3,407.75
Equity	
Retained Earnings	85,735.42
Net Income	17,006.84
Total Equity	102,742.26
TOTAL LIABILITIES & EQUITY	99,334.51

Southwest Colorado Council of Governments

Profit & Loss

10/12/17

January through September 2017

Accrual Basis

	Jan - Sep 17
Ordinary Income/Expense	
Income	
All Hazards	
2015 SHSP	65,499.11
2016 SHSP	107,400.80
Total All Hazards	172,899.91
CDOT Grants	
SWTPR Grant	15,025.36
Total CDOT Grants	15,025.36
DoLA Grants	
DoLA 8010	0.00
DoLA 8011	24,243.47
DoLA 8330	21,518.80
DoLA 9038	44,954.54
Total DoLA Grants	90,716.81
Dues Revenue	
Admin Position	12,200.00
COG Dues	114,000.00
SWTPR Contributions	7,607.00
Total Dues Revenue	133,807.00
Grant Match	
COG Member Match	15,000.00
Total Grant Match	15,000.00
Misc. Income	8,997.21
RREO Grant	
RREO 2016-2017	28,161.60
Total RREO Grant	28,161.60
SCAN Services	
Dark Fiber Leasing	16,827.00
Fiber Equipment Repair Fund	0.00
Internet & Transport	6,210.00
Total SCAN Services	23,037.00
Total Income	487,644.89
Gross Profit	487,644.89
Expense	
Advertising and Promotion	78.72
All Hazards Projects	
All Hazards 2015 SHSP	
Grant 2015 Project 1	691.82
Grant 2015 Project 3	66,959.88
Grant 2015 Project 4	8,692.28
Total All Hazards 2015 SHSP	76,343.98
All Hazards 2016 SHSP	
Grant 2016 Project 1	9,971.42
Grant 2016 Project 2	19,942.50
Grant 2016 Project 3	8,994.34
Grant 2016 Project 4	23,661.83
Grant 2016 Project 5	5,167.25
Grant 2016 Project 6	23,879.11
Grant 2016 Project 7	46,440.30
All Hazards 2016 SHSP - Other	-36,535.11
Total All Hazards 2016 SHSP	101,521.64
Total All Hazards Projects	177,865.62
AmeriCorp VISTA	8,000.00

Southwest Colorado Council of Governments

Profit & Loss

10/12/17

January through September 2017

Accrual Basis

	Jan - Sep 17
Conference Fee	199.00
Consulting	75,167.70
Employee/Board Appreciation	78.88
Information Technology (IT)	
Internal IT Consulting	50.00
Software	1,018.99
Total Information Technology (IT)	1,068.99
Insurance Expense	
General Liability	2,234.75
Health	19,660.50
Worker's Compensation	1,668.00
Total Insurance Expense	23,563.25
Internet Connectivity	
Fast Track	8,100.00
Internet Connection (AT&T)	291.05
Total Internet Connectivity	8,391.05
Meetings	1,305.02
Memberships	5,673.00
Misc. Expense	3,502.60
Office Equipment	293.46
Office Supplies	411.09
Postage and Delivery	67.15
Professional Development	2,569.31
Professional Fees	
Accounting Software	219.95
Audit	6,750.00
Legal	2,361.60
Misc.	331.41
Total Professional Fees	9,662.96
Salary and Wages	
457 Retirement	5,000.14
Car Allowance	2,700.00
Cell Phone Allowance	2,210.00
Payroll Processing Fee	1,225.05
Payroll Tax	8,595.50
Salary and Wages - Other	103,070.93
Total Salary and Wages	122,801.62
Software Maintenance e-TICS	15,162.00
Travel	14,776.63
Total Expense	470,638.05
Net Ordinary Income	17,006.84
Other Income/Expense	
Other Income	
Interest Earned	0.00
Total Other Income	0.00
Net Other Income	0.00
Net Income	17,006.84

Reports

Director Report

To: SWCCOG Board of Directors
From: Miriam Gillow-Wiles
Date: 2 November 2017

Comments: As you can see with the next report, I have been busy working on a number of high level broadband aspects which has taken a significant amount of my bandwidth (pun intended).

2018 Budget

Staff is still working on refining the 2018 Budget. There are a number of unknowns which has made the budgeting process harder than normal. Some of the more nebulous aspects include: Rural Healthcare Funding, potential CDOT Match, and DOLA Broadband Funding. All of these will have an impact, but we are unsure as to specifics at this point. Hopefully November will clear up some of softness regarding these funds, and we will have a better idea of how funding will flow through the SWCCOG next year by December.

National Association of Regional Councils (NARC) Executive Directors Conference

I attended the NARC Executive Director's Conference in San Antonio at the end of October. This is the only professional development available specifically for COG Directors. It is a mix of best practices, information sharing, and peer relationship building. I presented on Relationship Development (for a half hour!) to my peers, who are almost all more seasoned and older than I am. The session went well. Additionally, I was able to identify the only other COG that has applied (and received) funding from the FCC Rural Healthcare funding, we are in communication and they are sharing their application and information with us.

2017 Budget

At the last meeting there were a few questions about the 2017 budget. Staff has projected a ~\$25,000 deficit for 2017 for more than six months, this has been discussed at multiple meetings previously. Staff will provide a 2017 budget amendment at the February 2018 Board meeting (due to timing of the January meeting). Attached is the most up to date budget projection. The major issue this year, is the lack of grants providing funding for staff work, which typically makes up a large amount of the administrative cost of the SWCCOG's budget.

2017 Budget Update

To: SWCCOG Board of Directors
From: Miriam Gillow-Wiles and Sara Trujillo
Date: 2 November 2017

Comments: The 2017 budget was approved in August 2016. I have been tracking changes since the approval and provided a budget update in March 2017 that projected a budget deficit of -\$26,152. Since March, other fluctuations have occurred.

The updated projections are summarized below:

General Fund FY2017	Approved	Projected
Revenues	\$1,896,636	\$569,723
Expenditures	\$1,894,705	\$599,098
Net Income	\$1,931	-\$29,375

The FY2017 Net Income update (unaudited) is at a deficit. Contributing factors include:

Revenues

- The DOLA Broadband Infrastructure Grant estimated at \$1.1 million and the EPA grant estimated at \$50,000 was removed from the 2017 budget. This removed over \$35,000 designated towards the general fund's operating costs.
- Transit grant funding was not awarded.
- An all-member participation in dark fiber leasing to include a revenue share with the COG was anticipated by 2017 mid-year. This has not happen and affected projected revenues by over \$14,000.
- Approximately 46% of operating costs must come from grant funds. This has been a large challenge in 2017 as DoLA grants but one provide \$0 for admin and \$10,000 in-kind was board-voted for EIAF 8330 (technical assistance grant) that will not be reimbursed.

Expenditures

Most expenses decreased significantly as many were inflated to cover estimated costs that come with a much larger budget. Staff further reduced or removed expenditures to help with the deficit. Large changes include:

- The AmeriCorps VISTA expense of \$8,000 was covered under the 2016-2017
-

2017 Budget Update

RREO grant.

- Significant decreases in salary and wage accounts as well as healthcare insurance are seen because Jessica's position was assumed to be full time and with full benefits; however, 2017 did not present this opportunity.
 - \$14,000 was budgeted for new accounting software; this expense was reduced and staff will continue using QuickBooks.
 - \$15,000 was budgeted for single audit costs; however, a single audit will not be required with the budget reduction.
 - Two new computers and other computer hardware were budgeted for at \$4,050. Staff opted to not upgrade computers in 2017.
 - Team Building expenditures were removed.
-

Broadband Report

To: SWCCOG Board of Directors
From: Miriam Gillow-Wiles
Date: 2 November 2017

Comments: Broadband has become the main focus at the moment, as we gear up for application and hopefully funding for infrastructure development.

Dark Fiber Leases

As 2017 comes to a close, we want to remind the jurisdictions leasing out SCAN dark fiber of the revenue share put in place last year. We have not received the revenue share from any other jurisdiction other than City of Durango. Please work with SWCCOG staff regarding any revenue share remittance.

State Broadband Fund

The State Broadband Fund was created in 2014 to help offset the cost of broadband development, which should have started in 2015. Funding was moved from the telephony High Cost Fund, resulting in a lawsuit filed by CenturyLink. The lawsuit was finally resolved but one of the outcomes gave CenturyLink the right of first refusal for any application in their service territory. Unfortunately, this inhibited broadband development as CenturyLink is using older technology and providing slower than FCC defined broadband speeds. Last Broadband Fund cycle, CenturyLink was awarded the vast majority of the funding. The current grant cycle has \$20.4 million in funding requests with only \$9.4 million available. CenturyLink has requested \$9.3 million of the \$9.4 million available. If CenturyLink is awarded the full amount of their request, no other applicant will be awarded funding, and conversely if CenturyLink is not awarded funding, all the other applications will receive funding.

There are two applications that would impact southwest Colorado, Forethought/Brainstorm and AlignTec. The SWCCOG provided a letter of support for the proposed project in San Juan County. Staff would like to provide comment in support of AlignTec's application and comment on CenturyLink's application. Attached is more detailed information about the Broadband Fund application. Your jurisdiction can also provide comment for the Broadband Fund. Comments are being accepted through November 15th.

Form for Comments:

https://docs.google.com/forms/d/e/1FAIpQLSfXMiMT_2pUNFo2q5j6fzACQvkBxCniBX1oNbWoYrpk5bSA/MQ/viewform

FCC Broadband Speeds

The FCC is proposing to reduce broadband speeds back to 10Mbps download and 1Mbps upload speeds. The current definition of 25Mbps download and 3Mbps upload was increased from 4Mbps download by 1Mbps upload in 2015. The proposed speeds

Broadband Report

would only continue to put rural areas at a disadvantage and cater to the incumbents as well as disincentivize creative solutions for hard to reach areas. Attached is a letter to the FCC from Rio Blanco County regarding the proposed rulemaking. Staff can write a similar letter for the SWCCOG (and member jurisdictions), if the Board would like to weigh in on this matter as well.

Letter to FCC regarding Lemon Reservoir

Staff is working with the Federal Delegation to provide a letter regarding CAFII funding for Lemon Reservoir. At the September meeting, CenturyLink mentioned that funding was not awarded for this area of La Plata County. However, on the FCC website, it is listed awarded. At the October meeting, staff was directed to send a letter to the FCC regarding this issue, however Staff was worried that it would disappear into a black hole, and have opted to work with Federal Delegation to draw attention to this issue. Staff will also look at other areas that are funded for improvements under CAFII but are not receiving funding.

FCC Rural Healthcare Funding/Colorado Telehealth Network

We are still working with CTN to work through the process of applying for funding from the FCC's USAC Rural Healthcare funding. We expect to have a contract for the December meeting regarding costs for the application process (including writing the RFP) and documentation management. Requests for Proposals can be posted on FCC website (required to be posted on FCC website) on January 1st, the RFPs must be open for a minimum of 28 days. I am pushing to get the RFP posted on January 1st.

I am meeting with CDOT next week to get information on paper for match for the Rural Healthcare.

High Cost Fund Application Information

Eleven companies submitting applications to the High Cost Fund, with a total grant request amount of \$20.4 Million

Summary of all Applications	Total Estimated Capital Costs	Grant Amount Requested	Matching Funds
DMEA	\$ 6,615,480	\$ 2,646,192	\$ 3,969,288
NE Colorado Cellular, Inc. da Viaero Wireless	\$ 1,384,529	\$ 1,038,397	\$ 346,132
San Luis Valley Rural Electric Cooperative	\$ 939,297	\$ 700,402	\$ 238,896
Inventive Wireless of Nebraska, LLC dba Vistabeam	\$ 392,312	\$ 260,312	\$ 132,000
Brainstorm Internet, Inc.	\$ 455,000	\$ 268,500	\$ 186,500
AlignTec, Inc.	\$ 867,700	\$ 618,450	\$ 248,750
CenturyLink	\$ 12,446,855	\$ 9,335,141	\$ 3,111,714
Jade Communications, LLC	\$ 3,663,756	\$ 2,372,817	\$ 1,290,939
SECOM, Las Animas	\$ 869,039	\$ 651,799	\$ 217,240
SECOM, Springfield	\$ 508,018	\$ 381,013	\$ 127,005
SECOM, Holly	\$ 214,749	\$ 161,061	\$ 53,688
SECOM, Las Animas Springfield and Holly	\$ 1,591,806	\$ 1,193,873	\$ 397,933
Chaffee County Telecom, LLC dba Colorado Central Telecom	\$ 435,726	\$ 326,794	\$ 108,932
AES, Inc.	\$ 614,860	\$ 458,060	\$ 156,800
Totals	\$ 30,999,127	\$ 20,412,811	\$ 10,585,817

\$9.4 Million is available for grant funding. CenturyLink submitted an application for nearly the full amount of grant funding.

If CenturyLink receives their funding request, NO other applicant will receive funding.

Consequently, if CenturyLink does not receive funding, EVERY other applicant will receive funding.

Summary without CenturyLink grant application and using SECOM's 2nd highest request	Total Estimated Capital Costs	Grant Amount Requested	Matching Funds
DMEA	\$ 6,615,480	\$ 2,646,192	\$ 3,969,288
NE Colorado Cellular, Inc. da Viaero Wireless	\$ 1,384,529	\$ 1,038,397	\$ 346,132
San Luis Valley Rural Electric Cooperative	\$ 939,297	\$ 700,402	\$ 238,896
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Jade Communications, LLC	\$ 3,663,756	\$ 2,372,817	\$ 1,290,939
SECOM, Las Animas	\$ 869,039	\$ 651,799	\$ 217,240
Chaffee County Telecom, LLC dba Colorado Central Telecom	\$ 435,726	\$ 326,794	\$ 108,932
AES, Inc.	\$ 614,860	\$ 458,060	\$ 156,800
Totals	\$ 16,237,699	\$ 9,341,723	\$ 6,895,477

Without evaluating the merits of all of the applications, it's in all of the other applicants' (Non-CenturyLink applicants') best interest to convince the High Cost Fund Board of Directors to not support CenturyLink's application.

Specific Points Regarding Current Grant Cycle:

1. CenturyLink has submitted a grant application for nearly the full amount of the funds that are available. If CenturyLink's application is funded, none of the other applications will be funded. If CenturyLink application is not funded, all of the other applicants could receive funding.
2. CenturyLink's application states, "Each wire center should be considered separately as a single sub-project within the overall enablement project application and each can be funded independently." The Colorado Statute requires either the full amount of the application be funded or none of it to be funded. Therefore, the CenturyLink application should be considered as a whole and each wire center should not be considered separately.
3. While over half of the other applications will fund networks that support Gigabit speeds with Fiber to the Home, 41% of the homes in CenturyLink's application will only support the minimum of **up to** 25 Mbps download and 3 Mbps upload speeds.
4. CenturyLink's position asserts that it is trying to reach the most locations and provide the lowest average cost to serve those locations. The purpose of the High Cost Fund is to provide support to serve locations that are difficult to serve, not necessarily to fund the application that reaches the most people and a low cost. CenturyLink's applications does not show which locations would receive what speeds and therefore, it is difficult to understand what locations will receive higher speeds. Additionally, CenturyLink's applications does not provide the lowest average cost to serve these locations. Although CenturyLink reported it will support higher speeds, most of the units will receive speeds of 25/3.
5. CenturyLink has not received support letters to date.
6. If CenturyLink receives funding, none of the locations for which it has submitted funding can apply for grant funding in future years. Under consideration is the opportunity to increase the High Cost Fund's availability of funding in the years to come. CenturyLink's award would preempt these locations from receiving grant funds in the future.



BOARD OF COUNTY COMMISSIONERS
OF RIO BLANCO COUNTY, COLORADO
555 MAIN STREET | P.O. BOX 1 | MEEKER, COLORADO 81641
(970) 878-9430

October 27, 2017

Federal Communications Commission
Chairman Ajit Pai
445 12th Street SW
Washington DC 20554

Chairman Pai,

The Board of County Commissioners of Rio Blanco County would like to express its concern with the current and any future roll back or re-definition of broadband at sub 25 mbps download by 3 mbps upload, including using lower rates to qualify as broadband for cellular service or any other technology.

Rio Blanco County is a very rural county in Colorado. We are the sixth largest county in Colorado by land area at nearly 3,226 square miles across a complex topology which includes a large percentage of public lands. However, our population consists of only 6,500 residents. Even with all these challenges Rio Blanco County is close to finishing deployment of home run fiber optics able to deliver 1 gpbs symmetric service to all homes and businesses in both of our towns. We have connected the two towns, which are 65 miles apart, via fiber at a current bandwidth of 40 gpbs symmetric. Finally, across the vast reaches of our rural county we are deploying fixed wireless broadband in excess of 25 mbps download and 3 mpbs upload. In most cases these rural fixed wireless speeds are closer to 45 mbps download and over 5 mpbs upload.

We are one of the most progressive and most watched broadband projects in the state of Colorado. We accomplished this project in response to the needs and demands of our citizens to support economic development. If we can accomplish this level of service in rural Rio Blanco County, then so can others. Lowering the definition of broadband to 10 mpbs hurts everyone. It is sub-standard which would barely meet current needs as per Akami and many other bandwidth reporting sites. This coupled with Nielsen's law will rapidly place America, and specifically rural America, back unto the wrong side of the worldwide technical divide.

SHAWN J. BOLTON
Chairman

JEFF RECTOR
Commissioner

SI WOODRUFF
Commissioner

The 10 mbps definition seems to be largely fueled by the large national carriers wanting to qualify their outdated approaches as broadband. This has the following negative effects:

1. It absorbs funds from more qualified and legitimate projects by taking money such as the CAF II funds and placing these moneys into the hands of advocates for sub-standard solutions to modern broadband.
2. It removes the motivation for all other parties, such as local government, small telco operators, even WISPs from entering the market.

Combined, this leaves rural America in an underserved status that will likely remain at low service rates for years or decades to come, resulting in a continuation of the depressed economic condition of rural areas.

Being able to claim that more of America has “broadband” becomes meaningless and does not outweigh these negatives.

Thanks, for the great work you and your team do for broadband in America. We hope you will consider Rio Blanco County’s request to maintain 25 mbps download by 3 mbps upload as the lowest speed allowed to qualify for broadband and thus for broadband financial support.

Sincerely,

Board of County Commissioners
of Rio Blanco County, Colorado

Shawn Bolton

Jeff Rector

Si Woodruff

SHAWN J. BOLTON
Chairman

JEFF RECTOR
Commissioner

SI WOODRUFF
Commissioner

Transportation Report

To: SWCCOG Board of Directors
From: Jessica Laitsch
Date: 25 October, 2017

Comments: Transportation:

The SWTPR met on 5 October, 2017. The topics included:

- CDOT staff presented an update on SB 267 and the US 550/160 Connection Project. The SWTPR sent a letter of support for this project.
- CDOT staff presented results from the Road Usage Charge Pilot Project.

The next SWTPR meeting will be held at 9:00 a.m. Thursday, 7 December, 2017 at the Carnegie Building, 1188 E 2nd Ave., Durango.

Transit:

This summer, the National Association of Development Organizations (NADO) Research Foundation applied for federal funding to offer rural transportation technical assistance to communities or regions. In preparation for their application, they sought information about specific projects that could benefit from technical assistance (not direct funding) for passenger transportation projects or concepts. The SWCCOG, in partnership with Region 9, submitted a request for assistance exploring how an inter-city fixed route transit line between Cortez and Durango should be run and funded. This project was selected as it has consistently been identified as a top priority for regional transportation development and could be easily expanded to benefit additional communities. Staff has been notified that NADO was selected to receive funding to provide technical assistance and that the SWCCOG's project was selected as one of the projects to receive assistance. We have been notified that we will be working with the Small Urban, Rural, and Tribal Center on Mobility (SURTCOM), which is a consortium led by Montana State University. We anticipate the staff time required for this project to be minimal.

The RFP for a Transportation Consultant to assist with the Four Corners Coordinated Transit Plan funded through FTA section 5304 funds has closed. Staff recommendations on the proposals received are included on the agenda for consideration.

VISTA's Report

To: SWCCOG Board of Directors
From: VISTA
Date: 26 October 2017

Comments: **RREO Grant**

We have identified a need within our region for funding within the RREO Grant guidelines. What we are asking for is \$25,000 to create an all-in-one recycling web app. This web app would allow users to enter in a specific material and see whether or not it is recycled in their area, and if so where. The goal of the app would be to provide customers an easier experience rather than looking through web sites.

In addition to the search tool, the web app would also include an educational component. The education would come in the form of a game where players are tasked with putting the correct waste into the correct bin, recycling, composting, and trash. This keeps with our focus of kids being the future of recycling; it also gives them a way to actively learn what can be recycled.

We think a tool like this would benefit our area, and would be the next step in providing an easier experience to consumers around the region.

COG Recycling Website

The Spanish recycling website is now up and running. It features the same content as our English language We are still working on how to best market this website, but we now have a tool that helps us capture an entirely new audience than before.

Discussion Items

Decision Items

SWCCOG Executive Committee Minutes

To: SWCCOG Board of Directors

From: Sara Trujillo

Date: 2 November 2017

Comments: Executive Committee Minutes from Septembers 21, 2017 for approval.

Legal Review: None

Fiscal Impact: None

Staff Recommendation: Executive Committee approve the attached minutes from September 21, 2017

**Southwest Colorado Council of Governments
Executive Committee Meeting
Thursday, September 21 2017, 1:30 p.m.**

In attendance:

John Egan – Town of Pagosa Springs (via video)

Chris La May – Town of Bayfield (via video)

Miriam Gillow-Wiles – Southwest Colorado Council of Governments

Sara Trujillo – Southwest Colorado Council of Governments

The meeting began at 1:49 p.m.

Miriam said the first half of the agenda consists of the basic items - minutes, financials, and reports. Following reports will be a presentation by Elizabeth Garner from the State Demographer's office. Elizabeth asked for a list of questions to help prepare the presentation. Miriam suggested asking about migration between counties, especially with La Plata getting expensive, and the impact of the aging population on government services. Miriam added it would be useful to discuss how property values, income, and migration have been affected by Gallagher and property taxes. John said understanding the impact on other services, such as quasi-governmental services and medical would be beneficial. John asked if Elizabeth can touch on housing in Archuleta County, both affordable and workforce housing. Chris requested information on the economic industry or an economical review to include tourism and gas along with what percent of jobs are in what industry. Miriam noted the questions and will send a list to Elizabeth.

Miriam said the 2018 preliminary budget will be presented. This budget will include FCC funding to remain consistent with the board's decision to approve the dues with FCC funding; however, there is a budget without FCC funding. The 2018 preliminary budget is positive but does include some unknowns. Staff hopes to better solidify numbers as the COG moves forward and applies for FCC funding. However, an FCC funding award will not be known until the end of June 2018. Chris asked if Miriam is feeling confident the FCC funding will be received. Miriam said yes but she, staff, and Diane Kruse from NEO Connect are not experts; therefore, Miriam would like to consider hiring Colorado Telehealth Network (CTN), a Colorado nonprofit organization that are experts in these types of federal applications. Staff would apply for a DoLA grant to pay for CTN's work on the application and Miriam would use the DoLA grant to match the FCC grant and vice versa. Chris asked if CDOT's contributions would be used as match. Miriam said yes and that she will put this information in the broadband report. Chris said members will want to understand that an increase in staffing will only happen if FCC funding is received. Miriam agreed and said she would not increase staffing until a contract, not just an award letter, is received.

Miriam said three contracts are on the agenda for decision. The first is the Enterprise Zone (EZ) contract between the SWCCOG and Region 9 as Region 9 is the EZ administrator. There is a 3% or up to \$500 admin fee for any cash donations. However, Miriam said she anticipates right-of-way, equipment, or labor donations versus cash. The second contract is between the SWCCOG and SWIMT for fiscal agent work. The COG had done this work from 2012-2015 and a bit in 2016; however, the state wanted to move the fiscal agent work to a non-profit. This idea fell through so the COG has been approached as a known organization to continue the fiscal agent role. The contract is for 1 year with an auto renew for up to 3 years. The COG will charge the past 10% admin fee, but this fee will only be charged when the

SWIMT is utilized. The third and final contract is between the COG and new auditor, Haynie and Company. Miriam said auditors are switched out every 3 years.

Miriam reported that the healthcare and liability insurance renewals were received. Healthcare went up 5.5% and dental 2%. Staff talked to a different healthcare company called PSHCG and found the only plan offered that would decrease cost from current CEBT rates would be an HMO, which staff was uncomfortable with as this is a rural area and there are not as many in-network options. Staff did decide to go with a lower cost plan through CEBT as a base and employees can upgrade their plans at their own individual cost. The CIRSA liability insurance decreased. However, if FCC funding is received, property/casualty will be based on the budget and therefore an increase in premium will be seen.

The meeting ended at 2:22 p.m.

Transit Planning Consultant RFP

To: SWCCOG Board of Directors
From: Jessica Laitsch
Date: 26 October 2017

Comments: The SWCCOG Board approved a CDOT 5304 Transit Planning grant in late 2016. This grant was awarded earlier in the year which was matched it with DOLA funding for a total project budget of \$50,000. The scope of work encompasses transit planning the Four Corners area as there much movement of people across state lines, it also partners with the various COGs in the other states, specifically New Mexico and Arizona. The paperwork has taken quite some time to get in order, hence the time difference in award vs RFP. The SWCCOG issued an RFP for a Transit Planning Consultant. Four proposals were received, all of the companies to respond are from the Front Range, or farther.

Attached:

- The evaluation matrix for review.

The Respondents:

- *The Athena Group* – office in Westminster, CO
- *Civic Sphere* – located in Atlanta, GA
- *LSC Transportation Consultants* – office in Colorado Springs, CO
- *Nelson/Nygaard Consulting* – located in Dallas, TX. Subcontractor (public relations) in Durango, CO.

Additional Information:

SWCCOG purchasing policy states that bids should be awarded to the lowest qualified and responsive bidder. It would be beneficial to discuss the “lowest qualified and responsive bidder” in relation to this RFP award. Either Athena or LSC could be awarded this, based on cost, qualifications, and response.

The Athena Group

Rather than strategic planning, uses "Backcasting" process by defining success then identifying what needs to happen to realize it.

Civic Sphere

Experience focused within major metropolitan areas.

LSC Transportation Consultants

Has worked with various jurisdictions in the four corners region to develop transportation/transit plans.

Transit Planning Consultant RFP

Nelson/Nygaard Consulting

Has worked with various state departments of transportation to develop transportation plans.

Legal Review: Not applicable until contract negotiation

Fiscal Impact: Project paid for by FTA 5304 Transit Planning Grant.

Staff Recommendation: Per SWCCOG purchasing policies, staff recommends the Board award a contract to either:

- a) The Athena Group, as the lowest cost, responsive bidder
- b) LSC Transportation Consultants as most qualified, responsive bidder

Transit Consultant Proposal Comparison

	Athena Group	Civic Sphere	LSC Transportation Consultants	Nelson/Nygaard Consulting
Meets RFP requirements	X	X	X	X
Rural transportation experience	X		X	X
Female/minority owned business	Yes	Yes	No	No (subcontractor yes)
Projected Hours	267 hours	up to 20 hrs/week	324 hours	403 hours
Price Quote	\$49,790	\$50,000 (plus reimbursable costs)	\$50,000	\$49,960*
Previous Clients	Washington State DOT; Pierce County, WA; Hawaii DOT,	Lincoln Institute of Land Policy; Atlanta Regional Commission; Georgia Transit Association	Breckenridge, CO; Eagle County, CO; Gunnison County, CO; Summit County, CO; Williams, AZ; Montana DOT	Ohio DOT; California DOT; Illinois DOT; Mid-Region COG (Albuquerque, NM)
Previous 4-Corners Based Clients			Farmington, NM; Montrose County, CO; CDOT; Region 9 EDD	Utah DOT
Staff notes	"Backcasting" by defining success then identifying what needs to happen to make that happen		Worked with Region 9 on 2009 Southwest Colorado Regional Transit Plan	"would like to review with you certain contract terms for a final agreement including; allocation of liabilities, insurance provisions, ownership of documents and intellectual property and the relationship of scope to schedule and compensation."

*Cost estimate is set base+overhead, unclear whether this includes cost of travel and incidentals

SWIMT Contract for Fiscal Management

To: SWCCOG Board of Directors
From: Miriam Gillow-Wiles
Date: 2 November 2017

Comments: As mentioned at the last Board Meeting, the Southwest Colorado Incident Management Team (SWMIT) approached the SWCCOG requesting fiscal management. SWCCOG previously provided this service for the SWMIT when it was initially formed in 2013ish. At that time the SWMIT had no stable funding source and the only thing that the SWCCOG provided was a conduit for reimbursement to the various agencies from the state. The SWCCOG received 10% of funding from any reimbursements at that time.

The 2017 Legislative session allocated a small amount of state funding for the Incident Management Teams across the state through the Department of Homeland Security and Emergency Management (DHSEM) via an application process. The SWMIT now needs a fiscal agent for this funding.

Details:

- Staff and SWMIT representatives have developed the contract
- SWCCOG will continue to receive 10% of funds as fiscal agent
- The funding is on a reimbursement request, but can be requested in advance for large purchases
- Funding operates much like the All Hazards funding (same state department) which the SWCCOG administers.
- SWMIT has applied for \$30,000 in funding
- SWMIT is expected to approve contract at their November 2017 meeting

Attached:

- SWIMT Contract

Legal Review: Written and reviewed after any changes.

Fiscal Impact: Will provide 10% of any funds, \$3,000 for 2018 budget.

Staff Recommendation: Approve the MOU for Fiscal Management of the Southwest Colorado Incident Management Team

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“Agreement”) is made between the Southwest Colorado Incident Management Team (“SWIMT”), whose address is 109 West Main Street, Room 302, Cortez, CO 81321 and the Southwest Colorado Council of Governments (“Contractor”) whose address is PO Box 963, Durango, CO 81302.

RECITALS

WHEREAS SWCCOG is a state recognized intergovernmental entity promoting regional cooperation and coordination among local governments and between levels of government for geographic areas comprising the Counties of Archuleta, Dolores, La Plata, and San Juan; including Town of Bayfield, City of Cortez, Town of Dolores, City of Durango, Town of Ignacio, Town of Mancos, Town of Pagosa Springs, Town of Rico, and Town of Silverton.

WHEREAS, the State of Colorado recognizes the SWIMT as a State-certified Type III All-Hazards Incident Management Team made up of individual members of local and State government agencies.

WHEREAS, the SWIMT is in need of certain administrative support and fiscal agent support as set forth in Exhibit A whereby SWCCOG would provide those services to SWIMT on a non-exclusive basis; and

WHEREAS, it is the mutual desire of the Parties to set forth their understanding and agreement, in writing, with respect to said obligations:

NOW, THEREFORE, the parties agree as follows:

1. *Retention of Contractor.* SWIMT hereby retains Contractor to provide certain services on the terms herein provided.

2. *Term of Agreement.* Unless terminated earlier by either party hereto, the period during which Contractor shall provide services to SWIMT under this Agreement shall be from the date fully executed by the parties, until one year thereafter, (the “Initial Term”). This Agreement shall automatically renew for up to two additional one-year terms unless terminated in writing, 30 days prior to the renewal date.

3. *Termination.* This Agreement may also be terminated by either Party, with or without cause, by providing at least 30 days’ written notice to the other Party.

Upon termination, SWIMT shall issue SWCCOG any payments owed for the ongoing annual period that have not yet been paid, however pro-rated to the date of termination, and SWCCOG shall return to SWIMT all SWIMT property, correspondence and records (including copies of SWIMT computer files), and the parties shall thereafter be relieved from further obligations under this Contract.

4. *Contractor's Duties.* Contractor shall furnish the Services to SWIMT as described in Exhibit A, Scope of Services.

5. *SWIMT Duties.* SWIMT will adhere to the purchasing policies of the SWCCOG as well as purchasing policies/requirements of funding sources. SWIMT will also provide documentation to the SWCCOG as requested.

6. *Compensation and Invoices.* The compensation paid to the Contractor is to be paid as described in Exhibit A. SWCCOG's obligation to perform is conditional on SWIMT payment.

7. *Agreement to Perform Services as an Independent Contractor.* It is understood through this contract that SWIMT is contracting with Contractor to provide specific services as an independent contractor, and this contract should in no way be interpreted that Contractor is an employee of SWIMT or that the SWIMT is an employee of SWCCOG.

7. *Notices.* Any notice this Agreement requires must be written and hand-delivered or sent by U.S. Certified mail, return receipt requested, to the parties at the address listed above and also via email, to the following e-mail addresses:

If to SWCCOG: director@swccog.org AND sara@swccog.org

If to SWIMT: phollar@co.montezuma.co.us AND steve.barkley@durangogov.org AND sdugdale@sjbpublichealth.org

8. *Assignment.* Neither party shall have the right to assign this Agreement except with the express written consent of the other.

9. *Enforceability.* If any term or provision of this Agreement shall be adjudicated to be invalid, illegal or unenforceable, this Agreement shall be deemed amended to delete the term or provision thus adjudicated to be invalid, illegal or unenforceable and the validity of the other terms and provisions of this Agreement shall not be affected thereby so long as the purposes of this contract can be met.

11. *Governing Law and Enforcement.* The terms and conditions of this

Agreement shall be construed, interpreted and enforced in accordance with the applicable laws of the State of Colorado. Any dispute concerning the performance or interpretation of the agreement which cannot be resolved by the designated points of contact or their immediate superiors shall be referred to the party's board of directors. If the matter is not resolved within 45 days after referral, either party may file legal action. If any legal action is necessary to enforce the terms and conditions of this Agreement, the parties agree that the jurisdiction and venue for bringing such action shall be in the appropriate court in La Plata County, Colorado.

12. *Entire Agreement.* The parties agree that this Agreement constitutes the entire Agreement between the parties and supersedes any and all prior oral representations, promises, covenants, understandings and other agreements, if any, between the parties and their agents, and this Agreement may not be modified in any manner except by an instrument in writing executed by both parties.

13. *Waiver.* No failure by either party to exercise any right it may have shall be deemed to be a waiver of that right or of the right to demand exact compliance with the terms of this Agreement.

14. *Construction.* This Agreement's final form resulted from review and negotiations among the parties and/or their attorneys and no part of this Agreement shall be construed against any party on the basis of authorship.

15. *Signatory's Authority.* Each person signing this Agreement in a representative capacity expressly represents that the signatory has the subject party's authority to so sign and that the subject party will be bound by the signatory's execution of this Agreement.

16. *Funding availability.* Financial obligations of the SWIMT and performance obligations of SWCCOG are contingent upon appropriation of funds by their organizations to pay for the scope of work defined in this agreement. The Parties understand and accept that SWIMT obligations to make any payments, and SWCCOG obligations to perform services are contingent on appropriation of funds.

17. *Third Party Beneficiaries.* The parties to this Agreement do not intend to benefit any person not a party to this Agreement. No person or entity, other than the parties to this Agreement shall have any right, legal or equitable, to enforce any provision of this Agreement.

18. *Breach of Contract.* The prevailing party to any litigation arising out of this agreement shall be entitled to all costs of that action, including reasonable attorney's fees. Notwithstanding, neither party shall be liable for any damages for loss of profits, loss of

revenues, loss of goodwill, loss of anticipated savings, loss of data, or cost of purchasing, replacement services, or any indirect, incidental, special, consequential, exemplary or punitive damages arising out of its performance or failure to perform under this agreement. Additionally, any damages against SWCCOG shall be capped at the amount of funds that SWCCOG has received from the SWIMT during the fiscal year in which such liability or damage accrued.

19. *Liability Insurance/ Responsibility for SWIMT and its SWIMT Member's Actions.* SWIMT shall ensure that it or its member entities and individuals maintain liability insurance in amounts needed given the nature of the work it performs. SWCCOG shall have no liability for actions or inactions taken by SWIMT or its member entities or its individuals in providing those functions, services, or work that SWIMT and/or its members or individuals perform. SWIMT shall indemnify SWCCOG as to any defense cost and any liability resulting from the actions or inactions taken by SWIMT or its member entities or its individuals in providing those functions, services, or work that SWIMT and/or its members or individuals perform.

20. *Indemnification.* Each party, to the extent authorized by law, shall indemnify and hold the other harmless, their agents, employees, and Directors from and against any claim, damages, losses and expenses, including but not limited to attorney's fees and court costs, arising out of or related to that party's own failure to properly perform under this agreement, but only to the extent the failure to perform is caused in whole or in part by the negligent acts or omission of that party, or anyone directly or indirectly employed by that party, and so long as that party did not cause, in whole or in part, the other party not to properly perform.

21. It is the intent of the Parties that all contractual and statutory obligations of the SWIMT remain those of the SWIMT, and are not assigned to the SWCCOG and do not become the obligation of the SWCCOG. This Agreement does not create a joint venture or partnership or merger of the Parties. SWIMT is and shall remain separate and distinct from the SWCCOG. The business operations of SWIMT shall in no way combine with the business operations of the SWCCOG. The role of the SWCCOG is merely to assist the SWIMT Board by supplying it with administrative support and fiscal agent support, as set forth in this Agreement. The SWCCOG is not responsible for the SWIMT's actions or inactions.

22. By executing this agreement, the parties do not waive any immunity or limit liability contained in the Colorado Governmental Immunity Act, do not create a multi-year

EXHIBIT A: SCOPE OF SERVICES & COMPENSATION

Administrative Services are limited to:

- Providing bookkeeping services for SWIMT.
- Maintaining SWIMT books in from date of execution of this Agreement.
- Providing quarterly financial statements to SWIMT.
- Maintaining a checking account line item for the benefit of SWIMT.

Administration Services provided in this scope of work shall include labor costs, rent, utilities, telephone, office supplies, and computer hardware and software. Other costs that the SWIMT may incur include, but not limited to, legal fees and costs, audit fees, PO Box costs, postage, mileage and travel, CIRSA insurance renewal, payment of SWIMT vendors and SWIMT invoices, are the responsibility of the SWIMT.

SWCCOG shall additionally provide fiscal agent services to SWIMT. SWIMT shall provide SWCCOG with payment instructions and proper documentation for all reimbursement or pay requests to be made by SWCCOG for SWIMT. SWIMT shall follow the terms of any grant agreements under which SWCCOG is serving as fiscal agent, and shall provide SWCCOG with copies of all such agreements, and with copies of all correspondence to or from such funding agencies. SWIMT agrees to work with SWCCOG to ensure that the scope of work can be performed by SWCCOG. SWIMT shall see that all funding and all of its cash receipts are paid to SWCCOG for fiscal agent management.

SWIMT shall pay SWCCOG at an indirect cost, 10% of its combined yearly gross revenues and receipts, no matter the source, during each year of this contract, including but not limited to deployment, state funding, state grants, federal funding, and federal grants, member dues. SWCCOG shall request the 10% on any reimbursement from any and all funding sources, if the SWIMT receives funds on a non-reimbursement basis the SWIMT shall pay the SWCCOG upon receipt of funds.

Region 9 – SWCCOG Enterprise Zone

Contract

To: SWCCOG Board of Directors
From: Miriam Gillow-Wiles
Date: 5 October 2017

Comments: The state approved the SWCCOG Broadband Enterprise Zone application in June. This Enterprise Zone (EZ) is specifically for broadband development. The project would allow private land owners to donate Rights of Way, private companies to donate equipment (such as conduit, switches, or fiber) and labor, and private companies or land owners to donate cash. Of note, the EZ cannot accept more than \$750,000 in donations per year, though this is likely not an issue. This contract formalizes the relationship between Region 9 as the Enterprise Zone Administrator and the SWCCOG. The SWCCOG will be approving applications and the day to day work. Region 9 is ultimately responsible for our work on the EZ. A significant portion of this contract is standard contract language from SWCCOG Legal Counsel.

Details:

- Region 9 receives 3% of monetary contributions, but not to exceed \$500/year
- No exchange of funding for all other contributions such as ROW, equipment, labor, etc
- Contract renewal is automatic until the EZ project expires or the State cancels the EZ project.
- Specifics of the Enterprise Zone, such as maximum amount of donations per year, what information is required for donations, and to ensure Region 9 has all the documentation for the Enterprise Zone.

Attached:

- MOU
- Enterprise Zone Map (all the shaded area is eligible)
- Enterprise Zone Tax Credit Example

Legal Review: Reviewed.

Fiscal Impact: Minor, Region 9 receives 3% of monetary donations

Staff Recommendation: Approve the MOU between Region 9 EDD and SWCCOG for Enterprise Zone management

Memorandum of Understanding for the Southwest Colorado Enterprise Zone

This Memorandum of Understanding, is made this ____ day of _____, 2017, by and between the Region 9 Economic Development District of Southwest Colorado Inc. d/b/a Southwest Enterprise Zone (herein after referred to as Region 9 EDD), whose address is 295A Girard St., Durango, CO 81303, and the sub-grantee, Southwest Colorado Council of Governments (herein after referred to as SWCCOG), whose address is PO Box 963, Durango, CO 81302.

Whereas, Region 9 EDD is the Southwest Enterprise Zone Administrator designated by the Department of Local Affairs of the State of Colorado; and,

Whereas, CRS 30-103.5(1)(a) allows tax credits for contributions to a designated Enterprise Zone Administrator for the purpose of implementing the economic development plan for the Enterprise Zone; and

Whereas, the Economic Development Commission has approved **SWCCOG** as an Enterprise Zone project for 2017 for the SWCCOG Telecommunications EZ Project; and

Whereas, the Enterprise Zone statutes allow the Enterprise Zone Administrator to certify organizations/projects to receive contributions directly, and;

Whereas, the Colorado Department of Revenue has determined that the Zone Administrator, in certifying the appropriate purpose of a contribution, has a responsibility to assure that third party grantees use tax creditable contributions as intended;

Now Therefore, it is hereby agreed and understood that:

1. **SWCCOG** must have a file with the Southwest Enterprise Zone Administrator the following documents and **will be asked to furnish them if they are not on file**: (1) IGA's establishing the SWCCOG; (2) proof of SWCCOG legal standing, consisting of the other items set forth in this paragraph; (3) tax status information such as Tax Identification number (W-9) or (4) Federal Letter of IRS Designation; (5) SWCCOG Board approval to enter into Memorandum of Understanding; (6) SWCCOG Articles of Incorporation; and (7) SWCCOG Bylaws.;

2. The Southwest Enterprise Zone Administrator shall be entitled to receive a three percent (3%) **administrative fee** on the value of all monetary contributions received by SWCCOG under the Southwest Enterprise Zone project from Colorado residents or donors with a Colorado state tax liability during the term of this contract to compensate the Southwest Enterprise Zone Administrator for its estimated overhead and administrative costs, subject to approval of the fee by the State of Colorado Economic Development Commission. There is a Five Hundred (\$500) Dollar cap as the maximum administrative fee on any one monetary contribution. No administrative fee will be charged for any in-kind or any non-monetary contributions. If there are monetary contributions, the Southwest Enterprise Zone Administrator will invoice the **SWCCOG** on a quarterly basis for the administrative fee. Failure of the SWCCOG to pay the quarterly administrative fee within thirty days of receipt of the administrative fee invoice may result in the Southwest Enterprise Zone Administrator declining to certify Southwest Enterprise Zone contributions to the SWCCOG until the administrative fee is current.

3. The State of Colorado has reserved the right to request a financial report from each Southwest Enterprise Zone Project describing the work completed and the use of funds. **SWCCOG** agrees to furnish any relevant information deemed necessary by the Southwest Enterprise Zone Administrator to determine the nature of the use of the donations received by SWCCOG through the Southwest Enterprise Zone Contribution Project.

4. **SWCCOG** will forward the completed certifications forms to the Southwest Enterprise Zone Administrator, Region 9 Economic Development District, 295A Girard St., Durango, CO 81303, along with a copy of the check and/or other documentation of in-kind or non-monetary contributions. **Please refer to the Instructions for Certification of Qualified Enterprise Zone Contributions provided by Region 9 EDD.** The Southwest Enterprise Zone Administrator will sign the appropriate certification forms, make a copy, and return the original signed forms to the SWCCOG who will return the signed certification forms to the contributor. After December 31st of each year this agreement is in effect, the Southwest Enterprise Zone Administrator needs to report all annual contributions to the State of Colorado. Any certification forms for the previous year filed after January 12th will show up on the following year's State of Colorado report.

5. In the case of in-kind contributions, the SWCCOG shall require the donor to submit a description of the in-kind contribution and a statement of value for the in-kind contribution. Per IRS regulation, the donor will be required to provide a "qualified appraisal" for in-kind contributions in excess of \$5,000. The minimum value of in-kind donations accepted will be \$250. Donated stock certificates, securities etc. are considered by the Colorado Department of Revenue as in-kind donations. The rules governing documentation of in-kind contribution are incorporated herein, as the same may be amended from time to time by the Colorado Department of Revenue and IRS.

6. The SWCCOG agrees to hold Region 9 EDD harmless from any claim of liability arising under this agreement or in carrying out the Enterprise Zone Contribution project to the extent it results from the breach of contract or negligence of SWCCOG, to the extent authorized by law. Similarly, Region 9 EDD agrees to hold SWCCOG harmless from any claim of liability arising under this agreement or in carrying out the Enterprise Zone Contribution project to the extent it results from the breach of contract or negligence of Region 9 EDD, to the extent authorized by law.

7. **The Colorado Department of Revenue requires that all Certification forms have the social security, Colorado Account Number or tax id number of the donor prior to the Enterprise Zone Administrator being able to certify the form.**

8. Enterprise Zone Project Designation is renewed annually. For the SWCCOG to continue as an Enterprise Zone Project Program, the SWCCOG must fill out required information from the Colorado Economic Development Commission distributed through the Southwest Enterprise Zone Administrator in the fall of each year.

9. **SWCCOG** can only certify \$750K in credits each year.

10. The Southwest Enterprise Zone Administrator will certify **SWCCOG** contributions directly, and retain the signatory authority on all certifications.

11. **SWCCOG** agrees to maintain its legal standing during the term of this agreement.

12. This Memorandum of Understanding will remain in effect until December 31, 2022 unless terminated by written notification by Region 9 EDD and/or the State of Colorado terminating the Enterprise Zone project. This agreement will automatically renew for additional one year terms, unless either party provides thirty days written notice of its intent not to renew.

13. Assignment. Neither party shall have the right to assign this Agreement except with the express written consent of the other.

14. Enforceability. If any term or provision of this Agreement shall be adjudicated to be invalid, illegal or unenforceable, this Agreement shall be deemed amended to delete the term or provision thus adjudicated to be invalid, illegal or unenforceable and the validity of the other terms and provisions of this Agreement shall not be affected thereby so long as the purposes of this contract can be met.

15. Governing Law and Enforcement. The terms and conditions of this Agreement shall be construed, interpreted and enforced in accordance with the applicable laws of the State of Colorado. Any dispute concerning the performance or interpretation of the agreement which cannot be resolved by the designated points of contact or their immediate superiors shall be referred to the party's board of directors. If the matter is not resolved within 45 days after referral, either party may file legal action. If any legal action is necessary to enforce the terms and conditions of this Agreement, the parties agree that the jurisdiction and venue for bringing such action shall be in the appropriate court in La Plata County, Colorado.

16. Entire Agreement. The parties agree that this Agreement constitutes the entire Agreement between the parties and supersedes any and all prior oral representations, promises, covenants, understandings and other agreements, if any, between the parties and their agents, and this Agreement may not be modified in any manner except by an instrument in writing executed by both parties.

17. Waiver. No failure by either party to exercise any right it may have shall be deemed to be a waiver of that right or of the right to demand exact compliance with the terms of this Agreement.

18. Construction. This Agreement's final form resulted from review and negotiations among the parties and/or their attorneys and no part of this Agreement shall be construed against any party on the basis of authorship.

19. Signatory's Authority. Each person signing this Agreement in a representative capacity expressly represents that the signatory has the subject party's authority to so sign and that the subject party will be bound by the signatory's execution of this Agreement.

20. Funding availability. Financial obligations of the SWCCOG to pay are contingent upon receiving the monetary donations.

21. Third Party Beneficiaries. The parties to this Agreement do not intend to benefit any person not a party to this Agreement. No person or entity, other than the parties to this Agreement shall have any right, legal or equitable, to enforce any provision of this Agreement.

22. Breach of Contract. The prevailing party to any litigation arising out of this agreement shall be entitled to all costs of that action, including reasonable attorney's fees. Notwithstanding, neither party shall be liable for any damages for loss of profits, loss of revenues, loss of goodwill, loss of anticipated savings, loss of data or cost of purchasing, replacement services, or any indirect, incidental, special,

consequential, exemplary or punitive damages arising out of its performance or failure to perform under this agreement.

23. By executing this agreement, the parties do not waive any immunity or limit liability contained in the Colorado Governmental Immunity Act, do not create a multi-year financial obligation, and do not create any other financial obligation not supported by a current appropriation.

In witness whereof, the parties here to have executed this Memorandum of Understanding on the date written above.

Southwest Colorado Council of Governments (SWCCOG)

By:

Miriam Gillow-Wiles, Executive Director

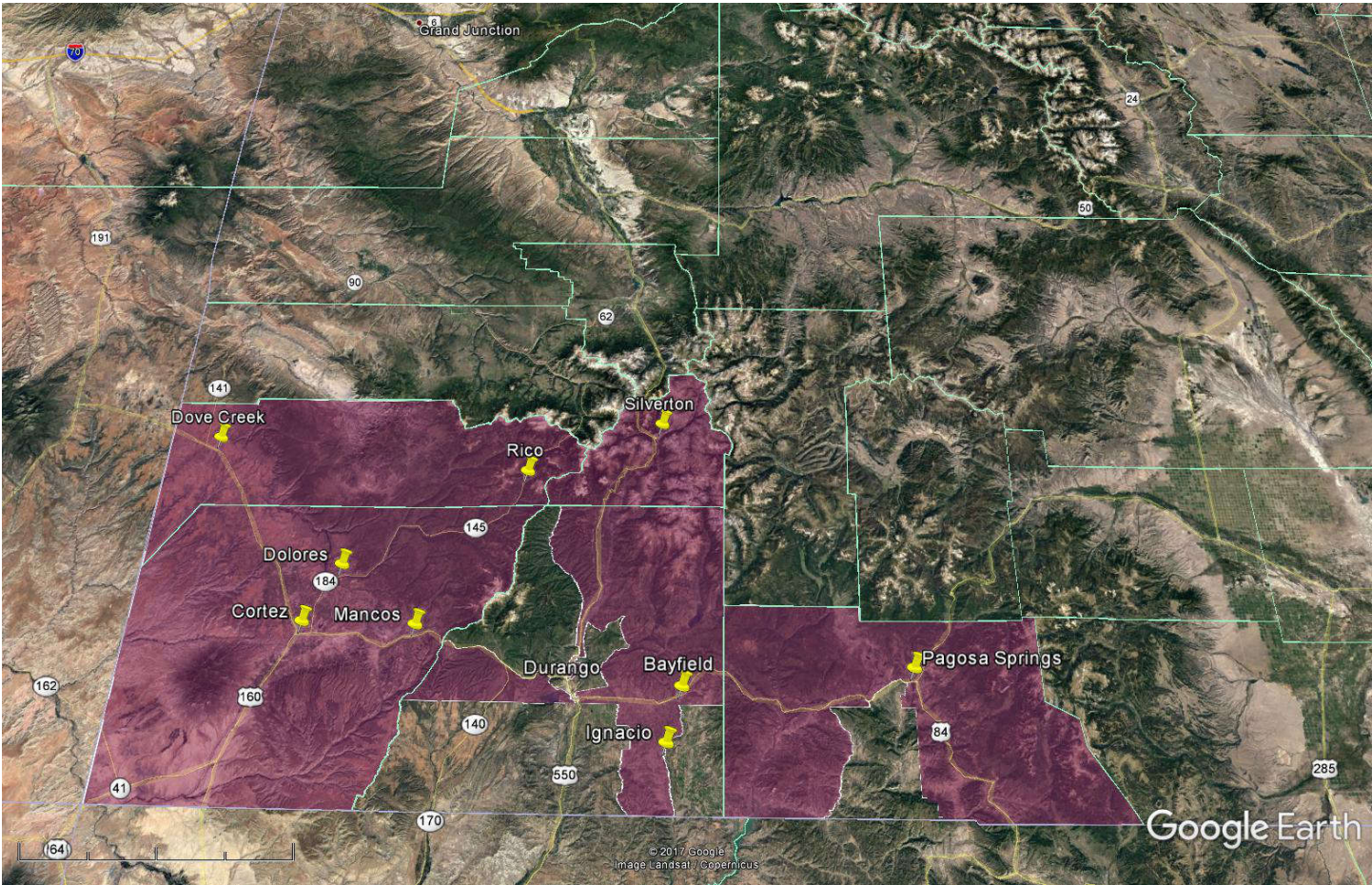
Date

Region 9 Economic Development District of Southwest Colorado Inc. d/b/a Southwest Enterprise Zone (Region 9 EDD)

By:

Laura Lewis Marchino, Enterprise Zone Administrator

Date



Google Earth



Southwest Enterprise Zone--Contribution Tax Credit Example

SWCCOG Telecommunications EZ Project

The following is an example of the benefits of donating to a local Enterprise Zone Contribution Project. This is based on the assumption that the contributor is a Colorado resident or a donor with a Colorado State Tax liability:

If you have a Colorado State Tax Liability of: \$10,000	Cash Donation	In-Kind Donation
Say your Cash Donation Total is:	\$ 5,000	
You will receive a 25% state tax EZ credit of:	\$ 1,250	
**Say you In-Kind Donation Total is:		\$ 5,000
You will receive a 12.5% state tax EZ credit of:		\$ 625
Leaving you a net Colorado tax liability of:	\$ 8,750	\$ 9,375

If your Colorado tax liability is less than your benefit (tax credits), you may carry forward excess credits for up to five tax years. The maximum credit you can claim in one year is \$100,000. Please refer to the Colorado Department of Revenue FYI Income 23 for more information regarding Enterprise Zone Contribution Tax Credits.

Please Note: The SWCCOG is a government agency and is not eligible for the Federal Charitable Contribution Deduction on your Federal Income Taxes.

The SWCCOG Enterprise Zone Contribution Project requires a minimum contribution of \$250 to qualify for the Colorado EZ tax credit.

****Gifts of property, equipment, labor, or stocks are eligible for in-kind tax credits.**

Remember - This is just an example of the benefit of your contribution to an EZ Contribution Project. You should contact your own tax preparer for specific benefits related to your individual contribution(s).

For additional information: Call Terry Blair-Burton with Region 9 at 970.247.9621 or email terry@scan.org



Auditor Contract

To: SWCCOG Board of Directors
From: Miriam Gillow-Wiles and Sara Trujillo
Date: 2 November 2017

Comments: Earlier this year, the SWCCOG Board awarded the SWCCOG 2017, 2018, and 2019 audit to Haynie & Company. Attached is a basic Professional Services Agreement developed by Legal. Our contact at Haynie & Company agreed that the template is acceptable. In addition, there is an Exhibit A, the auditor's engagement letter.

Basic Information on the Contract:

- The proposed yearly amount was \$5,900 including all expenses, as the firm is based in Littleton.
- One year terms with renewal for 2018 and 2019
- If/When FCC funding is realized, costs will increase, as it is based on current budget. There is language to allow for this so we do not have to have another RFP because our budget increased. The contract will be amended as necessary.

Legal Review: Legal created the contract and reviewed the letter as Exhibit A.

Fiscal Impact: The 2018 budget includes the proposed cost for the 2017 audit.

Staff Recommendation: Approve contract with signature authority to the Executive Director.

**Independent Contractor Agreement Between
The Southwest Colorado Council of Governments and Haynie & Company**

This contract is entered into on _____, 2017 (the "effective date"), between the Southwest Colorado Council of Governments ("SWCCOG"), a political subdivision of the State of Colorado, whose address is PO Box 963, Durango CO 81302, and Haynie & Company ("CONTRACTOR"), whose address is 1221 W. Mineral Ave, Ste. 202, Littleton, CO 80120-4544.

Purpose

The purpose of this contract is to describe the independent contractor agreement by which CONTRACTOR will perform consulting services to the SWCCOG.

Term and Conditions

The term for this contract is 12 months, commencing upon mutual execution of this contract and ending 12 months thereafter, with up two additional one year terms, unless terminated by either party prior to that time. It may be extended at any time by mutual written consent.

Additional Documentation

CONTRACTOR shall complete within 15 days of the effective date of this contract documentation regarding: a) certification of compliance with prohibition of employ or contract of illegal aliens, b) proof of carrying professional liability insurance, c) provision of worker's compensation and d) a W9 form.

CONTRACTOR shall maintain professional liability insurance and worker's compensation insurance and all required business licenses during the length of the contract.

Consideration

For performance of services set forth in Attachment A, SWCCOG will pay CONTRACTOR at the rates provided in Attachment A, but not to exceed amount of \$5,900 during the contract period, with all payment contingent upon SWCCOG appropriation. Said payment is the full compensation to CONTRACTOR which shall bear all expenses incurred to accomplish the scope of work except as provided in Attachment A

Submission of a monthly payment request shall be accompanied by an CONTRACTOR monthly progress report for the previous month summarizing activities & accomplishments and total hours of activity.

Payments shall be made from SWCCOG to CONTRACTOR within 30 days of receiving a monthly invoice.

Compensation shall be paid in the trade or business name of CONTRACTOR. CONTRACTOR shall be solely responsible for any payroll, withholding, or other taxes, and any of its insurance requirements. THE PARTIES HERETO UNDERSTAND THAT CONTRACTOR IS NOT ENTITLED TO WORKER'S COMPENSATION BENEFITS OR UNEMPLOYMENT COMPENSATION BENEFITS AND IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED PURSUANT TO THIS AGREEMENT.

Description of Work

Please see Attachment A for a detailed scope of work.

CONTRACTOR warrants that the quality of its Services under this Agreement shall conform to the level of professional quality performed by experts regularly rendering this type of service. It shall be a condition of

this Agreement that CONTRACTOR shall be responsible for meeting the program expectations of SWCCOG pursuant to Attachment A, and the terms, requirements, and specifications established herein, in the performance of services hereunder to the satisfaction of the SWCCOG. CONTRACTOR warrants that it has all the skills, experience, and professional licenses necessary to perform the services specified in this Agreement. CONTRACTOR warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the services specified in this Agreement.

Independent Contractor/ Not An Employee

It is understood through this contract that CONTRACTOR is contracting with SWCCOG to provide specific services and this contract should in no way be interpreted that CONTRACTOR is an employee of the SWCCOG.

CONTRACTOR shall perform said services in its own way in the pursuit of its independent calling and not as an employee of SWCCOG, and shall be solely responsible for the means and methods and the proper performance of the services in compliance with the terms, requirements, and specifications of this Agreement. CONTRACTOR and any persons employed or retained by CONTRACTOR for the performance of services hereunder shall be independent contractors and not employees or agents of the SWCCOG. CONTRACTOR shall not be under the control of SWCCOG or its employees as to the means or manner by which such result is to be accomplished. It shall be a condition of this Agreement that CONTRACTOR shall be responsible for meeting the program expectations of SWCCOG, and the terms, requirements, and specifications established herein, in the performance of services hereunder to the satisfaction of the SWCCOG.

CONTRACTOR shall have no claim against the SWCCOG hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. CONTRACTOR shall be solely responsible for meeting all applicable withholding, tax, and insurance requirements.

Ownership of Work Product

SWCCOG shall be the owner of information gathered and developed during the project, and of all work product performed by CONTRACTOR under the terms of this agreement. Subsequent use of such information by CONTRACTOR shall require the advance written approval of the SWCCOG.

In the event of termination, all finished and unfinished work product(s) prepared by CONTRACTOR pursuant to this Agreement shall become the sole property of the SWCCOG, provided CONTRACTOR is compensated in accordance with this Agreement for all work performed in accordance with this Agreement up to the effective date of termination. CONTRACTOR shall not be liable with respect to the SWCCOG'S subsequent use of any incomplete work product, provided CONTRACTOR has notified the SWCCOG in writing of the incomplete status of such work product.

Equal Employment Opportunity

- A. CONTRACTOR will not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, age, sex (gender), religion, creed, or physical or mental disability. CONTRACTOR may adhere to lawful equal opportunity guidelines in selecting employees, provided that no person is illegally discriminated against on any of the preceding bases. This provision shall govern, but shall not be limited to, recruitment, employment, promotion, demotion, and transfer, and advertising therefor; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship. CONTRACTOR shall post, in all places conspicuous to employees and applicants for employment, notices provided by the State of Colorado setting forth the provisions of this nondiscrimination clause.

- B. All solicitations and advertisements for employees placed by or on behalf of CONTRACTOR, shall state that CONTRACTOR is an equal opportunity employer.
- C. CONTRACTOR shall cause the foregoing provisions to be inserted in all subcontracts for any work contemplated by this Agreement or deemed necessary by CONTRACTOR, so that such provisions are binding upon each sub-Consultant.
- D. CONTRACTOR shall keep such records and submit such reports concerning the racial and ethnic origin of employees and of applicants for employment as the U.S., the State of Colorado, the SWCCOG, or their respective agencies may require.
- E. CONTRACTOR shall comply with such rules, regulations and guidelines as the United States, the State of Colorado, the SWCCOG, or their respective agencies may issue to implement these requirements.

Records

CONTRACTOR shall maintain records that indicate the date, time, and nature of the services rendered under this agreement. CONTRACTOR shall make available for inspection by the SWCCOG all records, books of account, memoranda, and other documents pertaining to the SWCCOG upon reasonable request. SWCCOG, or a duly authorized representative from SWCCOG shall until three (3) years after final payment under this agreement have access to and the right to examine any of CONTRACTOR's books, documents, papers, or other records involving transactions related to this contract agreement. Additionally, pursuant to Section 6 of the SWCCOG procurement policy:

6.11.1 Audit of Cost or Pricing Data. The SWCCOG may, at reasonable times and places, audit the books and records of any contractor who has submitted all cost or pricing data pursuant to the Policy to the extent that such books, documents, papers, and records are relevant to such cost or pricing data. Any person who receives a contract, change order, or contract modification for which cost or pricing data is required, shall maintain such books, documents, papers, and records that are pertinent to such cost or pricing data for three (3) years from the date of final payment under the contract.

6.11.2 Audit of Contractor. The SWCCOG shall be entitled to audit the books and records of any contractor or subcontractor at any tier under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books, documents, papers and records are relevant to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contract and by the subcontractor for a period of three (3) years from the date of final payment under the subcontract.

6.11.3 Contractor Records. If a contract is being funded in whole or in part by assistance from a federal agency, then the contractor or subcontractor at any tier are required to maintain for three (3) years from the date of the final payment, or as required by the grantor, all books, documents, papers, and records pertinent to the contract; and to provide to the SWCCOG, the federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives access to such books, documents, papers, and records for the purposes of examining, auditing, and copying them.

Insurance

Professional Liability Insurance: CONTRACTOR shall maintain professional liability insurance for itself and its employees in an amount no less than One Million Dollars (\$1,000,000) throughout the term of this Agreement. Such insurance shall provide that the SWCCOG be notified no less than 45 days in advance in the event of cancellation.

Worker's Compensation: CONTRACTOR shall secure, maintain and provide verification of all necessary Worker's Compensation insurance as may be required by law to provide coverage for CONTRACTOR's

employees hereunder.

Conflict of Interest

CONTRACTOR warrants that it presently has no interest and shall not acquire any interest – direct or indirect – which would conflict in any manner or degree with the performance of services required under this Agreement.

CONTRACTOR shall disclose any potential conflicts of interest with the project regarding other employment, contracts or representation related to telecommunications services.

The SWCCOG may immediately terminate this contract if it determines that there is a conflict of interest with the project.

Confidentiality

Any confidential information provided to or developed by CONTRACTOR in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by CONTRACTOR without the prior written approval of the SWCCOG. CONTRACTOR acknowledges that during the engagement, it will have access to and become acquainted with various information or data owned or licensed by the SWCCOG and/or used by the SWCCOG in connection with the operation of its affairs, including, without limitation, the SWCCOG's business, processes, methods, lists, accounts and procedures. CONTRACTOR agrees that it will not disclose any of the aforesaid, directly or indirectly, or use any of them in any manner, either during the term of this Agreement or at any time thereafter, except as required in the course of its engagement with the SWCCOG. All files, records, documents, blueprints, specifications, information, letters, notes, lists, notebooks, and similar items relating to the business of the SWCCOG, whether prepared by CONTRACTOR or otherwise coming into its possession, shall remain the exclusive property of the SWCCOG. CONTRACTOR shall not retain any copies of the foregoing without the SWCCOG's prior written permission. Upon the expiration or earlier termination of this Agreement, or whenever requested by the SWCCOG, CONTRACTOR shall immediately deliver to the SWCCOG all such files, records, documents, specifications, information, and other items in its possession or under its control.

CONTRACTOR shall execute and comply with additional non-disclosure agreements as necessary to implement the project and as requested by the SWCCOG board.

Indemnification and Release

CONTRACTOR agrees to indemnify and hold harmless the SWCCOG, and its officers and its employees, from and against any and all liability, claims, demands, and expenses, including court costs and attorney fees, on account of any injury, loss, or damage, which arise out of or are in any manner connected with the services to be provided under this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, or other fault of CONTRACTOR, any subcontractor of CONTRACTOR, or any officer, employee, or agent of CONTRACTOR .

CONTRACTOR waives and releases the SWCCOG, and its officers and its employees, from any and all liability, claims, demands, and expenses, including court costs and attorney fees, on account of any injury, loss, or damage which Contractor may suffer and which arise out of or are in any manner connected with the services to be provided under this Agreement.

Termination

Either party may terminate this Agreement, without cause, upon providing 30 days written notice to terminate the contract.

In addition, SWCCOG, may immediately terminate this contract pursuant to paragraph 6.9 of its Procurement Policy if CONTRACTOR:

- (1) Fails to begin the work within the time specified in the Contract;
- (2) Fails to perform the work with sufficient workers and equipment or with sufficient materials to assure the prompt completion of said work;
- (3) Fails to perform the work in accordance with contract requirements or refuses to remove and replace rejected materials or unacceptable work;
- (4) Discontinues the work;
- (5) Fails to resume work which has been discontinued within a reasonable time after notice to do so;
- (6) Becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency;
- (7) Allows any final judgment to remain unsatisfied for a period of ten (10) days;
- (8) Fails to comply with contract requirements regarding minimum wage payments;
- (9) Is a party to fraud; or,
- (10) For any other cause whatsoever, fails to carry on the work in an acceptable manner.

Additionally, SWCCOG may immediately terminate this contract if it determines that there is a conflict of interest with the project.

SWCCOG's approval of any services or any payment hereunder shall not in any way relieve CONTRACTOR of the responsibility for the accuracy and completeness of the services, or for compliance with the terms, requirements, and specifications applicable thereto; and no such approval shall constitute a waiver of any rights of SWCCOG under this Agreement, or of any cause of action arising out of or in any way connected with this Agreement.

Miscellaneous

CONTRACTOR shall receive and securely maintain personal data on its contractors necessary for the purposes of administration and reporting. The data will be held for one year beyond the duration of this contract to answer any required and appropriate question relating to you as contractor.

CONTRACTOR, at all times, agrees to observe all applicable Federal and State Laws, SWCCOG rules and regulations issued pursuant thereto, which in any manner affect or govern the services contemplated under this Agreement.

CONTRACTOR shall advise SWCCOG of any duties or responsibilities on this contract that are subcontracted to other parties and shall remain responsible for the quality, timeliness and completeness of all contract duties. Notwithstanding, no portion of this contract shall be subcontracted without SWCCOG prior written approval. CONTRACTOR shall be solely responsible for the compensation, insurance, taxes, withholding, and all clerical detail pertaining to such assistance.

CONTRACTOR and any of its officers, employees or contractors do not have the authority to obligate the SWCCOG to contracts or expenditures.

It is understood and agreed that SWCCOG's performance shall be subject to appropriation of funds by its governing body, and payment of such funds into the treasury of such party.

This Agreement may be amended only by the mutual written agreement of the parties.

This Agreement shall not be assigned by either party without the written consent of the other party.

This Agreement contains all agreements, understandings, and arrangements between the parties, and no other such agreements, understandings, and arrangements exist.

This Agreement shall be governed by the laws of the State of Colorado and applicable federal law. Nothing in this Agreement shall be construed as a waiver of SWCCOG's governmental immunity.

In the event this contract is litigated, SWCCOG shall be entitled to all litigation expenses, collections fees, witness fees, court costs and attorney fees if it prevails. Venue and jurisdiction for any claim shall be in the La Plata County District Court.

It is expressly understood and agreed that the enforcement of the terms and conditions of this agreement and all rights of action relating to such enforcement, shall be strictly reserved to the parties. Nothing contained in this agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the parties that any other person or entity, receiving services or benefits under this agreement shall be deemed an incidental beneficiary only

If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this Agreement shall nevertheless remain in full force and effect.

Acknowledgment

All parties hereby acknowledge and accept the terms and conditions of the above contract and acknowledge receipt of a copy by evidence of their signatures found below.

Agreed to by CONTRACTOR by

(Title)

Date

Agreed to by the Southwest Colorado Council of Governments by

Miriam Gillow-Wiles, Executive Director

Date

ATTACHMENT A



Certified Public Accountants (a professional corporation)
1221 West Mineral Ave, Ste. 202 Littleton, Colorado 80120-4544 (303) 734-4800 Fax (303) 795-3356

October 16, 2017

Southwest Colorado Council of Governments
Attn: Miriam Gillow-Wiles
P.O. Box 963
Durango, Colorado 81302

To the Board of Directors:

We are pleased to confirm our understanding of the services we are to provide for Southwest Colorado Council of Governments (the Council) for the year ended December 31, 2017.

We will audit the financial statements of the governmental activities and the major funds, including the related notes to the financial statements, which collectively comprise the basic financial statements of Southwest Colorado Council of Governments as of and for the year ended December 31, 2017.

Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A) and the Statement of Revenue, Expenditures and Changes in Fund Balance—Actual and Budget—General Fund, to supplement the Council's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Council's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

- 1) General Fund—Schedule of Revenues, Expenditures and Changes in Fund Balance Budget to Actual
- 2) Management's Discussion and Analysis.

We will also prepare the Council's financial statements and footnotes for the year ended December 31, 2017.

Audit Objective

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the sixth paragraph when considered in relation to the financial statements as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and will include tests of the accounting records and other procedures we consider necessary to enable us to express such opinions. We will issue a written report upon completion of our audit of the Council's financial statements. Our report will be addressed to the Board of Directors of Southwest Colorado Council of Governments. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or withdraw from this engagement.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS. In making our risk assessments, we consider internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Council's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

Our audit will be in conformity with the Colorado Local Government Audit Law (C.R.S. 29-1-601, et seq.). The scope of the audit will include the books and records of all the funds of the Council. Colorado law requires the following illegal alien provisions:

We certify that we will comply with the provisions of CRS 8-17.5-101 et seq. We shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Haynie & Company, that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. We represent, warrant, and agree that we (i) have verified that we do not employ any illegal aliens, through participation in the E-Verify Program administered by the Social Security Administration and the Department of Homeland Security, or (ii) otherwise will comply with the requirements of CRS 8-17.5-102(2)(b)(I). We will comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment. If Haynie & Company fails to comply with any requirement of this provision or CRS 8-17.5-101, et seq., the the Council may terminate this contract for breach of contract, and Haynie & Company shall be liable for actual and consequential damages to the Council and the Council shall report such violation to the Colorado Secretary of State, as required by law.

If Haynie & Company obtains actual knowledge that a subcontractor performing work under this contract knowingly employs or contracts with an illegal alien, we will:

- a. Notify the subcontractor and the Council within three days that we have actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- b. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to sub-paragraph (a) above, the subcontractor does not stop employing or contracting with the illegal alien, unless the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Other Services

We will also prepare the financial statements of Southwest Colorado Council of Governments in conformity with U.S. generally accepted accounting principles based on information provided by you. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for establishing and maintaining effective internal controls, including monitoring ongoing activities; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements in conformity with U.S. generally accepted accounting principles.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws and regulations.

You are responsible for the preparation of the supplementary information in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) that you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) that the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

You agree to assume all management responsibilities for any nonaudit services we provide; oversee the services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of the services; and accept responsibility for them. You will be required to acknowledge in the management representation letter the financial statement services provided and our assistance with preparation of the financial statements, supplementary information, and related notes, and that you have reviewed and approved the financial statements, supplementary information, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

Our fee will not exceed \$5,900 and includes expenses. You will be billed at our standard rates based on the number of hours worked. Our fees are based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our invoices for these fees will be rendered each month as work progresses and are payable upon presentation. In accordance with our firm policies, work may be suspended if your account becomes 60 days or more overdue and will not be resumed until your account is paid in full. Accounts in excess of 30 days will accrue finance charges at 1.5% per month. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

Nick Warnick is the engagement partner and is responsible for supervising the engagement and signing the report.

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Sincerely,



Accepted and agreed to:
Southwest Colorado Council of Governments

Executive Director signature

Title

Date

RREO: Mini-Grant

To: SWCCOG Board of Directors; Executive Committee
From: Dylan Lucas
Date: 26 October 2017

Comments: This Recycling Resource Economic Opportunity (RREO) Mini Grant through CDPHE due October 31st allows requests of up to \$25,000 with no matching funds required. An idea that came about was the need to enhance the SWCCOG's regional recycling education project.

Identification of needs in our Region:

- Furthering educational resources for southwest Colorado has been identified as a need
- Currently, consumers will ask "Where Does it Go" in regards to materials
- Online resources, brochures, pdfs, websites are current answers to those questions
- Current COG, English and Spanish, resources are informational but are not specific to individual consumers

Proposed Project:

- Create a web app that allows users to look up recycling and waste hauling information for their address:
 - What is recyclable in their location
 - What haulers are available to them
 - This would help eliminate "guessing" in waste diversion
- Would also include educational resource aimed at kids and provide an "active learning" activity
- Request will be for \$25,000 to support contractual services
 - Will provide multiple years of service for the app

Benefits from the project:

- Continue to lower overall contamination of waste stream
 - Increase waste diversion in the region
 - Create ease of access for recycling information
 - Provide additional information in both English and Spanish languages
 - Build upon SWCCOG recycling efforts
 - Boost our efforts into childhood recycling education
 - Supported by City of Cortez, City of Durango, and Phoenix Recycling
-

RREO: Mini-Grant

Financial Information:

- Grant will not pay for staff time
- Third year VISTA is already paid for, and they will be managing the project, so staff time burden will be low

Legal Review: Not applicable

Fiscal Impact: Will be in 2018 budget, but will have a net zero impact on budget

Staff Recommendation: Approve grant application

DOLA 8011 Grant Extension

To: SWCCOG Board of Directors
From: Miriam Gillow-Wiles
Date: 2 November 2017

Comments: The SWCCOG received funding for Downtown Planning for the Towns of Bayfield, Ignacio, Pagosa Springs, and Silverton in 3rd quarter 2015. Initially, these funds were distributed and matched equally from the four communities. At this time the Towns of Pagosa Springs and Silverton are done with their planning projects and are forgoing any unused funding allotted for their projects. The Towns of Bayfield and Ignacio are willing to increase their match to utilize the additional funding. There is currently about \$66,300 available in the DOLA grant, this will require the communities to match about \$45,000, and \$1,000 for administration for the SWCCOG management of the grant.

The grant amendment request includes:

- Grant extension
- Scope of work change from planning to capital expenditures.

After discussion with DOLA Regional Manager, Patrick Rondinelli, a scope of work change is likely not an option, and an extension is potentially the only change to the grant. Staff will update the Board on what the amendment includes.

Legal Review: Not applicable at this time.

Fiscal Impact: About \$1,000 for SWCCOG in M&A, significant for participating member jurisdictions.

Staff Recommendation: Approve an amendment for DOLA EIAF 8011.

Other Items

Community Updates
