

**DRAFT COPY**

**SERVICES AGREEMENT**

**THIS SERVICES AGREEMENT** (The “Agreement”) is entered into this [redacted] day of [redacted], 2022, by and between the Board of County Commissioners of Summit County, having its principal place of business at 208 Lincoln Avenue, Breckenridge, Colorado 80424 (“County”), and [redacted] having its principal place of business at [redacted] (“Contractor”).

**WHEREAS**, the County desires to contract with Contractor to perform [redacted] services in accordance with terms of this Agreement; and

**WHEREAS**, Contractor desires to perform the subject services on an independent contractor basis as set forth in this Agreement.

**NOW THEREFORE**, in consideration of the above Recitals, which are hereby incorporated into the below Agreement, and in consideration of the mutual promises made herein, the receipt and sufficiency of which are hereby acknowledged, the County and Contractor further agree as follows:

1. **Services.** Contractor agrees to perform the following services (the “Services”) in a timely, expeditious and professional manner: [add brief description of services] in accordance with all applicable provisions of the [add name of document (if applicable)] [dated [redacted], 2022 (if applicable)] which is attached hereto as Exhibit “A” (if applicable) and incorporated herein by this reference (if you do not have multiple exhibits, remove the following language) and the [add name of document (if applicable)] [dated [redacted], 2022 (if applicable)] which is attached hereto as Exhibit “B” (if applicable) and incorporated herein by this reference . In the event of any conflicts between the Agreement and any of the terms of the attached exhibits, the terms of this Agreement shall prevail.

Contractor represents and acknowledges that the Services performed under this Agreement will be done using Contractor's own equipment at Contractor's own home or place of business, and at hours and times as determined by Contractor. Contractor is engaged in providing these types of services for persons or entities other than the County, and the Contractor is not required to provide services exclusively to the County during the term of this Agreement.

2. **Compensation.** For satisfactory performance of the Services hereunder, County shall pay Contractor a fixed sum not to exceed \$ [redacted] for the performance of the services detailed in this Agreement. Payment will not be made on a salary or hourly rate but shall be paid on a unit cost basis for items installed at the direction of the County’s Representative, in accordance with the Project Specifications and the Contractor’s Proposal. County shall have no obligation to make any payments until such time as County accepts Contractor’s performance as satisfactory. All payments under this contract shall be to the trade or business name of the Contractor. No payments will be personally made to an individual under this contract.

a. Invoices. The Contractor will submit invoices on a monthly basis, which will describe the Services performed and expenses incurred pursuant to this Agreement. Invoices will be reviewed by [REDACTED] (Name, Department, Title), who will submit them to the Summit County Finance Department for payment upon his/her approval. Invoices shall provide detail of Contractor's performance of Services sufficient to the County's requirements. Upon request, Contractor shall provide documentation of its expenses. Payment of such invoices will be due within thirty (30) days of the receipt thereof.

b. Fund Availability/Annual Appropriation. Payment pursuant to this Agreement, whether in whole or in part, is subject to and contingent upon the continuing availability of County funds for purposes hereof. In the event that said funds, or any part thereof, become unavailable as determined by the County, the County may immediately terminate this Agreement or amend it accordingly.

c. Multi-Year Contracts. The obligations of the County hereunder shall not constitute a general obligation indebtedness or multiple year direct or indirect debt or other financial obligation whatsoever within the meaning of the Constitution or laws of the State of Colorado.

3. Term. The term of this Agreement shall be from [REDACTED], 2022 until [REDACTED], 2022. The Agreement may be terminated earlier by final completion of the Services by the Contractor and acceptance of the services by the County or through the termination provisions provided herein.

4. Default. The failure to comply with any of the terms and conditions of this Agreement shall constitute a default under this Agreement. If either party believes the other has failed to comply with any of the terms and conditions of the Agreement, the non-breaching party shall provide written notice of such alleged breach with specificity. The defaulting party shall have the right to cure any alleged breach within ten (10) days of actual or constructive receipt of such notice or such longer period as may be specified in the notice.

In the event of a default, if the County believes the Contractor has failed to comply with any terms and conditions of the Agreement, the County may provide written notice to the Contractor and provide a time period to cure as detailed above in addition to any other remedy provided by law or equity OR the County may terminate the Agreement as set forth below.

5. Termination. County may terminate this Agreement at any time, with or without cause upon seven (7) days written notice to Contractor. In the event of termination, payment will be made to Contractor for all work performed up to the date of termination.

6. Relationship. The parties understand and agree that Contractor is an independent contractor and that Contractor is not an employee, agent or servant of the County, nor is Contractor entitled to County employment benefits. CONTRACTOR UNDERSTANDS AND AGREES THAT CONTRACTOR IS NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS AND THAT CONTRACTOR IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED PURSUANT TO THIS CONTRACT. As an independent contractor, Contractors agrees that:

- a. Contractor does not have the authority to act for the County, or to bind the County in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of the County; and
- b. Contractor has and hereby retains control of and supervision over the performance of Contractor's obligations hereunder and control over any persons employed or contracted by Contractor for performing the Services hereunder; and
- c. County will not provide training or instruction to Contractor or any of its employees regarding the performance of Services hereunder; and
- d. Neither Contractor, nor its employees or contractors, will receive benefits of any kind from the County. Contractor represents that it is engaged in providing similar services to the general public and not required to work exclusively for the County; and
- e. All Services are to be performed solely at the risk of the Contractor and Contractor shall take all precautions necessary for the proper performance thereof; and
- f. Contractor will not combine its business operations in any way with the County's business operations and each party shall maintain their operations as separate and distinct.

7. Change in the Work. County may order changes in the work and services detailed in this Agreement, consisting of additions, deletions, or modifications. All changes shall be authorized by a written Change Order designating the work to be added, changed, or deleted, the increase or decrease in costs, and any change in time for completion of the project. Contractor and County, or their duly authorized agents, shall sign the Change Order.

Unless otherwise agreed, the cost of changes to the County for a change in work shall be determined by mutual agreement and paid according to the terms hereunder or by the terms of the Change Order. However, County shall have the authority to order minor changes in the work not involving an adjustment in the contract sum or an extension of the contract time, and not inconsistent with the intent of the contract documents.

8. Contractor Responsibilities. In addition to all other obligations contained herein, Contractor agrees:

- a. To furnish all tools, labor and supplies in such quantities and of the proper quality to professionally and timely perform the Services; and
- b. To proceed with diligence and promptness and hereby warrants that such Services shall be performed in accordance with the highest professional workmanship and service standards in the field to the satisfaction of the County; and
- c. To comply, at its own expense, with the provisions of all state, local and federal laws, regulations, ordinances, requirements and codes which are applicable to the performance of the Services hereunder or to Contractor as employer.
- d. To require its subcontractors to comply, at their own expense, with the provisions of all state, local and federal laws, regulations, ordinances, requirements and codes which are applicable to the performance of the Services hereunder or to subcontractor as an employer, including maintenance of standard Workers' Compensation as required by law in the State of Colorado.

9. Work Quality. The Contractor warrants to the County that all services provided will be of good quality, in conformance with the highest standards of the profession and in conformance with this Agreement.

10. Work Product. Any data, reports, drawings documents or other things or information provided by the County to the Contractor during the performance of services under this Agreement and any reports, drawings or other writings required under the services of this Agreement shall be and remain the sole property of the County at all times. The Contractor shall return or provide to the County such documents, etc. by the completion date and before full payment of the compensation herein.

11. Indemnification and Insurance. Contractor shall indemnify and hold harmless the County from and against all claims, damages, losses, and expenses arising out of or resulting from acts or omissions of the Contractor, Contractor's sub-contractors or otherwise arising out of the performance of services by Contractor. No later than seven days after execution of this Agreement, Contractor shall provide the County with certificates of insurance evidencing the types and amounts of insurance specified below:

- a. Worker's Compensation and Employer's Liability:
  - i. Worker's Compensation must be maintained with the statutory limits.
  - ii. Employer's liability is required for minimum limits of:
    - \$1,000,000 Each Accident
    - \$500,000 Disease Policy
    - \$1,000,000 Disease Each Employee
- b. Commercial General Liability:
  - i. \$1,000,000 Each Occurrence
  - ii. \$2,000,000 General Aggregate
  - iii. \$2,000,000 Products Completed Operations Aggregate
- c. Automobile Liability: Contractor will maintain business auto liability coverage covering liability arising out of any auto (including owned, hired and non-owned autos) used in the performance of services under this Agreement.
  - i. \$1,000,000 Combined Single Limit Each Accident

Insurance coverage shall not be reduced below the limits described above or cancelled without County's written approval of such reduction or cancellation. Reduction, cancellation or termination of insurance coverage, or failure to obtain insurance coverage, without the County's written approval shall constitute a material breach of the Agreement and shall automatically terminate the Agreement. Contractor shall require that any of its agents or subcontractors who enter upon the County's premises shall maintain like insurance. Certificates of such insurance, of agents and subcontractors, shall be provided to the County upon request. With regard to all insurance, such insurance shall:

- d. Be primary insurance to the full limits of liability herein before stated and, should County have other valid insurance, County insurance shall be excess insurance only; and
- e. Not cancelled without thirty (30) days prior written notice to the County.

12. Notice. Any and all notices required to be given to the parties by this Agreement are deemed to have been received and to be effective: (1) three (3) days after the same shall have been mailed by certified mail, return receipt requested; (2) immediately upon hand delivery; or (3) immediately upon receipt of confirmation that a facsimile or electronic mail message was received.

a. Notices to the County shall be addressed to:

Name, Title

Department

Summit County Government

P.O. Box 68

Breckenridge, CO 80424

Email address

b. Notices to the Contractor shall be addressed to:

Name, Title

Address

Email address

If either party changes its address during the term herein, it shall so advise the other party in writing as herein provided and any notice thereafter provided to be given shall thereafter be sent by certified mail to such new address.

13. Third Parties. This Agreement does not and shall not be deemed to confer upon any third party any right to claim damages to bring suit, or other proceeding against either the County or Contractor because of any term contained in this Agreement.

14. Assignment. This Agreement is for personal services predicated upon Contractor's special abilities or knowledge, and Contractor shall not assign this Agreement in whole or in part without prior written consent of the County.

15. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties and supersedes any prior agreement or understanding relating to the subject matter of this Agreement.

16. Modification. This Agreement may be modified or amended only by a duly authorized written instrument executed by the parties hereto.

17. Severability. If any of the provisions of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the party shall be construed and enforced accordingly, to effectuate the essential intent and purposes of this Agreement.

18. Enforcement and Waiver. The failure of either party in any one or more instances to insist upon strict performance of any of the terms and provisions of this Agreement, shall not be construed as a waiver of the right to assert any such terms and provisions on any future occasion or of damages caused thereby.

19. Nonexclusive Nature. This Agreement does not grant Contractor an exclusive privilege or right to supply services to the County. County makes no representations or warranties as to a minimum or maximum procurement of Services hereunder.

20. Interpretation. The validity, interpretation and effect of this Agreement shall be determined under Colorado law. All actions arising directly or indirectly as a result or in consequence of this Agreement shall be instituted and litigated only in courts having situs in Summit County, Colorado. Any provision found to be invalid or unenforceable shall have no effect upon the validity of any other section of this contract.

21. Effective Date. The effective date of this Agreement shall be the date first written above regardless of the date when the Agreement is actually signed by the parties.

22. Prohibitions on Public Contract for Services. As required by C.R.S. §8-17.5-101 C.R.S., *et seq.*, regarding Workers without Authorization - Public Contracts for Services, and this Contract, Contractor certifies and agrees as follows:

- a. The Contractor shall not knowingly employ or contract with a worker without authorization to perform work under the Contract; or enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with a worker without authorization to perform work under the Contract.
- b. The Contractor shall verify or attempt to verify through participation in the E-Verify program, as administered by the United States Department of Homeland Security, that the Contractor does not employ any workers without authorization. If the Contractor is not accepted into the E-Verify program prior to entering into the Contract, the Contractor shall apply to participate in the Program every three months until the Contractor is accepted or the Contract has been completed, whichever is earlier. Information on applying for the E-Verify program can be found at: <https://www.uscis.gov/e-verify>
- c. The Contractor shall not use the E-Verify program procedures to undertake pre-employment screening of job applicants while the Contract is being performed.
  - i. If the Contractor obtains actual knowledge that a Subcontractor performing work under the Contract knowingly employs or contracts with a worker without authorization, the Contractor shall be required to:
    - A. Notify the Subcontractor and the County within three days that the Contractor has actual knowledge that the Subcontractor is employing or contracting with a worker without authorization; and
    - B. Terminate the Subcontract with the Subcontractor if within three days of receiving the notice required pursuant to (C)(1)(a) of this Contract, the Subcontractor does not stop employing or contracting with the worker without authorization; except that the Contractor shall not terminate the contract with the Subcontractor if during such three days the Subcontractor

provides information to establish that the Subcontractor has not knowingly employed or contracted with a worker without authorization.

- ii. The Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the department is undertaking pursuant to its authority.
- d. If Contractor fails to comply with any requirement of this section, the County may terminate the Contract for breach and the Contractor shall be liable for actual and consequential damages.

23. Governmental Immunity. The County does not intend to waive by any provision of this Agreement the monetary limits or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., or any other provision of law.

24. Execution by Counterparts; Electronic Signatures. This Contract may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties approve the use of electronic signatures for execution of this Contract. Only the following two forms of electronic signatures shall be permitted to bind the Parties to this Contract: (1) Electronic or facsimile delivery of a fully executed copy of a signature page; (2) The image of the signature of an authorized signer inserted onto PDF format documents. All documents must be properly notarized, if applicable. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. §§24-71.3-101 to -121.

25. Exclusion, Debarment and/or Suspension. Contractor represents and warrants that Contractor, its employees, agents, assigns, or Subcontractors, are not presently excluded from participation, debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or otherwise ineligible to participate in a federal program or in any other government payment program by any federal or State of Colorado department or agency. If Contractor, its employees, agents, assigns, or Subcontractors, are excluded from participation, or becomes otherwise ineligible to participate in any such program during the term of this Contract, Contractor shall notify the County in writing within three (3) days after such event. Upon the occurrence of such event, whether or not such notice is given to Contractor, the County may immediately terminate this Contract.

26. Data Privacy Protection Policy. Contractor shall comply with all applicable state and federal laws regarding the protection of personal identifying information including the [County's Data Privacy Protection Policy](#).

**IN WITNESS WHEREOF**, the parties have caused their duly authorized representatives to sign this **SERVICES AGREEMENT** as of the date first written above.

[CONTRACTOR NAME]

BOARD OF COUNTY COMMISSIONERS  
OF SUMMIT COUNTY

By: \_\_\_\_\_  
[Name, Title]

By: \_\_\_\_\_  
[Name, Title]

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