

Exhibit B

INDEPENDENT CONTRACTOR SERVICES AGREEMENT

This Services Contract Regarding Provision of Professional Services (the “Agreement”) dated as of this _____ day of March, 2020, is between _____ (“Contractor”) and the Board of County Commissioners of the County of Grand, State of Colorado (“County”).

Recital

WHEREAS, due to the damage caused by the East Troublesome Fire local, state, and national emergency in Grand County, Colorado, including the **[REFERENCE RESOLUTIONS-DECLARATIONS]** and to alleviate a threat to life, public health or safety, County desires to enter into a contract **[TO....]**; and

WHEREAS, the County has issued a Request for Qualifications **[FOR WORK]** and accepted the Statement of Qualification of Contractor for the Services, subject to the execution of this Agreement by Contractor; and

WHEREAS, County and Contractor intend by this Agreement to outline the terms and conditions under which the Services shall be provided;

NOW THEREFORE, it is agreed as follows:

Terms and Conditions

1. Scope of Work: **[INSERT OR ATTACH]**

2. Independent Contractor THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE COUNTY. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED FEDERAL AND STATE INCOME TAXES ON ANY MONIES EARNED PURSUANT TO THIS CONTRACT. CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR A THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE COUNTY DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE COUNTY TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO WORKERS’ COMPENSATION BENEFITS PAID FOR OR OTHERWISE PROVIDED FOR BY COUNTY. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKER’S COMPENSATION (AND SHOW PROOF OF SUCH INSURANCE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY

LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.

3. Compensation and Payment: As consideration for the work to be performed by Contractor hereunder, the County shall pay to Contractor an amount not to exceed the sum of **[INSERT AND ADD RATES, ETC]**. No increase in the contract sum shall be allowed without the written authorization of the County.

4. Time for Completion of Contract/Duration of Contract: To begin on **[DATE]** and shall be completed no later than **[DATE]**. County and Contractor agree that the above compensation is fair and reasonable.

Contractor agrees to submit billings for reimbursable costs and work performed in connection with the above agreed to services on no less than a monthly basis not later than the 10th day of each month following the month in which billable work was completed. Such billings, including all supporting documentation required by FEMA, shall be submitted to the **[COUNTY MANAGER-EMERGENCY MANAGER]** for approval. County agrees to pay all properly submitted invoices within 30 days. All billings shall include the Contractor's taxpayer identification.

5. Beneficiary: Except as herein specifically provided otherwise, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

It is expressly understood and agreed that the enforcement of the terms and conditions of this contract and all rights of action relating to such enforcement, shall be strictly reserved to the County and the named Contractor. 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 County and the Contractor that any such person or entity, other than the County or the Contractor, receiving services or benefits under this agreement shall be deemed an incidental beneficiary only.

6. Insurance - Contractor:

- a. During the term of this contract, and any extension(s) hereof Contractor agrees that it will keep in force an insurance policy or policies, issued by a company authorized to do business in Colorado, in the kinds and minimum amounts specified below unless specifically waived herein. Policies shall be issued by insurers with AM Best ratings of no less than A-:VI or as otherwise acceptable to the County. In the event of cancellation of any such coverage, the Contractor shall immediately notify the County of such cancellation.
 - (1) Standard Worker's Compensation and Employer's Liability as required by State Statute, including occupational disease; covering all employees on or off the work site, acting within the course and scope of their employment.

- (2) General, Personal Injury, Professional, Automobile Liability (including bodily injury, personal injury and property damage) with minimum coverage of:
- i. Occurrence basis policy: combined single limit of \$1,100,000 or Claims-Made policy: combined single limit of \$1,100,000; plus an endorsement, certificate, or other evidence that extends coverage two years beyond the performance period of the contract.
 - ii. Annual Aggregate Limit policy: Not less than \$1,100,000 plus agreement that the Contractor will purchase additional insurance to replenish the limit to \$1,100,000 if claims reduce the annual aggregate below \$1,100,000.
 - iii. County shall be named as an additional insured on all liability policies.
 - iv. The insurance shall include provisions preventing cancellation without thirty (30) calendar days prior to written notice to the County by certified mail.
 - v. Upon execution of this contract, the Contractor shall provide to the County additional insured endorsements and certificates of the required insurance coverage.
 - vi. The Contractor shall provide such other insurance as may be required by law, or in a specific solicitation, including any FEMA or other federal or state contracting requirements.
 - vii. If the Contractor is a “public entity” within the meaning of the Colorado Governmental Immunity Act, 24-10-101, et sec., C.R.S. as amended (“Act”); the Contractor shall maintain such insurance, by commercial policy or self-insurance, as is necessary to meet the Contractor's liabilities under the Act. Proof of such insurance shall be provided upon request by the County.
 - viii. Coverage may be met by a combination of primary and umbrellas or excess insurance but minimum provided coverage shall be at least as broad as the underlying insurance limit requirements herein.

b.

- (1) No policy required by this Agreement shall prohibit Contractor from waiving any right of recovery prior to loss. Contractor hereby waives such right with regard to County.
- (2) All insurance coverage amounts provided by Contractor and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage. Defense costs must be paid in addition to coverage amounts.
- (3) Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either Contractor or County. Self-insured retentions above \$10,000 must be approved by County. At County's option, Contractor may be required to provide financial guarantees.
- (4) Sole Proprietors must provide a representation of their Workers' Compensation Insurance exempt status.
- (5) County reserves the right to modify these insurance requirements while this Agreement is in effect, including limits, based on the nature of the risk, prior experience, insurer, coverage, federal contracting requirements, or other special circumstances.

7. Contractor Representations - Licenses/Approvals/Insurance: The Contractor certifies that, at the time of entering into this contract, it currently has in effect all necessary licenses, certifications, approvals, insurance, etc. required to properly provide the services and/or supplies covered by this contract. Additionally, all employees of the Contractor performing services under this contract shall hold the required license or certification, if any, to perform their responsibilities. Any revocation, withdrawal or nonrenewal of necessary license, certification, approval, insurance, etc. required for the Contractor to properly perform this contract, shall be grounds for termination of this contract by the County.

The Contractor shall execute and sign the attached Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transactions form.

The Contractor further certifies that, if a foreign corporation, a limited liability company, a limited liability partnership or a limited liability limited partnership, it currently has a Certificate of Good Standing of Certificate of Existence to do business in Colorado. Proof of such certification shall be provided upon request by the County.

8. Records Maintenance: The Contractor shall maintain a complete file of all records, documents, communications, and other materials which pertain to the operation of the program/project or the delivery of services under this contract. Such files shall be sufficient to properly reflect all direct and indirect costs of labor, materials, equipment, supplies and services, and other costs of whatever nature for which a contract payment was made. These records shall

be maintained according to generally accepted accounting principles and shall be easily separable from other Contractor records.

9. Records Retention and Availability: All such records, documents, communications, and other materials shall be the property of the County unless otherwise specified herein and shall be maintained by the Contractor, for a period of three (3) years from the date of final payment or submission of the final federal expenditure report under this contract, unless the County requests that the records be retained for a longer period, or until an audit has been completed with the following qualification. If an audit by or on behalf of the County has begun but is not completed at the end of the three (3) year period, or if audit findings have not been resolved after a three (3) year period, the materials shall be retained until the resolution of the audit findings.

10. Performance Monitoring: The Contractor shall permit the County and any other governmental agency authorized by law, or their authorized designee to monitor all activities conducted by the Contractor pursuant to the terms of this contract. As the monitoring agency may in its sole discretion deem necessary or appropriate, such monitoring may consist of internal evaluation procedures, reexamination of program data, special analysis, on-site verification, formal audit examinations, or any other reasonable procedures. All such monitoring shall be performed in a manner that will not unduly interfere with contract work.

11. Audits

- a. General: The Contractor authorizes the County or its representatives to perform audits and/or inspections of its records at any reasonable time during the term of this contract and for a period of three (3) years, (unless the County determines a longer timeframe is required) following the date of final payment under this contract, to assure compliance with its terms and/or to evaluate the Contractor's performance.

Any amounts which have been paid by the County which are found to be improper in accordance with other terms of this contract shall be immediately returned to the County or may be received in accordance with other remedies.

- b. Single Audit Clause: All state and local governments and non-profit organizations receiving more than \$500,000 from all funding sources, that are defined as federal financial assistance for single audit purposes, shall comply with the audit requirements of OMB Circular A-128 (Audits of State and Local Governments) or A-133 (Audits of Institutions of Higher Education and Other Non-profit Organizations), which ever applies.

12. Conflict of Interest: During the term of this contract, the Contractor shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the Contractor fully performing his/her obligations under this contract.

Additionally, the Contractor acknowledges that, in governmental contracting, even the appearance of a conflict of interest is harmful to the interests of the County. Thus, the Contractor agrees to refrain from any practices, activities or relationships which could reasonably be considered to be in conflict with the Contractor's fully performing his/her obligations to the County under the terms of this contract, without the prior written approval of the County.

In the event that the Contractor is uncertain whether the appearance of a conflict of interest may reasonably exist, the Contractor shall submit to the County a full disclosure statement setting forth the relevant details for the County's consideration and direction. Failure to promptly submit a disclosure statement or to follow the County's direction in regard to the apparent conflict shall be grounds for termination of the contract.

Neither Contractor nor any of its employees shall, at any time during the term of this Agreement, do work for, nor shall they have any financial interest or other relationship with any entity or project which would constitute a conflict of interest or influence or otherwise jeopardize the professional judgment of Contractor in connection with the Project.

13. Conformance with Law: The Contractor shall at all times during the term of this contract strictly adhere to all applicable federal and state laws and implementing regulations as they currently exist and may hereafter be amended, including the **Federal Provisions** contained in the Federal Provisions Attachment attached hereto as **Exhibit XXX**, and incorporated herein by reference. The Contractor shall also require compliance with these statutes and regulations in subcontract agreements, if any, permitted under this contract.

This Contractor also shall comply with any and all laws and regulations prohibiting discrimination in the specific programs(s) which is/are the subject of this contract. In consideration of and for the purpose of obtaining any and all federal and/or state financial assistance, the Contractor makes the following assurances and certification, upon which the County relies.

- a. The Contractor will not discriminate against any person on the basis of race, color, national origin, age, sex, religion and handicap, including Acquired Immune Deficiency Syndrome (AIDS) or AIDS related conditions, in performance of work under this contract.
- b. At all times during the performance of this contract, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in, or denied benefits of the service, programs, or activities performed by the Contractor, or be subjected to any discrimination by the Contractor.
- c. The Contractor shall take all necessary affirmative steps, as required by 45 CFR 92.36(e), Colorado Executive Orders D0055 87 and D0005 94 and State Procurement Rules, to assure that small and minority businesses and women's business enterprises are used, when possible, as sources of supplies, equipment, construction, and services purchased under this contract.

- d. The Contractor certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien who will perform work under the Public Contract for Services and that the Contractor will participate in the E-Verify Program or Department Program, as these terms are defined in C.R.S. §8-17.5-101, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Public Contract for Services.
- e. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under the Public Contract for Services.
- f. The Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the Public Contract for Services.
- g. The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Public Contract for Services through participation in either the E-Verify Program or the Department Program.
- h. The Contractor is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while the Public Contract for Services is being performed.
- i. If the Contractor obtains actual knowledge that a subcontractor performing work under the Public Contract for Services knowingly employs or contracts with an illegal alien, the Contractor shall be required to:
 - 1. Notify the subcontractor and the contracting state agency or political subdivision within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - 2. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to sub-subparagraph (1) of this subparagraph (i) the subcontractor does not stop employing or contracting with the illegal alien; 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 an illegal alien.
- j. The Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that

the Department of Labor and Employment is undertaking pursuant to the authority established in subsection (5) of C.R.S. 8-17.5-102.

- k. If the Contractor violates a provision of the Article 17.5 of Title 8, C.R.S., Illegal Aliens-Public Contracts for Services, the County may terminate this Contract for a breach of this Contract. If the Contract is so terminated, the Contractor shall be liable for actual and consequential damages to the County.

14. Assignment/Delegations/Subcontracting: Except as herein specifically provided otherwise, the duties and obligations of the Contractor arising hereunder cannot be assigned, delegated nor subcontracted except with the express prior written consent of the County. The subcontracts permitted by the County shall be subject to the requirements of this contract, and the Contractor is responsible for all subcontracting arrangements and the delivery of services as set forth in this contract. The Contractor shall be responsible for the performance of any subcontractor and failure of the subcontractor to provide services as set forth in this contract. The Contractor warrants and agrees that any subcontract resulting from its performance under the terms and conditions of this contract shall include a provision that the said subcontractor shall abide by the terms and conditions hereof, as well as all other applicable laws, and rules and regulations pertinent hereto that have been or may hereafter be established. Also, the Contractor warrants and agrees that all subcontracts shall include a provision that the subcontractor shall indemnify and hold harmless the County. The subcontractors must be certified to work on any equipment for which their services are obtained.

15. Remedies: The County or designee may exercise the following remedial actions, in addition to all other remedial actions authorized by law, should it find the Contractor substantially failed to satisfy the scope of work found in this contract. Substantial failure to satisfy the scope of work shall be defined to mean incorrect or improper activities or inaction by the Contractor. These remedial actions are as follows:

- a. Withhold payment to the contractor until the necessary services or corrections in performance are satisfactorily completed;
- b. Request the removal from work on the contract of employee(s) and/or agent(s) of the contractor whom the County or designee justifies as being incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued employment on the contract s/he deems to be contrary to the public interest or not in the best interest of the County.
- c. Deny payment or recover reimbursement for those services or deliverables which have not been performed and which due to circumstances caused by the Contractor cannot be performed or if performed would be of no value to the County. Denial of the amount of payment shall be reasonably related to the amount of work or deliverables lost to the County.

- d. Incorrect payments to the contractor due to omission, error, fraud, and/or defalcation shall be recovered from the contractor by deduction from subsequent payments under this contract between the County and the contractor, or by the County as a debt due to the County or otherwise as provided by law.

16. Termination:

- a. Termination for Default: The County may terminate the contract for cause without compensation for termination costs. If the County terminates the contract for cause, it will first give ten (10) days prior written notice to the contractor, stating the reasons for cancellation, procedures to correct problems, if any, and the date the contract will be terminated in the event problems have not been corrected.

- (1) In the event this contract is terminated for cause, the County will only reimburse the contractor for acceptable work or deliverables received up to the date of termination.
- (2) In the event this contract is terminated for cause, final payment to the contractor may be withheld at the discretion of the County until completion of final audit.

- b. Termination for Convenience: The County shall have the right to terminate this contract by giving the contractor at least thirty (30) days prior written notice. If notice is so given, this contract shall terminate on the expiration of the specified time period, and the liability of the parties hereunder for further performance of the terms of this contract shall thereupon cease, but the parties shall not be released from the duty to perform their obligations up to the date of termination.

- c. Immediate Termination: This contract is subject to immediate termination by the County in the event that the County determines that the health, safety, or welfare of persons receiving services may be in jeopardy. Additionally, the County may immediately terminate this contract upon verifying that the contractor has engaged in or is about to participate in fraudulent acts.

17. Severability: To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. The waiver of any breach of a term hereof shall not be construed as a waiver of any other term, or the same term upon subsequent breach.

18. Integration of Understandings: This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall

have any force or effect unless embodied in a written contract executed and approved by the Board of County Commissioners of the County of Grand, State of Colorado.

19. Exhibits - Interpretation

- a. Unless otherwise stated, all exhibits referenced herein are attached hereto and incorporated herein and made a part of this contract.
- b. The terms of this contract shall control over any conflicting terms in any of its attached exhibits.

20. Confidentiality: Contractor acknowledges that it may receive confidential information from County in connection with the Project or, as part of the Project, develop such information. Contractor shall take all precautions necessary to maintain and protect the confidentiality of any such information and to ensure that it shall be used only for the purposes of the Project.

21. Ownership of Work: Subject to County's obligation to compensate Contractor, all work, reports, designs, drawings, renderings and other work product produced by Contractor in connection with the Project shall belong to County, and Contractor shall not use any part thereof for purposes other than the Project without the written consent of County.

22. Indemnification: Contractor shall indemnify the County and hold and defend County and its officials, officers and employees harmless from all costs, claims and expenses arising from claims made by any person in connection with the acts or omissions of, or representations by, the Contractor. This indemnification shall not apply to claims by third parties against the County to the extent that the County is liable to such third party for such claim without regard to the involvement of the Contractor. It shall be a condition to liability under this paragraph that the County promptly provide to the Contractor a copy of any summons, complaint or other notice of claim with respect to any claim for which the County may seek indemnification or defense here under. Within 10 days following the giving of such notice of claim by the County, the Contractor shall acknowledge receipt of such notice in writing to the County and, in such notice, accept the defense and obligation to indemnify the County hereunder. Following such acknowledgment, the Contractor shall take all actions reasonably necessary to protect the County from such claim and the County shall cooperate in such defense. In the event that the Contractor fails or refuses to give such acknowledgment of receipt and acceptance to the County within the 10-day period specified, the County may, but shall not be obligated to, assume its own defense and thereafter recover all costs of such defense from the Contractor.

23. Notices: Any notice required under this Agreement may be personally delivered or mailed by United States mail, first class postage prepaid to the party to be served at the following addresses:

Contractor:

County: **Grand County Manager**
PO Box 264
Hot Sulphur Springs, CO 80451

Notices personally served shall be deemed served on the date of delivery. Notice mailed shall be deemed served the next business day following the date of mailing if mailed in the State of Colorado, otherwise on the date which is two business days following the date of mailing.

24. Entire Agreement: This Agreement constitutes the entire agreement between the parties concerning the work and may not be amended except by a written document executed by both parties hereto.

25. Counterparts: This Contract may be executed in any number of counterparts, each of which shall be deemed an original, and which together shall constitute a single instrument.

26. Choice of Laws and Venue: This Contract shall be governed by and construed in accordance with the internal laws of the State of Colorado without reference to choice of law rules. The parties agree that venue in any action to enforce or interpret this Agreement shall be only in the District Court in and for the County of Grand, State of Colorado.

27. Governmental Immunity: Nothing contained herein shall constitute a waiver of the County's Governmental Immunity.

28. Subject to Annual Appropriation: Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the County not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement or liability beyond the current fiscal year

The remainder of this page intentionally left blank.

28. Excluded Party List: If this is a covered transaction as defined below, the Contractor certifies by its signature it has not been suspended or debarred, its principals have not been suspended or debarred, and/or that its subcontractors and the subcontractors' principals have not been suspended or debarred as provided in OMB guidance, 2 CFR part 180, implementing Executive Orders 12549 and 12689. A "Covered Transaction" is defined as those procurement contracts for goods or services awarded under a non-procurement transaction (e.g. grant or cooperative agreement) that are expected to equal or exceed \$25,000.00 or meet other specified criteria. Contractor certifies it has completed the verification by checking the "Excluded Parties List System" (EPLS).

Under penalty of perjury, I am authorized to execute the contract upon the behalf of and to bind the Contractor, and the statements and representations in Paragraphs 3, 7, and 13(a) through 13(k) are true to the best of my information and belief.

CONTRACTOR:

By: _____

Print Name/Title: _____

COUNTY: GRAND COUNTY, COLORADO

By: _____

Merrit Linke, Chairman
Grand County Board of County Commissioners

Attachments:

ATTACHMENT A - PROPOSAL CERTIFICATION

ATTACHMENT B - CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS

ATTACHMENT C - CERTIFICATION REGARDING LOBBYING

ATTACHMENT D – GRAND COUNTY PROFESSIONAL SERVICES “SAMPLE”

AGREEMENT ATTACHMENT E - FEDERAL PROVISION

ATTACHMENT A

PROPOSAL CERTIFICATION

Proposers Signature: _____ **Date:** _____

By signing above, I Certify that I have carefully read and fully understand the information contained in this RFQ and any addenda thereto; and that I have the capability to successfully undertake and complete the responsibilities and obligations of the Proposal being submitted and have the authority to sign the proposal on behalf of my firm.

BY (Printed): _____

TITLE: _____

COMPANY: _____

ADDRESS: _____

TELEPHONE: _____

EMAIL: _____

ATTACHMENT B

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Orders 12549 and 12689, 2 C.F.R part 180, Debarment and Suspension, and 2 C.F.R. § 200.213. Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

**(BEFORE COMPLETING CERTIFICATION,
READ INSTRUCTIONS ON PAGES THREE AND FOUR BELOW)**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Firm Name:

Name and Title of Authorized Representative:

Signature of Authorized Representative:

Date:

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out on page one.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549, at 2 C.F.R. Parts 180 and 417. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the System for Award Management (SAM) database.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

ATTACHMENT C

CERTIFICATION REGARDING LOBBYING

The undersigned [insert name] certifies, to the best of his or her knowledge, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

1. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official:

Name and Title of contractor's Authorized Official:

Date:

ATTACHMENT D

INDEPENDENT CONTRACTOR SERVICES AGREEMENT

This Services Contract Regarding Provision of Professional Services (the "Agreement") dated as of this _____ day of March, 2020, is between _____ ("Contractor") and the Board of County Commissioners of the County of Grand, State of Colorado ("County").

WHEREAS, due to the damage caused by the East Troublesome Fire local, state, and national emergency in Grand County, Colorado, including the [REFERENCE RESOLUTIONS-DECLARATIONS] and to alleviate a threat to life, public health or safety, County desires to enter into a contract [TO...]; and

WHEREAS, the County has issues a Request for Qualifications [FOR WORK] and accepted the Statement of Qualification of Contractor for the Services, subject to the execution of this Agreement by Contractor; and

WHEREAS, County and Contractor intend by this Agreement to outline the terms and conditions under which the Services shall be provided;

NOW THEREFORE, it is agreed as follows:

Terms and Conditions

1. Scope of Work: [INSERT OR ATTACH]

2. Independent Contractor THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE COUNTY. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED FEDERAL AND STATE INCOME TAXES ON ANY MONIES EARNED PURSUANT TO THIS CONTRACT. CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR A THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE COUNTY DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE COUNTY TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS PAID FOR OR OTHERWISE PROVIDED FOR BY COUNTY. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKER'S COMPENSATION (AND SHOW PROOF OF SUCH INSURANCE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.

Compensation and Payment: As consideration for the work to be performed by Contractor hereunder, the County shall pay to Contractor an amount not to exceed the sum of

[INSERT AND ADD RATES, ETC]. No increase in the contract sum shall be allowed without the written authorization of the County.

4. Time for Completion of Contract/Duration of Contract: To begin on **[DATE]** and shall be completed no later than **[DATE]**. County and Contractor agree that the above compensation is fair and reasonable.

Contractor agrees to submit billings for reimbursable costs and work performed in connection with the above agreed to services on no less than a monthly basis not later than the 10th day of each month following the month in which billable work was completed. Such billings, including all supporting documentation required by FEMA, shall be submitted to the **[COUNTY MANAGER-EMERGENCY MANAGER]** for approval. County agrees to pay all properly submitted invoices within 30 days. All billings shall include the Contractor's taxpayer identification.

5. Beneficiary: Except as herein specifically provided otherwise, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

It is expressly understood and agreed that the enforcement of the terms and conditions of this contract and all rights of action relating to such enforcement, shall be strictly reserved to the County and the named Contractor. 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 County and the Contractor that any such person or entity, other than the County or the Contractor, receiving services or benefits under this agreement shall be deemed an incidental beneficiary only.

6. Insurance - Contractor:

a. During the term of this contract, and any extension(s) hereof Contractor agrees that it will keep in force an insurance policy or policies, issued by a company authorized to do business in Colorado, in the kinds and minimum amounts specified below unless specifically waived herein. Policies shall be issued by insurers with AM Best ratings of no less than A-:VI or as otherwise acceptable to the County. In the event of cancellation of any such coverage, the Contractor shall immediately notify the County of such cancellation.

(1) Standard Worker's Compensation and Employer's Liability as required by State Statute, including occupational disease; covering all employees on or off the work site, acting within the course and scope of their employment.

(2) General, Personal Injury, Professional, Automobile Liability (including bodily injury, personal injury and property damage) with minimum coverage of:

i. Occurrence basis policy: combined single limit of \$1,100,000 or Claims-Made policy: combined single limit of \$1,100,000; plus an

endorsement, certificate, or other evidence that extends coverage two years beyond the performance period of the contract.

- ii. Annual Aggregate Limit policy: Not less than \$1,100,000 plus agreement that the Contractor will purchase additional insurance to replenish the limit to \$1,100,000 if claims reduce the annual aggregate below \$1,100,000.
- iii. County shall be named as an additional insured on all liability policies.
- iv. The insurance shall include provisions preventing cancellation without thirty (30) calendar days prior to written notice to the County by certified mail.
- v. Upon execution of this contract, the Contractor shall provide to the County additional insured endorsements and certificates of the required insurance coverage.
- vi. The Contractor shall provide such other insurance as may be required by law, or in a specific solicitation, including any FEMA or other federal or state contracting requirements.
- vii. If the Contractor is a “public entity” within the meaning of the Colorado Governmental Immunity Act, 24-10-101, et sec., C.R.S. as amended (“Act”); the Contractor shall maintain such insurance, by commercial policy or self-insurance, as is necessary to meet the Contractor’s liabilities under the Act. Proof of such insurance shall be provided upon request by the County.
- viii. Coverage may be met by a combination of primary and umbrellas or excess insurance but minimum provided coverage shall be at least as broad as the underlying insurance limit requirements herein.

b.

- 1. No policy required by this Agreement shall prohibit Contractor from waiving any right of recovery prior to loss. Contractor hereby waives such right with regard to County.
- 2. All insurance coverage amounts provided by Contractor and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage. Defense costs must be paid in addition to coverage amounts.
- 3. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either Contractor or County. Self-insured retentions above \$10,000 must be approved by County. At County’s option,

Contractor may be required to provide financial guarantees.

4. Sole Proprietors must provide a representation of their Workers' Compensation Insurance exempt status.
5. County reserves the right to modify these insurance requirements while this Agreement is in effect, including limits, based on the nature of the risk, prior experience, insurer, coverage, federal contracting requirements, or other special circumstances.

7. Contractor Representations - Licenses/Approvals/Insurance: The Contractor certifies that, at the time of entering into this contract, it currently has in effect all necessary licenses, certifications, approvals, insurance, etc. required to properly provide the services and/or supplies covered by this contract. Additionally, all employees of the Contractor performing services under this contract shall hold the required license or certification, if any, to perform their responsibilities. Any revocation, withdrawal or nonrenewal of necessary license, certification, approval, insurance, etc. required for the Contractor to properly perform this contract, shall be grounds for termination of this contract by the County.

The Contractor shall execute and sign the attached Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transactions form.

The Contractor further certifies that, if a foreign corporation, a limited liability company, a limited liability partnership or a limited liability limited partnership, it currently has a Certificate of Good Standing or Certificate of Existence to do business in Colorado. Proof of such certification shall be provided upon request by the County.

8. Records Maintenance: The Contractor shall maintain a complete file of all records, documents, communications, and other materials which pertain to the operation of the program/project or the delivery of services under this contract. Such files shall be sufficient to properly reflect all direct and indirect costs of labor, materials, equipment, supplies and services, and other costs of whatever nature for which a contract payment was made. These records shall be maintained according to generally accepted accounting principles and shall be easily separable from other Contractor records.

9. Records Retention and Availability: All such records, documents, communications, and other materials shall be the property of the County unless otherwise specified herein and shall be maintained by the Contractor, for a period of three (3) years from the date of final payment or submission of the final federal expenditure report under this contract, unless the County requests that the records be retained for a longer period, or until an audit has been completed with the following qualification. If an audit by or on behalf of the County has begun but is not completed at the end of the three (3) year period, or if audit findings have not been resolved after a three (3) year period, the materials shall be retained until the resolution of the audit findings.

10. Performance Monitoring: The Contractor shall permit the County and any other governmental agency authorized by law, or their authorized designee to monitor all activities conducted by the Contractor pursuant to the terms of this contract. As the monitoring agency may in its sole discretion deem necessary or appropriate, such monitoring may consist of internal evaluation procedures, reexamination of program

data, special analysis, on-site verification, formal audit examinations, or any other reasonable procedures. All such monitoring shall be performed in a manner that will not unduly interfere with contract work.

11. Audits

- a. General: The Contractor authorizes the County or its representatives to perform audits and/or inspections of its records at any reasonable time during the term of this contract and for a period of three (3) years, (unless the County determines a longer timeframe is required) following the date of final payment under this contract, to assure compliance with its terms and/or to evaluate the Contractor's performance.

Any amounts which have been paid by the County which are found to be improper in accordance with other terms of this contract shall be immediately returned to the County or may be received in accordance with other remedies.

- b. Single Audit Clause: All state and local governments and non-profit organizations receiving more than \$500,000 from all funding sources, that are defined as federal financial assistance for single audit purposes, shall comply with the audit requirements of OMB Circular A-128 (Audits of State and Local Governments) or A-133 (Audits of Institutions of Higher Education and Other Non-profit Organizations), which ever applies.

12. Conflict of Interest: During the term of this contract, the Contractor shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the Contractor fully performing his/her obligations under this contract.

Additionally, the Contractor acknowledges that, in governmental contracting, even the appearance of a conflict of interest is harmful to the interests of the County. Thus, the Contractor agrees to refrain from any practices, activities or relationships which could reasonably be considered to be in conflict with the Contractor's fully performing his/her obligations to the County under the terms of this contract, without the prior written approval of the County.

In the event that the Contractor is uncertain whether the appearance of a conflict of interest may reasonably exist, the Contractor shall submit to the County a full disclosure statement setting forth the relevant details for the County's consideration and direction. Failure to promptly submit a disclosure statement or to follow the County's direction in regard to the apparent conflict shall be grounds for termination of the contract.

Neither Contractor nor any of its employees shall, at any time during the term of this Agreement, do work for, nor shall they have any financial interest or other relationship with any entity or project which would constitute a conflict of interest or influence or otherwise jeopardize the professional judgment of Contractor in connection with the Project.

13. Conformance with Law: The Contractor shall at all times during the term of this contract strictly adhere to all applicable federal and state laws and implementing regulations as they currently exist and may hereafter be amended, including the **Federal Provisions**

contained in the Federal Provisions Attachment attached hereto as **Exhibit XXX**, and incorporated herein by reference. The Contractor shall also require compliance with these statutes and regulations in subcontract agreements, if any, permitted under this contract.

This Contractor also shall comply with any and all laws and regulations prohibiting discrimination in the specific programs(s) which is/are the subject of this contract. In consideration of and for the purpose of obtaining any and all federal and/or state financial assistance, the Contractor makes the following assurances and certification, upon which the County relies.

- a. The Contractor will not discriminate against any person on the basis of race, color, national origin, age, sex, religion and handicap, including Acquired Immune Deficiency Syndrome (AIDS) or AIDS related conditions, in performance of work under this contract.
- b. At all times during the performance of this contract, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in, or denied benefits of the service, programs, or activities performed by the Contractor, or be subjected to any discrimination by the Contractor.
- c. The Contractor shall take all necessary affirmative steps, as required by 45 CFR 92.36(e), Colorado Executive Orders D0055 87 and D0005 94 and State Procurement Rules, to assure that small and minority businesses and women's business enterprises are used, when possible, as sources of supplies, equipment, construction, and services purchased under this contract.
- d. The Contractor certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien who will perform work under the Public Contract for Services and that the Contractor will participate in the E-Verify Program or Department Program, as these terms are defined in C.R.S. §8-17.5-101, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Public Contract for Services.
- e. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under the Public Contract for Services.
- f. The Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the Public Contract for Services.
- g. The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Public Contract for Services through participation in either the E-Verify Program or the Department Program.
- h. The Contractor is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job

applicants while the Public Contract for Services is being performed.

- i. If the Contractor obtains actual knowledge that a subcontractor performing work under the Public Contract for Services knowingly employs or contracts with an illegal alien, the Contractor shall be required to:
 1. Notify the subcontractor and the contracting state agency or political subdivision within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 2. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to sub-subparagraph (1) of this subparagraph (i) the subcontractor does not stop employing or contracting with the illegal alien; 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 an illegal alien.
- j. The Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Department of Labor and Employment is undertaking pursuant to the authority established in subsection (5) of C.R.S. 8-17.5-102.
- k. If the Contractor violates a provision of the Article 17.5 of Title 8, C.R.S., Illegal Aliens-Public Contracts for Services, the County may terminate this Contract for a breach of this Contract. If the Contract is so terminated, the Contractor shall be liable for actual and consequential damages to the County.

14. Assignment/Delegations/Subcontracting: Except as herein specifically provided otherwise, the duties and obligations of the Contractor arising hereunder cannot be assigned, delegated nor subcontracted except with the express prior written consent of the County. The subcontracts permitted by the County shall be subject to the requirements of this contract, and the Contractor is responsible for all subcontracting arrangements and the delivery of services as set forth in this contract. The Contractor shall be responsible for the performance of any subcontractor and failure of the subcontractor to provide services as set forth in this contract. The Contractor warrants and agrees that any subcontract resulting from its performance under the terms and conditions of this contract shall include a provision that the said subcontractor shall abide by the terms and conditions hereof, as well as all other applicable laws, and rules and regulations pertinent hereto that have been or may hereafter be established. Also, the Contractor warrants and agrees that all subcontracts shall include a provision that the subcontractor shall indemnify and hold harmless the County. The subcontractors must be certified to work on any equipment for which their services are obtained.

15. Remedies: The County or designee may exercise the following remedial actions, in addition to all other remedial actions authorized by law, should it find the Contractor substantially failed to satisfy the scope of work found in this contract. Substantial failure to satisfy the scope of work shall be defined to mean incorrect or improper activities or inaction by the Contractor. These remedial actions are as follows:

- a. Withhold payment to the contractor until the necessary services or corrections in performance are satisfactorily completed;
- b. Request the removal from work on the contract of employee(s) and/or agent(s) of the contractor whom the County or designee justifies as being incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued employment on the contract s/he deems to be contrary to the public interest or not in the best interest of the County.
- c. Deny payment or recover reimbursement for those services or deliverables which have not been performed and which due to circumstances caused by the Contractor cannot be performed or if performed would be of no value to the County. Denial of the amount of payment shall be reasonably related to the amount of work or deliverables lost to the County.
- d. Incorrect payments to the contractor due to omission, error, fraud, and/or defalcation shall be recovered from the contractor by deduction from subsequent payments under this contract between the County and the contractor, or by the County as a debt due to the County or otherwise as provided by law.

16. Termination:

- a. Termination for Default: The County may terminate the contract for cause without compensation for termination costs. If the County terminates the contract for cause, it will first give ten (10) days prior written notice to the contractor, stating the reasons for cancellation, procedures to correct problems, if any, and the date the contract will be terminated in the event problems have not been corrected.
 - (1) In the event this contract is terminated for cause, the County will only reimburse the contractor for acceptable work or deliverables received up to the date of termination.
 - (2) In the event this contract is terminated for cause, final payment to the contractor may be withheld at the discretion of the County until completion of final audit.
- b. Termination for Convenience: The County shall have the right to terminate this contract by giving the contractor at least thirty (30) days prior written notice. If notice is so given, this contract shall terminate on the expiration of the specified time period, and the liability of the parties hereunder for further performance of the terms of this contract shall thereupon cease, but the parties shall not be released from the duty to perform their obligations up to the date of termination.
- c. Immediate Termination: This contract is subject to immediate termination by the County in the event that the County determines that the health, safety, or welfare of persons receiving services may be in jeopardy. Additionally, the County may immediately terminate this contract upon verifying that the contractor has engaged in or is about to participate in fraudulent acts.

17. Severability: To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. The waiver of any breach of a term hereof shall not be construed as a waiver of any other term, or the same term upon subsequent breach.

18. Integration of Understandings: This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved by the Board of County Commissioners of the County of Grand, State of Colorado.

19. Exhibits - Interpretation

- a. Unless otherwise stated, all exhibits referenced herein are attached hereto and incorporated herein and made a part of this contract.
- b. The terms of this contract shall control over any conflicting terms in any of its attached exhibits.

20. Confidentiality: Contractor acknowledges that it may receive confidential information from County in connection with the Project or, as part of the Project, develop such information. Contractor shall take all precautions necessary to maintain and protect the confidentiality of any such information and to ensure that it shall be used only for the purposes of the Project.

21. Ownership of Work: Subject to County's obligation to compensate Contractor, all work, reports, designs, drawings, renderings and other work product produced by Contractor in connection with the Project shall belong to County, and Contractor shall not use any part thereof for purposes other than the Project without the written consent of County.

22. Indemnification: Contractor shall indemnify the County and hold and defend County and its officials, officers and employees harmless from all costs, claims and expenses arising from claims made by any person in connection with the acts or omissions of, or representations by, the Contractor. This indemnification shall not apply to claims by third parties against the County to the extent that the County is liable to such third party for such claim without regard to the involvement of the Contractor. It shall be a condition to liability under this paragraph that the County promptly provide to the Contractor a copy of any summons, complaint or other notice of claim with respect to any claim for which the County may seek indemnification or defense here under. Within 10 days following the giving of such notice of claim by the County, the Contractor shall acknowledge receipt of such notice in writing to the County and, in such notice, accept the defense and obligation to indemnify the County hereunder. Following such acknowledgment, the Contractor shall take all actions reasonably necessary to protect the County from such claim and the County shall cooperate in such defense. In the event that the Contractor fails or refuses to give such acknowledgment of

receipt and acceptance to the County within the 10-day period specified, the County may, but shall not be obligated to, assume its own defense and thereafter recover all costs of such defense from the Contractor.

23. Notices: Any notice required under this Agreement may be personally delivered or mailed by United States mail, first class postage prepaid to the party to be served at the following addresses:

Contractor: [XXXXX]

County: **Grand County Manager/Office of Emergency Management**
PO Box 264
Hot Sulphur Springs, CO 80451

Notices personally served shall be deemed served on the date of delivery. Notice mailed shall be deemed served the next business day following the date of mailing if mailed in the State of Colorado, otherwise on the date which is two business days following the date of mailing.

24. Entire Agreement: This Agreement constitutes the entire agreement between the parties concerning the work and may not be amended except by a written document executed by both parties hereto.

25. Counterparts: This Contract may be executed in any number of counterparts, each of which shall be deemed an original, and which together shall constitute a single instrument.

26. Choice of Laws and Venue: This Contract shall be governed by and construed in accordance with the internal laws of the State of Colorado without reference to choice of law rules. The parties agree that venue in any action to enforce or interpret this Agreement shall be only in the District Court in and for the County of Grand, State of Colorado.

27. Governmental Immunity: Nothing contained herein shall constitute a waiver of the County's Governmental Immunity.

28. Subject to Annual Appropriation: Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the County not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement or liability beyond the current fiscal year

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28. Excluded Party List: If this is a covered transaction as defined below, the Contractor certifies by its signature it has not been suspended or debarred, its principals have not been suspended or debarred, and/or that its subcontractors and the subcontractors' principals have not been suspended or debarred as provided in OMB guidance, 2 CFR part 180, implementing Executive Orders 12549 and 12689. A "Covered Transaction" is defined as those procurement contracts for goods or services awarded under a non-procurement transaction (e.g. grant or cooperative agreement) that are expected to equal or exceed \$25,000.00 or meet other specified criteria. Contractor certifies it has completed the verification by checking the "Excluded Parties List System" (EPLS).

Under penalty of perjury, I am authorized to execute the contract upon the behalf of and to bind the Contractor, and the statements and representations in Paragraphs 3, 7, and 13(a) through 13(k) are true to the best of my information and belief.

CONTRACTOR:

By: _____

Print Name/Title: _____

COUNTY: GRAND COUNTY, COLORADO

By: _____

Merrit Linke, Chairman
Grand County Board of Health

ATTACHMENT E
FEDERAL PROVISIONS

A. Definitions

1. Government means the United States of America and any executive department or agency thereof.
2. FEMA means the Federal Emergency Management Agency.
3. Third Party Subcontract means a subcontract at any tier entered into by Contractor or subcontractor, financed in whole or in part with Federal assistance originally derived from the Federal Emergency Management Agency.

B. Federal Changes

1. Contractor shall at all times comply with all applicable regulations, policies, procedures, and FEMA Directives as they may be amended or promulgated from time to time during the term of this Agreement, included but not limited to those requirements of 2 C.F.R. §§ 200.317 through 200.326 and more fully set forth in Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, which is included herein by this reference. Contractor's failure to so comply shall constitute a material breach of this Agreement.
2. Contractor agrees to include the above clause in each third-party subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

C. Compliance with the Contract Work Hours and Safety Standards Act.

Pursuant to section 3701 of title 40 of the United States Code, this Section A shall apply to Contractor in the event the amount payable under this Agreement exceeds \$100,000 and may involve the employment of mechanics or laborers.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause

set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidated damages. County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. Subcontracts. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

D. Clean Air Act and Federal Water Pollution Control Act

This Section B shall apply in the event the amount payable under this Agreement exceeds \$150,000.

Clean Air Act

1. Contractor agrees to comply with all applicable standards, orders and regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.*
2. Contractor agrees to report each violation to County and understands and agrees that County will, in turn, report each violation as required to assure notification to the State of California, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. Contractor agrees to comply with all applicable standards, orders and regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.*
2. Contractor agrees to report each violation to County and understands and agrees that County will, in turn, report each violation as required to assure notification to the State of California, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. Contractor agrees to include these requirements in each subcontract exceeding \$150,000

financed in whole or in part with Federal assistance provided by FEMA.

E. Suspension and Debarment

1. This Agreement is a covered transaction for purposes of title 2 Code of Federal Regulations parts 180 and 3000. As such, Contractor is required to verify that none of Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
2. Contractor represents and warrants that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 “Debarment and Suspension.” Contractor agrees that neither Contractor nor any of its third-party subcontractors shall enter into any third-party subcontracts for any of the work under this Agreement with a third-party subcontractor that is debarred, suspended, or otherwise excluded for or ineligible for participation in Federal assistance programs under executive Order 12549.
3. Contractor must comply with title 2 Code of Federal Regulations, part 180, subpart C and title 2 Code of Federal Regulations, part 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
4. This certification is a material representation of fact relied upon by County. If it is later determined that Contractor did not comply with title 2 Code of Federal Regulations, part 180, subpart C or title 2 Code of Federal Regulations, part 3000, subpart C, in addition to remedies available to the State of California and the County of Santa Cruz, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

F. Procurement of Recovered Materials

1. In the performance of this Agreement, Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
 - a. Competitively within a timeframe providing for compliance with the Agreement performance schedule;
 - b. Meeting Agreement performance requirements; or
 - c. At a reasonable price.
2. Information about this requirement, along with the list of EPA- designate items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

G. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress,

or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by section 1352 of title 31 of the United States Code. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

H. MBE/WBE REQUIREMENTS

1. Contractor shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible through the "Good Faith Effort" process in 2 C.F.R. § 200.321. Contractor shall document and report its Good Faith Effort processes. Contractor shall also ensure that all of its subcontractors take the affirmative steps required under 2 C.F.R. § 200.321. Affirmative steps must include:
 - a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - f. Requiring all subcontractors to take the affirmative steps listed in paragraphs (a) through (e) above.

I. MISCELLANEOUS PROVISIONS

1. DHS Seal. Contractor shall not use the Department of Homeland Security ("DHS") seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval.
2. FEMA Assistance. Contractor acknowledges that FEMA financial assistance will be used to fund this Agreement only. Contractor shall comply will all applicable federal laws, regulations, executive orders, FEMA policies, procedures, and directives.
2. Federal Government Not Party. The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to County, Contractor, or any other party pertaining to any matter resulting from this Agreement.
3. False Claims. Contractor acknowledges that Title 31 United States Code Chapter 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions pertaining to this Agreement.

J. Equal Employment Opportunity

During the performance of this Agreement, Contractor agrees as follows:

1. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
3. Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for

noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, Contractor may request the United States to enter into such litigation to protect the interests of the United States.