

SERVICES CONTRACT

This Services Contract Regarding Provision of Professional Services (the "Agreement") dated as of this day _____ of _____, 2014, is between _____, ("Contractor") and Grand County, Colorado ("County"), by and through its Board of County Commissioners.

Recital

WHEREAS, County desires to _____; and

WHEREAS, Contractor has agreed to _____.

NOW THEREFORE, it is agreed as follows:

Terms and Conditions

1. Scope of Work: Contractor shall perform the work described in the attached Exhibit A identified as "_____." Contractor shall perform the work in a skillful, professional and competent manner. Contractor shall provide qualified staff persons to administer and oversee this contract.

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 _____ Dollars (\$ _____). No increase in the contract sum shall be allowed without the written authorization of Board of County Commissioners of the County of Grand.

4. Time for Completion of Contract/Duration of Contract:

To begin on or about _____ and shall be completed on _____.

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. 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:
 - a. Occurrence basis policy: combined single limit of \$1,000,000 or Claims-Made policy: combined single limit of \$1,000,000; plus an endorsement, certificate, or other evidence that extends coverage two years beyond the performance period of the contract.
 - b. Annual Aggregate Limit policy: Not less than \$1,000,000 plus agreement that the contract will purchase additional insurance to replenish the limit to \$1,000,000 if claims reduce the annual aggregate below \$1,000,000.
 - c. County shall be named as an additional insured on all liability policies.

- d. The insurance shall include provisions preventing cancellation without thirty (30) calendar days prior to written notice to the County by certified mail.
- e. Upon execution of this contract, the contractor shall provide to the County additional insured endorsements and certificates of the required insurance coverage.
- f. The contractor shall provide such other insurance as may be required by law, or in a specific solicitation.
- g. 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 then contractor's liabilities under the Act. Proof of such insurance shall be provided upon request by the County.

7. Contractor Representations - Licenses/Approvals/Insurance: The contractor certifies that, at the time of entering into this contract, it has currently 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 further certifies that, if 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

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. 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 preemployment 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 contractor. 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 County, 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 Manager or designee may exercise the following remedial actions, in addition to all other remedial actions authorized by law, should s/he 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 Manager 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 contracts 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 of 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 additions, 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.

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. Conflicts of Interest: 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.

21. 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.

22. 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.

23. 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.

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

Contractor:

County: Grand County Board of Commissioners
P.O. 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 in the date which is two business days following the date of mailing.

25. 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.

26. 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.

27. 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.

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

29. 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)

([https://www.sam.gov/portal/public/SAM/?portal:componentId=1f834b82-3fed-4eb3-a1f8-
ea1f226a7955&portal:type=action&navigationalstate=JBPNs_r00ABXdcACJqYXZheC5mYWNlcy5wb3J0bGV0YnJpZ
GdLLINUQVRFX0IEAAAAAQpdmlldzphMzMzOWFIMS0xNWQzLTRmYWYtYWVlOC1kNWZhNTRmMzA3OGQAB19fR
U9GX18*&interactionstate=JBPNs_r00ABXc0ABBfanNmQnJpZGdIVmllD0kAAAAAQATL2pzzi9uYXZpZ2F0aW9uLmp
zcAAHX19FT0ZfXw**](https://www.sam.gov/portal/public/SAM/?portal:componentId=1f834b82-3fed-4eb3-a1f8-
ea1f226a7955&portal:type=action&navigationalstate=JBPNs_r00ABXdcACJqYXZheC5mYWNlcy5wb3J0bGV0YnJpZ
GdLLINUQVRFX0IEAAAAAQpdmlldzphMzMzOWFIMS0xNWQzLTRmYWYtYWVlOC1kNWZhNTRmMzA3OGQAB19fR
U9GX18*&interactionstate=JBPNs_r00ABXc0ABBfanNmQnJpZGdIVmllD0kAAAAAQATL2pzzi9uYXZpZ2F0aW9uLmp
zcAAHX19FT0ZfXw**)).

CONTRACTOR: _____.

By: _____

Title: _____

Subscribed and sworn before me this ____ day of _____, 2014 in the County of _____, State of Colorado by _____ (name) as _____ (title) of _____ (Contractor name), being duly authorized to bind Contractor.

Notary Public Date
Witness My Hand and Official Seal:
My Commission Expires:

COUNTY: GRAND COUNTY, COLORADO

By: _____

**Gary Bumgarner, Chairman
Board of County Commissioners**

Subscribed and sworn before me this ____ day of _____, 2014 in the County of Grand, State of Colorado by Gary Bumgarner as Chairman of the Board of County Commissioners of the County of Grand, State of Colorado, being duly authorized to bind County.

Notary Public Date

Witness My Hand and Official Seal:
My Commission Expires:

ATTEST

By: _____
Sara Rosene
Grand County Clerk

Last modified July 3, 2013