

SERVICES AGREEMENT

THIS SERVICES AGREEMENT (“Agreement”) is made and entered into the most recent day and year set forth below by and between _____, a quasi-municipal corporation and political subdivision of the State of Colorado (the “Principal”), whose mailing address is _____, and _____ (the “Contractor”), whose mailing address is _____ (the Principal and the Contractor are sometimes referred to herein individually as a “Party” and collectively as the “Parties”).

WITNESSETH:

In consideration of the mutual covenants and obligations herein expressed, it is agreed by and between the Parties as follows:

1. Scope of Services. The Contractor agrees to provide services related to the following scope of services: _____, as supplemented by any Additional Scope of Services attached as Exhibit A hereto which, if attached, is incorporated herein by this reference. The scope of services referenced above along with any Additional Scope of Services is hereinafter referred to as the “Scope of Services.” All provisions of the Additional Scope of Services, including without limitation any terms and conditions included therein, shall be subject to the provisions of this Agreement. In the event of any inconsistency between the provisions of this Agreement and any Additional Scope of Services, the provisions contained within this Agreement shall control.

2. Time of Commencement and Completion of Services. The services to be performed pursuant to this Agreement shall be initiated no later than _____. Services shall be completed no later than _____, 20___. Any extensions of the time limit set forth above must be agreed upon in writing by the Parties.

3. Early Termination by Principal. Notwithstanding the time periods contained herein, the Principal may terminate this Agreement at any time without cause by providing written notice of termination to the Contractor. Such notice shall be delivered at least three (3) days prior to the termination date contained in said notice unless otherwise agreed in writing by the Parties. In the event of any such early termination by the Principal, the Contractor shall be paid for services rendered prior to the date of termination, subject only to the satisfactory performance of the Contractor’s obligations under this Agreement. Such payment shall be the Contractor’s sole right and remedy for such termination.

4. Suspension. Without terminating this Agreement or breaching its obligations hereunder, the Principal may, at its convenience, suspend the services of the Contractor by giving the Contractor written notice one day in advance of the suspension

date. Upon receipt of such notice, the Contractor shall cease its work in as efficient a manner as possible so as to keep its total charges to the Principal for services under this Agreement to the minimum. No work shall be performed during such suspension except with prior written authorization by the Principal Representative. After a suspension has been in effect for thirty (30) days, the Contractor may terminate this Agreement at will.

5. Compensation. In consideration of the services to be performed pursuant to this Agreement, the Principal agrees to pay the Contractor the amounts set forth in the Additional Scope of Services. In the event there is no Additional Scope of Services attached to this Agreement or the Additional Scope of Services does not contain payment information, the Principal agrees to pay the Contractor _____ Dollars (\$_____.00) per _____. Maximum compensation shall not exceed _____ Dollars (\$_____.00). The Principal shall provide no benefits to the Contractor other than the compensation stated above. The Contractor shall bill its charges to the Principal periodically, but no more frequently than once a month.

6. Qualifications on Obligations to Pay. No partial payment shall be final acceptance or approval of that part of the Scope of Services paid for or shall relieve the Contractor of any of its obligations under this Agreement. Notwithstanding any other terms of this Agreement, the Principal may withhold any payment (whether a progress payment or final payment) to the Contractor if any one or more of the following conditions exists:

(a) The Contractor is in default of any of its obligations under this Agreement.

(b) Any part of such payment is attributable to services that are not performed according to this Agreement. The Principal will pay for any portion of the services performed according to this Agreement.

(c) The Contractor has failed to make payments promptly to any third-party used to perform any portion of the services hereunder, subject to Paragraph 9, for which the Principal has made payments to the Contractor.

7. Principal Representative. The Principal will designate, prior to commencement of work, its project representative (the "Principal Representative") who shall make, within the scope of his or her authority, all necessary and proper decisions with reference to the Scope of Services. All requests for contract interpretations, change orders, and other clarification or instruction shall be directed to the Principal Representative.

8. Independent Contractor. The services to be performed by the Contractor are those of an independent contractor and not of an employee of the Principal. **The Contractor is obligated to pay federal and state income tax on any moneys earned**

pursuant to this Agreement. Neither the Contractor nor its employees, if any, are entitled to workers' compensation benefits from the Principal for the performance of the services specified in this Agreement.

9. Personal Services. It is understood that the Principal enters into this Agreement based on the special abilities of the Contractor and that this Agreement shall be considered an agreement for personal services. Accordingly, the Contractor shall neither assign any responsibilities nor delegate any duties arising under this Agreement without the prior written consent of the Principal. The Contractor accepts the relationship of trust and confidence established between the Parties. The Contractor shall use its best efforts and shall perform the services hereunder at or above the standard of care of those in its profession or industry providing similar services in the Principal's local area; provided, however, that in the event the standard of care is higher in the local area where the Contractor's office primarily responsible for providing the services is located, then the standard of care applicable to the local area where the Contractor's office is located shall be applicable to such services.

10. Accuracy of Work. The Contractor represents, covenants, and agrees that its work will be accurate and free from any material errors. The Principal's approval shall not diminish or release the Contractor's duties, since the Principal is ultimately relying upon the Contractor's skill and knowledge.

11. Duty to Warn. The Contractor agrees to call to the Principal's attention errors in any drawings, plans, sketches, instructions, information, requirements, procedures, and other data supplied to the Contractor by the Principal or a third-party that it becomes aware of and believes may be unsuitable, improper, or inaccurate in a material way. However, the Contractor shall not independently verify the validity, completeness, or accuracy of such information unless otherwise expressly engaged to do so by the Principal. Nothing shall detract from this obligation unless the Contractor advises the Principal in writing that such data may be unsuitable, improper, or inaccurate and the Principal nevertheless confirms in writing that it wishes the Contractor to proceed according to such data as originally given.

12. Insurance. The Contractor represents, warrants, and agrees that it has and shall maintain State minimum workers' compensation insurance coverage for its employees, if any. The Contractor shall also maintain broad form general liability, property damage, and automotive liability insurance in the minimum amount of three hundred and eighty-seven thousand dollars (\$387,000) for bodily injury, death, or damage to property of any person and one million and ninety-three thousand dollars (\$1,093,000) for bodily injury, death, or damage to property of more than one person, or the maximum amount that may be recovered under the Colorado Governmental Immunity Act, § 24-10-101, *et seq.*, C.R.S., as from time to time amended (the "CGIA"), whichever is higher. All insurance policies (except workers' compensation) shall include the Principal and its elected officials and employees as additional insureds. At the

request of the Principal, the Contractor shall provide the Principal with documentation evidencing such coverages.

13. Illegal Aliens. The Contractor certifies that the Contractor shall comply with the provisions of Section 8-17.5-101, *et seq.*, C.R.S. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into an agreement with a subcontractor that knowingly employs or contracts with an illegal alien. The Contractor represents, warrants and agrees that it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or the Department Program described in Section 8-17.5-101, C.R.S. The Contractor shall not use 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. If the Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Contractor shall: (i) notify the subcontractor and the Principal within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and (ii) terminate the subcontract with the subcontractor if within three (3) days of receiving such notice, the subcontractor does not stop employing or contracting with the illegal alien, unless the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. The Contractor shall comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment. If the Contractor fails to comply with any requirement of Section 8-17.5-102(2), C.R.S., the Principal may terminate this Agreement for breach, and the Contractor shall be liable for actual and consequential damages to the Principal. If the Contractor participates in the Department Program, the Contractor shall provide the affirmation required under Section 8-17.5-102(5)(c)(II), C.R.S., to the Principal.

The Contractor, if operating as a sole proprietor, hereby swears or affirms under penalty of perjury that the Contractor (i) is a citizen of the United States or legal permanent resident or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of Section 24-76.5-101, *et seq.*, C.R.S., and (iii) shall produce one of the forms of identification required by Section 24-76.5-103, C.R.S., prior to the performance of any of its other obligations hereunder.

14. [DELETE IF NOT PURCHASING GOODS OR EQUIPMENT:]
Warranties and Guarantees. The Contractor hereby represents, warrants and guarantees to the Principal all workmanship, equipment and materials paid for by the Principal pursuant to this Agreement for a period of two years following the date of purchase by the Contractor. Such warranty and guarantee shall be construed to include, but is not limited to, representations that all workmanship, equipment and materials are of good quality, free from any defects or irregularities, and in strict conformity with any and all

specifications provided to the Contractor by the Principal. If any defect in workmanship, equipment or materials arises, the Contractor shall remedy or otherwise correct such defect without cost to the Principal within such reasonable period of time as specified by the Principal in writing. If the Contractor fails to repair such defect within such period of time specified by the Principal, the Principal may repair such defect or contract for such repairs at the expense of Contractor.

15. Compliance with Laws. The Contractor is obligated to familiarize itself and comply with all laws applicable to the performance of the Scope of Services.

16. Acceptance Not Waiver. The Principal's approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights or benefits provided to the Principal under this Agreement.

17. Default. Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either Party should fail or refuse to perform according to the terms of this Agreement, such Party may be declared in default.

18. Remedies. In the event a Party declares a default by the other Party, such defaulting Party shall be allowed a period of ten (10) days within which to cure said default. In the event the default remains uncorrected, the Party declaring default may elect to (a) terminate the Agreement and seek damages; (b) treat the Agreement as continuing and require specific performance; or (c) avail itself of any other remedy at law or equity. If the non-defaulting Party commences legal or equitable actions against the defaulting Party, the defaulting Party shall be liable to the non-defaulting Party for the non-defaulting Party's reasonable attorney fees and costs incurred because of the default. Under no circumstances shall either Party be liable to the other Party for special, punitive, indirect or consequential damages arising out of or in connection with this Agreement, including without limitation lost profits, loss of use, or loss of opportunity, except as required by Paragraph 13 (Illegal Aliens).

19. Indemnification; No Waiver of Liability. The Contractor agrees to indemnify, defend, and hold harmless the Principal from any and all damages and liabilities arising from the Contractor's performance of the Scope of Services. As part of this obligation, the Contractor shall compensate the Principal for the time, if any, spent by its legal counsel in connection with such claims or actions. If an Additional Scope of Services contains any provisions purporting to require the Principal to defend, indemnify, or hold harmless the Contractor or purporting to effect a waiver or limitation of the Contractor's liability (either by type of liability or amount), the Principal does not agree or accept such provisions and such provisions are not part of the Agreement. The Principal is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, defenses and protections provided by the CGIA or otherwise available to the Principal or its officers or employees.

20. Binding Effect. This writing constitutes the entire agreement between the Parties and shall be binding upon the Parties, their officers, employees, agents and assigns and shall inure to the benefit of the respective survivors, heirs, personal representatives, successors and assigns of the Parties.

21. Law; Venue. The laws of the State of Colorado shall govern the construction, interpretation, execution and enforcement of this Agreement. Venue for any dispute between the Parties arising out of or relating to this Agreement shall be in the State of Colorado District Court for the county in which the Principal's mailing address is located.

22. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

23. Annual Appropriation. The Principal's obligations hereunder are subject to the annual appropriation of funds necessary for the performance thereof, which appropriations shall be made in the sole discretion of the Principal's Board of Directors.

24. Ownership of Work Product. All documents such as reports, plans, drawings and contract specifications, information, and other materials prepared or furnished by the Contractor (or the Contractor's independent professional associates, subcontractors, and consultants) and paid for pursuant to this Agreement are instruments of public information and property of the Principal. All internal documents which support the public information such as field data, field notes, laboratory test data, calculations, estimates and other documents prepared by the Contractor as instruments of service shall be provided to the Principal. The Principal understands such documents are not intended or represented to be suitable for reuse by the Principal or others for purposes outside the specific scope and conditions of the Scope of Services. Any reuse without written verification or adaptation by the Contractor for the specific purpose intended will be at the Principal's sole risk and without liability or legal exposure to the Contractor, or to the Contractor's independent professional associates, subcontractors, or consultants.

25. Taxes. The Principal is a governmental entity and is therefore exempt from state and local sales and use tax. The Principal will not pay for or reimburse any sales or use tax that may not directly be imposed against the Principal. The Contractor shall use the Principal's sales tax exemption for the purchase of any and all products and equipment on behalf of the Principal.

26. Time is of the Essence. All times stated in this Agreement are of the essence.

27. Notices. All notices which are required or which may be given under this Agreement shall be effective when mailed via registered or certified mail, postage prepaid and sent to the address first set forth above.

28. Counterparts, Electronic Signatures and Electronic Records. This Agreement may be executed in two counterparts, each of which shall be an original, but all of which, together, shall constitute one and the same instrument. The Parties consent to the use of electronic signatures and agree that the transaction may be conducted electronically pursuant to the Uniform Electronic Transactions Act, § 24-71.3-101, *et seq.*, C.R.S. The Agreement and any other documents requiring a signature may be signed electronically by either Party. The Parties agree not to deny the legal effect or enforceability of the Agreement, solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature on the grounds that it is an electronic record or an electronic signature or that it is not in its original form or is not an original.

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

PRINCIPAL:
[INSERT NAME OF PRINCIPAL]

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

CONTRACTOR:
[INSERT NAME OF CONTRACTOR]

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

EXHIBIT A

ADDITIONAL SCOPE OF SERVICES

(Attach Contractor's proposal or other documentation if available and intended for incorporation into the Agreement)