

**SAMPLE/DRAFT  
SERVICES AGREEMENT**

**THIS SERVICES AGREEMENT** (The "Agreement") is entered into this \_\_\_\_\_, 201\_\_\_\_, by and between the Board of County Commissioners of Summit County, having its principal place of business at 208 Lincoln Avenue, Breckenridge, Colorado 80424 ("County"), and \_\_\_\_\_ ("Consultant") having its principal place of business at \_\_\_\_\_.

**WHEREAS**, the County desires to contract with Consultant to perform \_\_\_\_\_ in accordance with terms of this Agreement; and

**WHEREAS**, Consultant desires to perform certain services for **Summit County Government**, on an independent contractor basis as set forth in this Agreement.

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

1. Services. Consultant agrees to perform the following services (the "Services") in a timely, expeditious and professional manner: **Consulting Services** in accordance with all applicable provisions of the Consultant's Proposal dated \_\_\_\_\_, which is attached hereto as **Exhibit "A"** and incorporated herein by this reference. In the event of any conflicts between the Agreement and any of the terms of the attached exhibits, the terms of this Agreement shall prevail.

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

2. Compensation. For satisfactory performance of the Services hereunder, County shall pay Consultant for the performance of the services detailed in this Agreement, \$\_\_\_\_\_. Payment will not be made on a salary or hourly rate. County shall have no obligation to make any payments until such time as County accepts Consultant's performance as satisfactory. All payments under this contract shall be to the trade or business name of the Consultant. No payments will be personally made to an individual under this contract.

A. Invoices. The Consultant will submit invoices on a monthly basis, which will describe the Services performed and expenses incurred pursuant to this Agreement. Invoices will be reviewed by Molly Boyd, who will be submit them to the Summit County Finance Department for payment upon her approval. Invoices shall provide detail of Consultant's performance of Services sufficient to the County's

requirements. Upon request, Consultant shall provide documentation of its expenses. Payment of such invoices will be due within twenty-five (25) days of the receipt thereof.

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

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

3. Term. The term of this Agreement shall be from \_\_\_\_\_ to \_\_\_\_\_. The Agreement may be terminated earlier by final completion of the Services by the Consultant and acceptance of the services by the County or through the termination provisions provided herein.

4. Termination. Consultant may terminate this Agreement at any time by giving the County written notice of not less than sixty (60) days. County may terminate this Agreement at any time in the event that Consultant violates the terms of this Agreement or fails to produce a result that meets the specifications of this Agreement. In the event of termination, payments will be made to Consultant for all work performed up to the date of termination.

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

- A. Consultant does not have the authority to act for the County, or to bind the County in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of the County; and
- B. Consultant has and hereby retains control of and supervision over the performance of Consultant's obligations hereunder and control over any persons employed or contracted by Consultant for performing the Services hereunder; and
- C. County will not provide training or instruction to Consultant or any of its employees regarding the performance of Services hereunder; and
- D. Neither Consultant, nor its employees or Consultants, will receive benefits of any kind from the County. Consultant represents that it is engaged in providing similar services to the general public and not required to work exclusively for the County; and
- E. All Services are to be performed solely at the risk of the Consultant and Consultant shall take all precautions necessary for the proper performance thereof; and

- F. Consultant will not combine its business operations in any way with the County's business operations and each party shall maintain their operations as separate and distinct.

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

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

7. Consultant Responsibilities. In addition to all other obligations contained herein, Consultant agrees:

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

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

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

10. Indemnification and Insurance. Consultant shall indemnify and hold harmless the County from and against all claims, damages, losses, and expenses arising out of or resulting from

acts or omissions of the Consultant, Consultant's sub-Consultants or otherwise arising out of the performance of services by Consultant. No later than seven days after execution of this Agreement, Consultant shall provide the County with certificates of insurance evidencing the types and amounts of insurance specified below:

- A. Standard Workers' Compensation as required by law in the State of Colorado; and
- B. Comprehensive General Liability Insurance for operations and contractual liability adequate to cover the liability assumed hereunder with limits of not less than \$350,000 on account of any one person and \$990,000 for each occurrence of property damage and personal injury; and
- C. Automobile Liability insurance in those instances where Consultant uses an automobile, regardless of ownership, for the performance of the Services. Consultant shall carry insurance, written on the comprehensive automobile form insuring all owned and non-owned automobiles with limits of not less than \$100,000 (bodily injury per person), \$300,000 (each accident) and \$50,000 (property damage).

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

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

11. Notice. Any notice to be given hereunder by either party to the other, shall be in writing and shall be deemed given when sent by certified mail.

- A. Notices to the County shall be addressed to:

{Name, Title}  
Summit County Government  
P.O. Box 68  
Breckenridge, CO 80424

- B. Notices to the Consultant shall be addressed to:

Name, title  
Address

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

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

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

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

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

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

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

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

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

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

21. Prohibitions on Public Contract for Services.

A. The Consultant shall not knowingly employ or contract with an illegal

alien to perform work under the Contract; or enter into a contract with a sub-consultant that fails to certify to the Consultant that the sub-consultant shall not knowingly employ or contract with an illegal alien to perform work under the Contract.

- B. The Consultant shall verify or attempt to verify through participation in the Basic Pilot Verification program, as administered by the United States Department of Homeland Security, that the Consultant does not employ any illegal aliens. If the Consultant is not accepted into the Basic Pilot Verification Program prior to entering into the Contract, the Consultant shall apply to participate in the Program every three months until the Consultant is accepted or the Contract has been completed, whichever is earlier. Information on applying for the Basic Pilot Verification Program can be found at:

<https://www.vis-dhs.com/employerregistration>

- C. The Consultant shall not use the Basic Pilot Verification Program procedures to undertake pre-employment screening of job applicants while the Contract is being performed.

(1) If the Consultant obtains actual knowledge that a sub-consultant performing work under the Contract knowingly employs or contracts with an illegal alien, the Consultant shall be required to:

- a. Notify the sub-consultant and the County within three days that the Consultant has actual knowledge that the sub-consultant is employing or contracting with an illegal alien; and
- b. Terminate the Subcontract with the sub-consultant if within three days of receiving the notice required pursuant to (C)(1)(a) of this Contract, the sub-consultant does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the sub-consultant if during such three days the sub-consultant provides information to establish that the sub-consultant has not knowingly employed or contracted with an illegal alien.

(2) The Consultant shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the department is undertaking pursuant to its authority.

- D. If Consultant fails to comply with any requirement of this section, the County may terminate the Contract for breach and the Consultant shall be liable for actual and consequential damages.

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

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

**[CONSULTANT NAME]**

BOARD OF COUNTY COMMISSIONERS  
OF SUMMIT COUNTY

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

By: \_\_\_\_\_  
Scott Vargo, County Manager