

## AGREEMENT

THIS AGREEMENT is made and entered into by and between Gilpin County hereinafter referred to as "County", and \_\_\_\_\_, hereinafter referred to as "Contractor". The County and Contractor may be referred to collectively as the "Parties", or individually as "Party". This Agreement will be effective upon signature of both Parties.

### **1. DESIGNATED REPRESENTATIVE AND CONTACT INFORMATION**

Each Party's designated representative for managing this contract, providing information, and proceeding under this Contract is set forth below. Either Party may change their designated representatives upon written notice to the other Party.

**1.1. Gilpin County Designated Representative ("GR"):**

Name: \_\_\_\_\_;  
Email: \_\_\_\_\_;  
Tele.: \_\_\_\_\_;  
Mailing Address: \_\_\_\_\_

**1.2. Contractor Designated Representative ("CR"):**

Name: \_\_\_\_\_;  
Email: \_\_\_\_\_;  
Tele.: \_\_\_\_\_;  
Mailing Address: \_\_\_\_\_

### **2. SCOPE OF SERVICES**

- 2.1.** Contractor will perform the services and provide any required deliverables described in the attached **APPENDIX 1** in accordance with the terms of this Agreement.
- 2.2.** Contractor will not perform any services not based on directives issued by the County. Contractor will not undertake any work, which will result in costs, expenses, or fees without written permission from the County. Contractor will not further subcontract or assign said work to any other individual or company without consent of the County.
- 2.3.** Additional services or deliverables beyond the services and deliverables listed in **APPENDIX 1** may be incorporated into this Agreement only if agreed to first in writing and signed by the Parties.

### **3. COMPENSATION**

- 3.1** The County will compensate Contractor according to the fee schedule outlined in **APPENDIX 2**. The compensation paid to Contractor under the Contract shall not exceed [ \_\_\_\_\_ ] dollars (\$ \_\_\_\_\_).
- 3.2** Contractor will provide monthly invoices, which will itemize all work performed and related charges for that work. The County will pay each such invoice within thirty (30) days of receipt of each invoice. Contractor will provide an unconditional release for any and all amounts due upon receiving payment from the County. The County will contact Contractor no later than five (5) days after receipt of any invoice which is in dispute.
- 3.3** Any increase or modification to the compensation or reimbursable expenses shall be subject to the approval of the County and shall be made only by written amendment of this Agreement executed by both Parties.

### **4. TERM**

- 4.1** This Agreement will take effect immediately upon signing by both Parties and will remain in effect until [MM/DD/YYYY], unless otherwise terminated earlier by either Party as set forth in Section 4.2.
- 4.2** This Agreement may be terminated by the County without cause by giving thirty (30) days' written notice to the Contractor. If this Agreement is terminated by the County, Contractor will be compensated for such services up to the point of termination based on the work completed to such date. Contractor may terminate this Agreement by providing the County with written notice, at least thirty (30) days in advance of such termination. If this Agreement is terminated by the Contractor, the Contractor will be compensated for services up to the point of termination, based on the work completed to such date.
- 4.3** Contractor will perform the services under this Agreement in a skillful and competent manner and according to the standards observed by a competent practitioner of the work in which Contractor is engaged. Services provided pursuant to this Agreement will be provided in a substantial, first class, and workmanlike manner to conform to the standards of quality normally provided in the field.

### **5. WORK-PROJECT SCHEDULE**

- 5.1** The Work shall be completed no later than [MM/DD/YYYY], after the execution of the Contract by both Parties, which executed Contract will be

immediately provided to both Parties. Contractor does, however, plan to complete the Work as soon as possible. Contractor represents project will take [ ] [days/weeks/months]. [Insert additional details provided by the Contractor in regards to the project schedule]. The Parties recognize that weather and supply chain delays may impact this schedule and agree to work in good faith in modifying or extending the timeline in the event of delays due to adverse weather or other conditions outside of the control of the Contractor. In the event no significant supply chain delays or adverse weather delays occur, all time limits stated in the Contract Documents are of the essence to the Contract. If Contractor is delayed at any time in the progress of the Work by changes ordered in the Work, by adverse weather conditions that would prevent the safe and proper completion of the Work, labor disputes, fire, unavoidable casualties, caused beyond Contractor's control, or by any cause which the GR may determine justifies the delay, then the Contract Time shall be extended by a Change Order for such reasonable time as the GR may determine. The Project Schedule shall be in an electronic format provided by Contractor and approved by GR. The Project Schedule shall include realistic activity sequences and durations, and an allocation of labor. Contractor shall notify GR in writing immediately regarding any delays or other problems with the Project.

- 5.2 Whenever the current update to the Project Schedule reflects a delay of five (5) or more working days behind schedule, Contractor shall submit, together with the Project Schedule update, a written statement describing the cause of the delay and the actions being taken or considered by the Contractor to recover the time lost.
- 5.3 Proposed changes to the Project Schedule shall be submitted to GR for review. Submissions of the Project Schedule proposing changes shall clearly identify the activities and/or logic affected by the proposed changes and compare such changes to the most recently accepted Project Schedule.

## **6. INSURANCE**

- 6.1 Contractor will neither work under this Agreement until it has obtained all insurance required hereunder from a company or companies rated A or better, nor will Contractor allow any additional Sub-Contractor to commence work for any part of this Agreement until all insurance required of this Agreement (as outlined below) has been obtained.
- 6.2 Throughout the term of this Agreement, at Contractor's sole cost and expense, Contractor will keep, or cause to be kept, in full force and effect, for the mutual benefit of the County and Contractor the following insurance policies:

- a) General Liability Insurance – Providing protection of \$1,000,000 per

occurrence/ \$2,000,000 annual aggregate against claims and liabilities for personal injury, death, or property damage arising from Contractor's activities;

- b) Professional Liability Insurance – Providing protection for at least \$2,000,000 per occurrence/annual aggregate against claims and liabilities of the Contractor;
- c) Automobile Liability Insurance – Providing protection for at least \$1,000,000 combined single limit; and
- d) Worker's Compensation Insurance – In accordance with the provisions of the laws of the State of Colorado.

**6.3** All insurance required by this Agreement will be carried only with responsible insurance companies licensed to do business in the State of Colorado. General and Auto Liability policies will name the County, its officers, agents, and employees as additional insured.

## **7. LIQUIDATED DAMAGES FOR DELAY**

It is mutually understood and agreed by and between the Parties to the Contract that in the execution of the same, time is an essential element of the Contract, and it is important that the Work progress vigorously to completion. Contractor agrees that said Work shall be prosecuted regularly, diligently, and uninterrupted at such rate of progress as will ensure Substantial Completion thereof within the Contract Time, unless significant supply chain delays or adverse weather conditions occur during the Contract Time as described Section 5.1 herein. Absent such delays, it is expressly understood and agreed, by and between Contractor and the County, that the completion time set forth in the Contract Documents is a reasonable time for the completion of the Work and Project, taking into consideration locality where the Work is performed and the usual industrial conditions prevailing in that locality. If Contractor neglects, fails, or refuses to complete the Work within the Contract Time, then for each Calendar Day after the end of the Contract Time, Substantial Completion of the Work is not achieved, the amount per Calendar Day specified in the Special Conditions shall be assessed by the County, not as a penalty, but as a predetermined and agreed upon liquidated damage. The default amount of Liquidated Damages is hereby agreed to be five hundred U.S. Dollars (\$500.00) per day for the first week after the end of the Contract Time; the default amount of Liquidated Damages is hereby agreed to be one thousand U.S. Dollars (\$1,000.00) per day for the second week after the end of the Contract Time, and for all other weeks thereafter. The said amount is fixed and agreed upon by and between Contractor and the County because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the County would sustain in the event the Work is not completed within the Contract Time. The County shall have the right to deduct said Liquidated Damages from any money due, or to become due to said Contractor and to sue for and recover any additional compensation for damages for

non-performance of the Contract at the time stipulated and provided for in the Contract Documents. The assessment of Liquidated Damages for failure to complete the Work within the Contract Time shall not constitute a waiver of the County's right to collect any additional damages which the County may sustain by failure of Contractor to carry out the terms of this Contract. If Liquidated Damages for milestones are specified in the Special Conditions, all conditions as set forth for Liquidated Damages shall apply to each and every milestone specified. All milestones represent independent damages the County will suffer and shall therefore be viewed independently. All milestones shall be accumulative, increasing by the amount specified for each date Contractor does not achieve substantial completion for each specific milestone. If Contractor fails to obtain Substantial Completion within the allowed Contract Time, the Liquidated Damages for milestone dates shall cease to accrue and Liquidated Damages for failure to complete the Work will commence.

#### **8. INDEMNIFICATION**

The Contractor shall defend, indemnify, and hold harmless the County, its officers, directors, employees, and agents from and against all Claims, to the extent arising out of Contractor's gross negligence or willful misconduct in the performance of its obligations under this Agreement. The County shall defend, indemnify, and hold harmless the Contractor, its officers, directors, employees, and agents from and against all Claims, to the extent arising out of the County's gross negligence or willful misconduct under this Agreement.

#### **9. NONDISCRIMINATION BY CONTRACTOR**

Contractor represents and agrees that Contractor does not and will not discriminate against any sub-Contractor, employee, or applicant for employment because of race, religion, color, gender, handicap, gender identity, or national origin. Such nondiscrimination will include, but not be limited to, the following: employment, upgrading, promotion, demotion, transfers, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

#### **10. OWNERSHIP OF DOCUMENTS**

Contractor agrees that all original documents, plans, reports, and other materials developed during the course of providing the services specified in the Agreement will be the property of the County and will be provided by the Contractor to the County upon their completion.

#### **11. CONTRACTOR'S RECORDS**

Contractor will keep records and invoices in connection with its work to be performed under this Agreement. Contractor will maintain complete and accurate records with respect to the costs incurred under this Agreement. All such records will be clearly identifiable. Contractor will allow a representative of the County during normal business hours to examine, audit, and make transcripts or copies of such records. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of five (5) years from the date of final payment under this Agreement.

## **12. ENTIRE AGREEMENT**

This Agreement supersedes any and all agreements, either oral or written, between the Parties hereto, and contains all of the covenants and agreements between the Parties with respect to rendering of services described herein. Each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made with regard to such services by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise regarding such services not contained in this Agreement will be valid or binding. Any modification of this Agreement will be effective only if it is in writing and signed by the Party to be charged.

## **13. GOVERNING LAW AND VENUE**

**13.1** This Agreement will be governed by and construed in accordance with the laws of the State of Colorado.

**13.2** Gilpin County will be the venue for any legal proceedings, including mediation, arbitration, or court actions that are initiated regarding this Agreement.

## **14. BREACH OF AGREEMENT**

If the Contractor defaults in the performance of any of the terms or conditions of this Agreement, it will have ten (10) days after service upon it of written notice of such default in which to cure the default by rendering a satisfactory performance. In the event that the Contractor fails to cure its default within such period of time, the County will have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity, or under this Agreement. The failure of the County to object to any default in the performance of the terms and conditions of this Agreement will not constitute a waiver of either that term or condition or any other term or condition of this Agreement.

## **15. ATTORNEY'S FEES**

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing Party will be entitled to reasonable attorney's fees, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which that Party may be entitled.

#### **16. NON-SOLICITATION**

During and for a period of six (6) months following termination of this Agreement, neither Party shall directly or indirectly solicit for hire or engage any personnel (whether as employee, Contractor, or in any other capacity) of the other Party with responsibilities related to this Agreement without the other Party's prior written consent.

#### **17. SEVERABILITY**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

#### **18. PERFORMANCE STANDARDS**

Contractor shall perform the Services using that degree of care, skill, and professionalism ordinarily exercised under similar circumstances by members of the same profession practicing or performing the substantially same or similar services. Contractor represents to County that Contractor retains employees that possess the skills, knowledge, and abilities to competently, timely, and professionally perform services in accordance with this Agreement.

#### **19. OWNERSHIP OF EQUIPMENT AND HELD WARRANTIES**

Contractor shall provide County a written express warranty on workmanship and materials. Contractor shall also provide County with any manufacturer's warranties obtained for materials, equipment, or other items used in the Project. Contractor shall provide the County with any manufacturers, suppliers, or equipment warranties and manuals, literature, and as built plans, or other documents of the Project and include those in Project File, which shall be the property of Gilpin County upon conclusion of the Project.

#### **20. SALES AND OTHER TAXES, PERMITS, AND LICENSING REQUIREMENTS**

Contractor shall pay any and all sales, consumer, use and other similar taxes required by law and shall secure all permits, and licenses necessary for the execution of the

Work at Contractor's expense except as provided herein unless Contractor qualifies for and obtains an exemption from taxes. The County is exempt from state and local sales and use taxes. Contractor may take steps to obtain an exemption from sales taxes from the Colorado Department of Revenue pursuant to C.R.S. §39-26-708 for construction and building materials that will be used for this Contract. The Contractor must apply for a tax exemption certificate from the State of Colorado, Department of Revenue prior to starting work on any tax-exempt construction project. Contractor has the obligation to confirm the availability of any tax exemptions and pursue any available legal exemptions from any taxes from the State of Colorado, Department of Revenue.

## **21. INDEPENDENT CONTRACTOR**

**21.1** Contractor is an independent contractor, and neither Contractor, nor any employee or agent thereof, shall be deemed for any reason to be an employee or agent of the County. County shall have no liability or responsibility for any direct payment of any salaries, wages, payroll, taxes, federal and state taxes, on moneys earned pursuant to this Agreement nor any and all other forms or types of compensation or benefits, including without limitation workers' compensation insurance, to any Contractor or Contractor's employees or agents performing services for the County under this Agreement. Contractor shall be solely responsible and obligated to pay for all of these above-described matters and for all compensation, benefits, insurance, and employment-related rights of any person providing Services hereunder during the course of or arising or accruing as a result of any employment, whether past or present with Contractor.

**21.2** Contractor and County agree that Contractor will provide similar service to other clients while under contract with County and County acknowledges that Contractor employees may provide similar services to multiple clients. Contractor shall at its sole discretion assign and reassign qualified employees, as determined by Contractor, to perform services for the County. County may request that a specific employee be assigned to or reassigned from work under this Agreement and Contractor shall consider that request when determining staffing. Contractor shall determine all conditions of employment for its employees, including hours, wages, working conditions, promotion, discipline, hiring, and discharge. Contractor exclusively controls the manner, means, and methods by which services are provided to the County, including attendance at meetings, and Contractor's employees are not subject to the direction and control of County. Except where required by County to use County information technology equipment or when requested to perform the services from office space provided by the County, Contractor employees shall perform the services using Contractor information technology



equipment and from such locations as Contractor shall specify. No Contractor employee shall be assigned a County email address as their exclusive email address and any business cards or other IDs shall state that the person is an employee of Contractor or providing services pursuant to a contractual agreement between County and Contractor.

**21.3** Neither Party shall assign all or part of its rights, duties, obligations, responsibilities, nor benefits set forth in this Agreement to another entity without the written approval of both Parties; consent shall not be unreasonably withheld. Notwithstanding the preceding, Contractor may assign this Agreement to its parent, subsidiaries, or sister companies (Affiliates) without notice to County. Contractor may subcontract any or all of the services to its Affiliates with notice to County. Contractor may subcontract any or all of the services to other third parties provided that Contractor gives County prior written notice of the persons or entities with which Contractor has subcontracted. Contractor remains responsible for any Affiliate's or subcontractor's performance or failure to perform. Affiliates and subcontractors will be subject to the same performance criteria expected of Contractor. Performance clauses will be included in agreements with all subcontractors to assure quality levels and agreed upon schedules are met.

## **22. SUBCONTRACTS**

**22.1** Subcontractor is a person who has a contract with Contractor to perform any of the Work on this Project.

**22.2** Unless otherwise specified in the Contract Documents, Contractor, as soon as practicable after the award of the Contract, shall furnish to the GR in writing a list of the names of subcontractors proposed for the principal portions of the Work. Contractor shall not employ any subcontractor to whom the GR or the County may have a reasonable objection. Contractor shall not be required to employ any subcontractor to whom it has reasonable objection. Contracts between Contractor and the subcontractor shall be in accordance with the terms of this Agreement and shall include the General Conditions of this Agreement insofar as applicable. Contractor shall provide County with copies of all contracts with subcontractor.

## **23. ASSIGNMENT**

Neither Party shall assign all or part of its rights, duties, obligations, responsibilities, nor benefits set forth in this Agreement to another entity without the written approval of both Parties; consent shall not be unreasonably withheld. Notwithstanding the preceding, Contractor may assign this Agreement to its parent, subsidiaries, or sister companies (Affiliates) with notice to County. Contractor may subcontract any or all of the services

to its Affiliates with notice to County. Contractor remains responsible for any Affiliate's performance or failure to perform. Affiliates will be subject to the same performance criteria expected of Contractor.

#### **24. NO THIRD-PARTY RELIANCE**

This Agreement is intended for the mutual benefit of Parties hereto and no third-party rights are intended or implied.

#### **25. OWNERSHIP OF DOCUMENTS**

**25.1** Except as expressly provided in this Agreement, County shall retain ownership of all work product and deliverables created by Contractor pursuant to this Agreement and all records, documents, notes, data, and other materials required for or resulting from the performance of services hereunder shall not be used by Contractor for any purpose other than the performance of services hereunder without the express prior written consent of the County. All such records, documents, notes, data, and other materials shall become the exclusive property of the County when Contractor has been compensated for the same as set forth herein, and County shall thereafter retain sole and exclusive rights to receive and use such materials in such manner and for such purposes as determined by it. Notwithstanding the preceding, Contractor may use the work product, deliverables and applications, records, documents, and other materials required for or resulting from the Services, all solely in anonymized form, for purposes of (i) benchmarking of County's and others performance relative to that of other groups of customers served by Contractor; (ii) sales and marketing of existing and future Contractor services; (iii) monitoring service performance and making improvements to the services. For the avoidance of doubt, County Data will be provided to third parties only on an anonymized basis and only as part of a larger body of anonymized data.

**25.2** If this Agreement expires or is terminated for any reason, all records, documents, notes, data, and other materials maintained or stored in Contractor's secure proprietary software pertaining to County will be exported into a CSV file and become property of the County. Notwithstanding the preceding, Contractor shall own all rights and title to any Contractor provided software and any improvements or derivative works thereof.

**25.3** Upon reasonable prior written notice, County and its duly authorized representatives shall have access to any books, documents, papers, and records of Contractor that are related to this Agreement for the purposes of audit or examination, other than Contractor's financial records, and may make excerpts, and transcriptions of the same at the cost and expense of the County.

## **26. CONTRACTOR ACCESS TO RECORDS**

Parties acknowledge that Contractor requires access to records in order for Contractor to perform its obligations under this Agreement. Accordingly, County will either provide to Contractor on a daily basis such data from the records as Contractor may reasonably request (in an agreed electronic format) or grant Contractor access to its records and record management systems so that Contractor may download such data. Data provided to or downloaded by Contractor pursuant to this Section 23 shall be used by Contractor solely in accordance with the terms of this Agreement.

## **27. CONFIDENTIALITY**

Contractor shall not disclose, directly or indirectly, any confidential information or trade secrets of County without the prior written consent of County or pursuant to a lawful court order directing such disclosure.

## **28. CONTRACTOR PERSONNEL**

Contractor shall employ a sufficient number of experienced and knowledgeable employees to perform services in a timely, polite, courteous, and prompt manner. Contractor shall determine appropriate staffing levels and shall promptly inform County of any reasonably anticipated or known employment-related actions which may affect the performance of services. Additional staffing resources shall be made available to County when assigned employee(s) is unavailable.

Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability, national origin, or any other category protected by applicable federal or state law. 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, notice to be provided by an agency of the federal government, setting forth the provisions of Equal Opportunity laws. Contractor shall comply with the appropriate provisions of the Americans with Disabilities Act (the "ADA") as enacted and as from time to time amended, and any other applicable federal regulations. A signed certificate confirming compliance with the ADA may be requested by County at any time during the term of this Agreement.

## **29. DISCRIMINATION & ADA COMPLIANCE**

Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability, national origin, or any other category protected by applicable federal or state law. 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, notice to be provided by an agency of the federal government, setting forth the provisions of Equal Opportunity laws. Contractor shall comply with the appropriate provisions of the Americans with Disabilities Act (the "ADA") as enacted and as from time to time amended, and any other applicable federal regulations. A signed certificate confirming compliance with the ADA may be requested by County at any time during the term of this Agreement.

### **30. NOTICES**

Any notice under this Agreement shall be in writing and shall be deemed sufficient when presented in person, or sent, pre-paid, first-class United States Mail, or delivered by electronic mail to the following addresses:

#### **30.1 To County:**

Ray Rears, County Manager  
P.O. Box 366  
Central City, Colorado 80427  
Email: [rrears@gilpincounty.org](mailto:rrears@gilpincounty.org)

#### **30.2 To Contractor:**

Grant Cunningham  
25 W. Timber Draw  
Edwards, CO 81632  
Email: [grant@sglcconsulting.com](mailto:grant@sglcconsulting.com)

### **31. FORCE MAJEURE**

Any delay or nonperformance of any provision of this Agreement by either Party (with the exception of payment obligations) which is caused by events beyond the reasonable control of such Party, shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing such performance.

### **32. DISPUTE RESOLUTION**

In the event a dispute arises out of or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, Parties agree first to try in good faith to settle the dispute by mediation, before resorting to arbitration, litigation, or some other dispute resolution procedure. The cost thereof shall be borne equally by each Party.

**33. AUTHORITY TO EXECUTE**

The person or persons executing this Agreement represent and warrant that they are fully authorized to sign and so execute this Agreement and to bind their respective entities to the performance of its obligations hereunder.

**34. GOVERNMENTAL IMMUNITY**

The Parties hereto understand and agree that the County has and does not waive or intend to waive by any provision of this Contract, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. §§24-10-101 *et seq.*, as from time to time amended, or otherwise available to County, its officers, or its employees.

**35. ARTICLE X, SECTION 20 / TABOR**

The Parties understand and acknowledge that the County is subject to Article X, §20 of the Colorado Constitution (“TABOR”). The Parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indicate debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, all payment obligations of the County are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the County’s current fiscal period ending upon the next succeeding December 31. Financial obligations for the County payable after the current fiscal year are contingent upon the funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of Gilpin County, and other applicable law. Upon the failure to appropriate such funds, this Agreement shall be terminated.

**36. COUNTERPARTS**

This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. For purposes of executing this Agreement, scanned signatures shall be as valid as the original.

**37. ELECTRONIC REPRESENTATIONS AND RECORDS**

Parties hereby agree to regard electronic representations of original signatures as legally sufficient for executing this Agreement and scanned signatures emailed by PDF or otherwise shall be as valid as the original. 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. Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or 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 electronic signature or that it is not in its original form or is not an original.

### **38. WAIVER**

Failure to enforce any provision of this Agreement shall not be deemed a waiver of that provision. Waiver of any right or power arising out of this Agreement shall not be deemed waiver of any other right or power.

### **39. ENTIRE AGREEMENT**

This Agreement, along with attached exhibits, constitutes the complete, entire and final Agreement of the Parties hereto with respect to the subject matter hereof, and shall supersede any and all previous communications, representations, whether oral or written, with respect to the subject matter hereof. Invalidation of any of the provisions of this Agreement or any paragraph, sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.

### **40. INVALIDITY OF ANY PROVISION**

Should any portion of this Agreement at any time during its effective term be in conflict with any applicable law, then such provision shall continue in effect only to the extent permitted by law. The invalidity of any one or more of the covenants, phrases, sentences, clauses, or provisions of this Agreement or any part thereof, shall not affect the remaining portions of this Agreement or any part thereof, and in the event any one of the same shall be declared invalid, this Agreement shall be construed as if such invalid portion had not been inserted, provided the same does not cause substantial injustice.

### **41. JOINT DRAFTING**

The Parties hereto expressly agree that this Agreement was jointly drafted, and that they both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party but shall be construed in a neutral manner.

### **42. NON-EXCLUSIVE SERVICES**

Gilpin County may contract with other businesses for services provided by Contractor at any time on projects not already undertaken by Contractor.

**Attachments:**

**APPENDIX 1:** Scope of Services

**APPENDIX 2:** Fee Schedule

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the date first written above.

Gilpin County  
203 Eureka Street  
Central City, CO 80427

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ACKNOWLEDGMENT GILPIN COUNTY**

**STATE OF COLORADO )**  
**) ss**  
**COUNTY OF GILPIN )**

The foregoing Contract was executed and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_, as \_\_\_\_\_ for Gilpin County.

My commission expires: \_\_\_\_\_ Witness my hand and official seal.

\_\_\_\_\_  
Notary Public  
Address: \_\_\_\_\_  
\_\_\_\_\_

**ACKNOWLEDGMENT CONTRACTOR**

**STATE OF COLORADO** )  
  ) ss  
**COUNTY OF** \_\_\_\_\_ )

The foregoing Contract was executed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
, 20\_\_ by \_\_\_\_\_ as \_\_\_\_\_ (Title) for  
\_\_\_\_\_ (“Legal Name of Contractor’s Business if Legal Business Entity”).

My commission expires: \_\_\_\_\_

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public  
Address: \_\_\_\_\_  
\_\_\_\_\_