

Instructions for Independent Contractor Form

- This is a template form. The gray boxes indicate where to add the appropriate information. **You should erase the gray box before entering the information and any other highlighted information prior to finalizing this document.** Please save this form on your computer as a template prior to revisions.
- If you are unsure of how to enter data or what to enter, contact Nancy at 369-5435; Ext 216; or nancyw@sanmiguelcountyco.gov).
- If you have a considerable amount of information or detail, you want to attach it to this Agreement as an exhibit and reference it as a Contract Document in paragraph 1.
- Completed W-9 Form, copy of liability certificate of insurance, and Affidavit Verifying Lawful Presence (if applicable) must be submitted with Agreement.
- The completed Agreement must be reviewed by the Attorney's Office prior to signing.

Agreement for Services

Independent Contractor

Project: _____

Contractor Name: _____

Location: _____

San Miguel County (the “County”) wishes to engage the services of an independent contractor. The undersigned contractor (“Contractor”) has agreed to provide such services, as an independent contractor, in return for the compensation stated herein. Contractor has read and agrees to the terms and conditions stated herein.

Be it Agreed as Follows:

1. Contract Documents:

The “Contract Documents” shall consist of the following: (add or subtract documents as needed)

- a) this Agreement;
- b) the Bid/RFP Package as **Exhibit A**;
- c) Contractor’s Proposal as **Exhibit B**;
- d) Certificate of Insurance and Endorsement as **Exhibit C**; and
- e) Contractor’s W-9 as **Exhibit D**; and
- f) Copy of Professional License/Certification as **Exhibit E** (if applicable).

2. Description of Services:

Contractor warrants that it is fully qualified to perform the below described Services and shall perform the Services following generally recognized professional practices and standards of Contractor’s profession, to the reasonable satisfaction of the County, and in strict accordance with the provisions of the Contract Documents. Contractor shall furnish all of the materials and perform all of the work described in Exhibit “A”, and the Proposal by Contractor, a copy of which is attached hereto as Exhibit “B” and incorporated herein by reference.

The Contractor will fully comply with applicable regulations of the Colorado Department of Public Health and Environment, the Occupational Safety and Health Administration (OSHA), and shall do everything required by this Agreement according to the plans, drawings and specifications provided in Exhibit “A” and Exhibit “B”. Change orders must be approved by San Miguel County before commencement of work.

3. Compensation:

San Miguel County agrees to pay _____.

Invoices must be submitted to and approved by the County Representative designated in the “Authorized Representative” paragraph herein and delivered to the San Miguel County Finance Office. Approved invoices that are received by the Finance Office before the 1st day of the month

will be paid on the tenth day of the month; invoices received in the Finance Office on the 2nd through the 10th day of the month will be paid on the 20th day of the month; invoices received on the 11th through the 20th day of the month will be paid on the last working day of the month. Payment of invoices does not constitute final acceptance of work, nor shall it be construed as a waiver by the County of any of its rights as may be provided by law.

Contractor represents and warrants that the prices, charges, or fees outlined in this Agreement (on the whole) are at least as favorable as the prices, charges, or fees Contractor charges (on the whole) to other of its customers/clients for the same or substantially similar services provided under the same or similar circumstances, terms, and conditions. If Contractor agrees or contracts with other customers/clients similarly situated during the term of this Agreement, and offers or agrees to a financial term more favorable than those set forth herein (on the whole), Contractor agrees that it will reduce the prices, charges, or fees charged to the County concerning the products/services hereunder to the most favorable rates received by those other customers/clients.

4. Term of Agreement:

The term of this Agreement expires [REDACTED]. (modify as needed). This Agreement is effective as of _____, 20____.

5. Authorized Representatives:

The County designates [REDACTED] as the County Representative under this Agreement. Contractor designates [REDACTED] as the Contractor Representative. Said Representatives shall have the authority to bind the parties concerning the Services. The County Representative or the County Representative's agent shall have access to the worksite and/or review Contractor's work at all times and as necessary to assure the Contractor's satisfactory performance under this Agreement. The Contractor Representative shall also be responsible for advising the County Representative of the status of the Services and agrees to take direction only from the County Representative and to comply promptly and fully with the reasonable requests and directives issued by the County Representative from time to time. The County may change its representative at any time by giving Notice to Contractor as set forth herein. Contractor shall not replace the Contractor Representative unless: (a) the County requests a replacement or (b) Contractor terminates the employment of the Contractor Representative and provides a satisfactory substitute. The County must approve the substitute Contractor Representative, and, if no substitute is acceptable, the County may terminate this Agreement.

6. Approval and Acceptance of Services:

The County Representative shall be the sole judge of the acceptability of the Services by the Contractor and the sufficiency of any supporting data submitted by the Contractor. If at the sole discretion of the County conferences with Contractor are necessary or desirable to explain or correct Services, Contractor shall make no additional charge for time or costs for attendance as such conference or for making the required explanations or corrections.

7. Independent Contractor:

The parties agree that the relationship created by this Agreement is that of employer-independent contractor. Contractor is not an employee of San Miguel County and is not entitled to any benefits provided by San Miguel County to its employees. Unless otherwise specified in writing, Contractor shall furnish all supervision, labor, materials, equipment, supplies, and other incidentals to complete the requirements of the job. Contractor has the authority to control and direct the details of the work; the County is interested only in the results. Contractor agrees to comply with all state and federal requirements on workers' compensation, general liability, and employment liability insurance relating to the performance and completion of this Agreement. The Services as defined herein, are subject to San Miguel County's right of inspection and approval. Contractor may practice their profession for others during periods when not performing work under this Agreement for San Miguel County. The County may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Contractor performs.

8. Work Performed at Contractor's Risk:

Contractor warrants that it is fully qualified to perform the Services as set forth herein and shall perform the Services following the professional standards of the industry and in strict accordance with the provisions of the Contract Documents. Contractor shall take all precautions necessary and shall be responsible for the safe performance of the services described herein. All work shall be done at Contractor's risk. Contractor shall be responsible for any damage or loss to San Miguel County property used or held for use in connection with the work performed.

9. Insurance and Licensure:

Contractor shall obtain and maintain at all times during the duration of this Contract, insurance as described in the County's solicitation, or as otherwise required by the County, and shall provide proof of such coverage. The minimum Scope and Limits of insurance coverages that the Contractor is to maintain in effect shall be equal to the Colorado Governmental Immunity Act (CGIA) limits under C.R.S. § 24-10-114(1)(a)(I)&(II), as amended. Those limits until January 1, 2026, are \$424,000 (single incident) and \$1,195,000 (general aggregate) or such higher coverage limits as the Contractor's insurance coverage provides unless waived or reduced by the County. If applicable, Contractor shall provide a copy of their valid professional license/certification and professional liability insurance coverage before commencing the services under this Agreement. During the term of this Agreement, Contractor shall provide the County written evidence of continuing insurance coverage within three (3) business days upon request from the County. Certificates of insurance shall name San Miguel County as an additional insured. The County shall also be endorsed as a party on said policy and, if requested by the County, Contractor shall provide proof of the endorsement to the insurance policy for this Agreement. Contractor is not relieved of any liability or other obligations due to its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

10. Governmental Immunity:

The County does not intend to waive, by any provision of this Agreement, any rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq*, as currently in effect and as it may be subsequently amended. This immunity continues beyond the termination of this Agreement for the acts or omissions that occurred during the Agreement Term.

11. Indemnification:

Contractor shall indemnify, release, save, hold harmless, and defend San Miguel County, its officials, employees, and agents from and against all liabilities, claims, actions, damages, losses, and expenses, including without limitation reasonable attorneys' fees and costs (hereinafter referred to collectively as "claims") for bodily injury or personal injury, including death, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the Contractor or any of its owners, officers, directors, agents, employees, or subcontractors. The indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the County shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the County, be indemnified by Contractor from and against all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this Agreement, the Contractor agrees to waive all rights of subrogation against the County, its officials, agents, and employees for losses arising from the work performed by the Contractor for the County according to this Agreement.

12. No Pledge of Credit or Aid to Corporations:

According to Colorado Constitution Article XI, Sections 1 and 2 and Article X, section 20, the County shall not indemnify or hold harmless Contractor or any party related to or operating under this Contract. No provision in the Contract shall limit or set the amount of damages available to the County to any amount other than the actual direct and indirect damages to the County, regardless of the theory or basis for such damages. Any provision included or incorporated herein by reference that purports to negate this provision in whole or in part shall not be valid or enforceable or available in any action at law or equity, whether by way of complaint, defense, or otherwise.

13. Appropriation of Funds:

Time is of the essence in Contractor's performance of its obligations under this Agreement. San Miguel County's expenditure of any funds under this Agreement beyond the current County fiscal year (January 1 – December 31) shall be expressly subject to and contingent upon the County's budgeting and appropriating funds for such purposes according to the Colorado Local Government Budget Law and C.R.S. § 29-1-110. Should such funds not be budgeted and

appropriated for the County's obligations under this Agreement for future fiscal years, this Agreement shall terminate at the end of the fiscal year for which such funding has been lawfully budgeted and appropriated, and the County shall provide the contractor with prior written notice of such termination. Such cancellation shall not impose any penalty against the County in the event of a failure to appropriate sufficient funds.

14. Suspension and Termination:

Without terminating this Agreement, the County may suspend Contractor's Services following a five (5) day written Notice to Contractor. In the event of a suspension, Contractor shall incur no additional expenses and shall perform no further services for the County under this Agreement after the date of receipt of the notice of a suspension unless otherwise specified by the County. If the resumption of Contractor's Services requires any waiver or change in this Agreement, the parties must mutually agree to such waiver or change, in writing, and the writing must be attached as an addendum to this Agreement. Additionally, the County reserves the right to terminate this Agreement, in whole or in part, with or without cause by giving a fifteen (15) day written Notice to Contractor. In the event of termination, Contractor shall incur no additional expenses and shall perform no further services for the County under this Agreement after the date of receipt of the notice of termination, unless otherwise specified by the County. Upon termination for any reason, the County shall be entitled to a prorated refund for the remainder of the current term. In the event the County terminates this Agreement for cause, the provisions of the paragraph titled "Damages" shall apply.

15. Damages:

If Contractor fails to comply with any material provision of the Agreement, Contractor shall be liable for all damages, including without limitation, the cost of procuring similar supplies or services and all other costs and expenses incurred by the County because of such failure. All time limits stated in the Agreement are of the essence. Contractor's failure to substantially complete the services in conformance with the Agreement shall result in damages suffered by the County, including, without limitation, the County's cost to complete the services together with any other expenses incurred, as determined by the County. The County may offset any amounts owed to it as damages against any monies due and owing to Contractor under this Agreement. In addition, the County shall be entitled to any other rights and remedies available to it in law or equity.

16. Data Security:

During the course of Contractor's performance of the Work, the Contractor may be required to store or control the transmission of electronic data provided by the County ("County Data"). The Contractor represents and warrants that:

- a. It will take all reasonable precautions to maintain all County Data in a secure environment to prevent unauthorized access, use, or disclosure, including industry-accepted firewalls, up-to-date anti-virus software, and controlled access to the physical location of the hardware containing County Data;

- b. Its collection, access, use, storage, disposal, and disclosure of County Data shall comply with all applicable data protection laws, as well as all other applicable regulations and directives;
- c. It will notify the County of any actual or suspected data security incident as soon as practicable, but no later than 24 hours after it becomes aware of it;
- d. The Contractor will provide the County with sufficient information for the County to satisfy its legal and regulatory notice obligations; and
- e. It will promptly return or destroy any County Data upon request from the County Representative.

Contractor's indemnification obligations identified elsewhere in this Contract shall apply to any breach of the provisions of this Paragraph.

17. Accessibility Guidelines:

Contractor acknowledges that under the Americans with Disabilities Act ("ADA"), as amended (42 U.S.C. Sec. 1201 et seq.), programs, services, and other activities provided by a public entity to the public, whether directly or through a vendor, must be accessible to people with disabilities. Contractor shall make good faith efforts to provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation at all times and at no additional cost to County, including but not limited to the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et. seq.; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C § 701 et. seq.; and the Colorado Anti-Discrimination Act, C.R.S. 24-34-401 et. seq., as amended; and the Colorado Accessibility Standards for Individuals with a Disability, C.R.S. 24-85-101 et. seq. Such compliance may include, but not be limited to supporting assistive software or devices such as large print interfaces, text-to-speech output, voice-activated input, refreshable braille displays, and alternative keyboard or pointer interfaces, in a manner that, at minimum, is consistent with version 2.1 Level AA of the Web Content Accessibility Guidelines (<https://www.w3.org/TR/WCAG21/#background-on-wcag-2>) or its successor standard as updated and adopted by any regulatory entity of competent jurisdiction. Contractor shall ensure that product maintenance and upgrades are implemented in a manner that does not compromise product accessibility at any time. The only exception to the WCAG 2.1 Level AA compliance requirement is if making such modifications would fundamentally alter the nature of the service, program, or activity or present an undue financial, technical, or administrative burden.

18. Nondiscrimination:

Contractor agrees to comply with the letter and spirit of the Colorado Anti-Discrimination Act, C.R.S. § 24-34-401, et seq., as amended, and all applicable local, state, and federal laws regarding discrimination and unfair employment practices. Contractor shall not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified solely because of race, color, creed, religion, gender, gender identity, national origin or ancestry, disability, age, sex, sexual orientation, socio-economic status, marital status, veteran status, or any other basis prohibited by federal, state or local law.

19. Colorado Labor Preference:

The provisions of C.R.S. §§ 8-17-101 and 102 may apply to this Agreement. If this Agreement includes federal funds, this paragraph does not apply. If the work to be performed under this Agreement falls within the definition of a “public works project,” then the Colorado Labor Preference applies. Colorado labor must be employed to perform the work to the extent of not less than eighty percent (80%) of each type or class of labor in the several classifications of skilled and common labor employed on the project. “Colorado labor” means any person who is a resident of the State of Colorado at the time of the public works project, without discrimination as to race, color, creed, sex, age, or religion except when sex or age is a bona fide occupation qualification. A resident of the State of Colorado is a person who can provide a valid Colorado driver’s license, a valid Colorado state-issued photo identification, or documentation that they have resided in Colorado for the last thirty (30) days.

20. Colorado Open Records Act:

The parties acknowledge that San Miguel County is a governmental entity formed according to Colorado law, and as such, is subject to the Colorado Open Records Act, C.R.S. § 24-72-200 *et seq.* (“CORA”). In the event the County receives a request under CORA that would require the production of records related to Contractor, the County will inform Contractor of such a request and provide Contractor with a copy of any such written request. Contractor shall promptly notify the County if: (a) production of the requested record would disclose Contractor’s trade secrets, privileged information, and/or confidential commercial or financial data pursuant to C.R.S. § 24-72-204(3)(a)(IV) or; (b) Contractor desires to pursue a legal action to prevent disclosure of such documents. The County shall determine whether to deny the request. If the County’s denial of a request is challenged, the County will notify Contractor of such challenge and provide the Company with a written copy of any such challenge. Contractor shall indemnify and hold the County harmless from any claim or judgment as well as any costs and attorney’s fees incurred in denying such request or otherwise assisting Contractor in response to a denial and/or legal challenge to the denial.

21. Compliance with Federal and State Health Information Privacy Laws:

Contractor and their employees, agents, and subcontractors shall comply with HIPAA and any State health information privacy laws, to the extent they are applicable.

22. Security and Confidentiality:

Contractor understands that in the course of providing services under this Agreement, Contractor, Contractor’s employees or subcontractors may be exposed to sensitive or confidential documents or information, including but not limited to personal identifying information, protected health information, work product or involving the security of county buildings and employees. Contractor assumes responsibility for safeguarding and maintaining the confidentiality and integrity of all County information and protecting against the disclosure of the same by Contractor, Contractor’s employees, or subcontractors.

23. Governing Law, Jurisdiction and Venue:

The rights and duties of the parties under this Agreement shall be governed by the laws of the State of Colorado, excluding its conflicts of law provisions. The courts of the State of Colorado shall have sole and exclusive jurisdiction of any disputes or litigation arising under the Software Agreement. Venue for any and all legal actions arising hereunder shall lie in the District Court in and for the County of San Miguel, State of Colorado.

24. Dispute Resolution:

San Miguel County does not agree to binding arbitration by any extra-judicial body or person nor does the County intend to waive its right to a jury trial.

25. Warranty:

Contractor represents that the Services pursuant to the Contract Documents will be performed in accordance with industry standards in all material respects. (add additional warranty information or attach as an exhibit)

26. Notice:

Notice under this Agreement shall be given in writing and shall be deemed received if given by: (a) confirmed electronic transmission (as defined below) when transmitted, if transmitted on a business day and during the normal business hours of the recipient, and otherwise on the next business day following transmission; (b) certified mail, return receipt requested, postage pre-paid, three (3) business days after being deposited in the United States mail; or (c) overnight carrier service or personal delivery when received. Notice shall be given to the parties at the following addresses:

San Miguel County Representative

Name: _____

Title: _____

Mailing Address: _____

Physical Address (if different): _____

Phone: _____

Email: _____

Contractor Representative

Name: _____

Title: _____

Mailing Address: _____

Physical Address (if different): _____

Phone: _____

Email: _____

Copy to: San Miguel County Attorney

PO Box 1170 (mailing)

333 W. Colorado Ave. (physical)

Telluride, CO 81435

970-728-3879

attorney@sanmiguelcountyco.gov

“Electronic Transmission” means any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved, and reviewed by a

recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process, but specifically excluding facsimile transmissions and texts. The parties agree that: (a) any notice or communication transmitted by electronic transmission shall be treated in all manner and respects as an original written document; (b) any such notice or communication shall be considered to have the same binding and legal effect as an original document, and; (c) at the request of either party, any such notice or communication shall be re-delivered or re-executed, as appropriate, by the party in its original form.

27. Miscellaneous:

- a. **Assignability:** Contractor shall not assign its rights or delegate its obligations under this Agreement without the County's prior written consent.
- b. **Severability:** Should a court of competent jurisdiction determine that any provision or term of this Agreement be legally void or otherwise legally unenforceable, such provision or term shall be deemed severable from the remainder of this Agreement, which shall remain in full force and effect.
- c. **Officials Not to Benefit:** No elected or employed member of the County government shall be paid or receive, directly or indirectly, any share or part of this Agreement or any benefit that may arise therefrom.
- d. **Conflict of Interest:** Contractor shall not knowingly perform any act that would conflict in any manner with the performance of services under this Agreement. Contractor certifies that it is not engaged in any current project or business transaction, directly or indirectly, nor has any interest, direct or indirect, with any person or business that might result in a conflict of interest in the performance of services.
- e. **Records Retention:** Contractor shall maintain all records, including working papers, notes, and financial records, and make them available for County inspection and audit which they may require for any purpose authorized by law.
- f. **Entire Agreement:** This Agreement, together with any attached exhibits, represents the complete, integrated, and merged understanding of the parties with regard to the subject matter of this Agreement, and any prior or contemporaneous provision, term, condition, promise, representation, or understanding, shall be of no legal force or effect unless embodied herein in writing, or in a written amendment to this Agreement mutually agreed to and executed by the parties. A party's waiver of a specific right set forth herein shall not be deemed to be a waiver by that party of any other of its rights contained in this Agreement. In the event of a conflict between an Exhibit to this Agreement and the body of this Agreement, the Agreement will govern the resolution of the conflict.
- g. **Execution by Counterparts; Electronic Signatures:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The parties approve the use of electronic signatures for the execution of this Agreement. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. § 24-71.3-101 et seq.

In Witness Whereof, the parties have executed and entered into this Agreement as of the latter day and year indicated below.

Representative Signature	Name(Printed)	Title	Date
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Contractor

Name: _____

Title: _____

Mailing Address: _____

Phone: _____

Email: _____

Contractor Signature	Date
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Reviewed by the County Attorney's Office for form.

Maura Boylan, County Attorney	Date
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