

ARCHULETA COUNTY INDEPENDENT CONTRACTOR AGREEMENT

This Independent Contractor Agreement (“Agreement”) is made and entered into on the last date set forth below between the Archuleta County Board of County Commissioners (the “Board”), and Strohecker Asphalt & Paving (“Independent Contractor”).

NOW THEREFORE, in consideration of the monies to be provided and received and such other terms and conditions contained herein, the parties agree to the following:

1. WORK TO BE PERFORMED

The Board and the Independent Contractor agree that the Independent Contractor will provide reclamation work to CR 382 per estimate provided 11/12/2021.

2. TERMS OF PAYMENT

The Independent Contractor shall be paid by the Board the total sum not to exceed \$45,000.00.

3. EXPENSES

The Board shall not be liable to the Independent Contractor for any expenses paid or incurred by the Independent Contractor unless otherwise agreed to in writing.

4. MATERIAL, SUPPLIES, EQUIPMENT AND TOOLS

The Independent Contractor shall supply, at its own expense, any materials, supplies, equipment and tools necessary for the work to be completed.

5. PAYROLL TAXES

Payroll taxes, including federal, state and local taxes, shall not be withheld or paid by the Board on behalf of the Independent Contractor or for the employees of the Independent Contractor. The Independent Contractor shall not be treated as an employee for federal or state tax purposes with respect to the services performed under this Agreement. The Independent Contractor shall be responsible to pay all taxes as mandated by law.

6. FRINGE BENEFITS

Since the Independent Contractor is not an employee of the Board's business, the Independent Contractor is not eligible for and shall not participate in any employer benefit of the Board including pension, health or other fringe benefits.

7. WORKERS' COMPENSATION

The Board shall not obtain workers' compensation insurance on behalf of the Independent Contractor or the employees of the Independent Contractor. The Independent Contractor shall comply with the workers' compensation law concerning its business and its employees.

8. TERM OF AGREEMENT

The effective date of this Agreement shall be the day and year first set forth above and shall terminate at the end of the calendar year 2022 unless terminated earlier by either party according to the terms contained herein.

9. TERMINATION WITHOUT CAUSE

Either party may terminate this Agreement by giving 20 days' written notice to the other of its intent to terminate this Agreement. Such termination may be made with or without cause. During the 20-day period after such notice is sent, the parties shall continue to act toward each other in good faith. Written notice of such intent shall be sent to the address of the other party accompanying their signature at the end of this Agreement.

10. TERMINATION WITH CAUSE

Either party may terminate this Agreement with reasonable cause, effective immediately upon the giving of written notice of the termination. The grounds for reasonable cause shall include: material violation of this Agreement or any act exposing the other party to liability for personal injury or property damage. Written notice of such intent shall be sent to the address of the other party accompanying their signature at the end of this Agreement.

11. NONWAIVER

The failure of either party to this Agreement to exercise any of its rights under this Agreement at any time does not constitute a breach of this Agreement and shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach.

12. NO AUTHORITY TO BIND BOARD

The Independent Contractor has no authority to enter into contracts on behalf of the Board. This Agreement does not create a partnership between the parties.

13. COMPLIANCE WITH LAWS

The Independent Contractor represents that it has complied with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work to be performed under this Agreement.

14. NOTICES

Any notice given in connection with this Agreement shall be given in writing and delivered either by hand to the party or by certified mail, return receipt requested, or by fax to the party at that party's address stated at the bottom of this Agreement. Any party may change its notice address by giving notice of the change in accordance with this section.

15. ASSIGNMENT OF CONTRACT

The Independent Contractor shall not be allowed to assign this Agreement in whole or in part. Any attempt to assign this Agreement shall be null and void.

16. CHOICE OF LAW

The substantive laws of the State of Colorado (and not its conflicts of law principles) govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation its validity, interpretation, construction, performance and enforcement. Venue for any action hereunder shall be in the District Court, County of Archuleta, and State of Colorado. The Independent Contractor expressly waives the right to bring any action in or to remove any action to any other jurisdiction, whether state or federal.

17. ENTIRE AGREEMENT

This is the entire Agreement between the parties and cannot be changed or modified orally. This Agreement may be supplemented, amended or revised only by a writing that is signed by each of the parties.

18. SEVERABILITY

If any part of this Agreement is held to be unenforceable, the rest of this Agreement shall nevertheless remain in full force and effect.

19. APPROPRIATIONS

This Agreement shall be subject to and conditioned upon appropriation of funds by the Archuleta Board of County Commissioners. Any financial obligations of the County payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted or otherwise made available.

20. NATURE OF RELATIONSHIP

The parties intend that an independent contractor-employer relationship will be created by this Agreement and the Independent Contractor shall perform the contract as an Independent Contractor and nothing in this Agreement shall be construed to be inconsistent with this relationship or status. The Board is interested only in the results to be achieved and the conduct

and control of the work will lie solely with Independent Contractor. It is understood that the Board does not agree to use Independent Contractor exclusively. It is further understood that Independent Contractor is free to contract for similar services to be performed for others while under contract with the Board.

21. NO WAIVER OF GOVERNMENTAL IMMUNITY

The parties hereto understand and agree that the County, its commissioners, officials, officers, directors, agents and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., or otherwise available to the Board.

22. INDEMNIFICATION

The Board cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate or assume the defense of the Independent Contractor or any other person or entity whatsoever, for any purpose whatsoever. Provided that the claims, demands, suits, actions or proceedings of any kind are not the result of professional negligence, the Independent Contractor shall defend, indemnify and hold harmless the Board, its commissioners, officials, officers, directors, agents and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature whatsoever, including Workers Compensation claims, in any way resulting from or arising from the services rendered under this Agreement; provided, however, that the Independent Contractor need not indemnify or save harmless the Board, its officers, agents and employees from damages resulting from the negligence of the Board's commissioners, officials, officers, directors, agents and employees.

The parties have executed this Agreement the day and year set forth last below.

BOARD OF COUNTY COMMISSIONERS

STROHECKER ASPHALT & PAVING

Alvin Schaaf, Chairman

Name:

Date: _____

Date: _____

Address: _____
