

## PUBLIC CONTRACT FOR SERVICES

THIS PUBLIC CONTRACT FOR SERVICES (the “Contract”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2021, by and between the BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY, STATE OF COLORADO (the “County”), and Reynolds Ash & Associates, a Colorado company authorized to do business in Colorado (the “Contractor”).

### RECITALS

**WHEREAS**, the County is undertaking certain activities regarding a programmatic review/pre-design services for the new County bus facility; and,

**WHEREAS**, the County desires to engage the Contractor to render certain professional services and assistance in connection with such undertakings of the County; and,

**WHEREAS**, the Contractor has the ability to assist the County through its professional expertise, knowledge, and experience and is ready, willing and able to provide such services, subject to the conditions hereinafter set forth.

**NOW, THEREFORE**, for and in consideration of the premises and other good and valuable consideration, the parties agree as follows:

1. **LINE OF AUTHORITY:** Laura Vanoni, is designated as Authorized Representative of the County for the purpose of administering, coordinating and approving the work performed by the Contractor under this Contract.
2. **SCOPE OF SERVICES:** All services described in Exhibit A, attached hereto and incorporated herein, shall be performed by Contractor.
  - a. The County may, from time to time, request changes to the scope of services to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor’s compensation, which are mutually agreed upon between the County and Contractor, shall be in writing and shall become part of this Contract upon execution.
  - b. The Contractor agrees to diligently and professionally perform all the services described herein in a manner satisfactory to the Authorized Representative. It is also understood and agreed that the Contractor shall not, in performing services hereunder, undertake any action or activity prohibited by the terms of any lease, permit, license or other agreement in effect during the term hereof between the Contractor and the County for the use and occupancy by the Contractor of any County facilities or space.
3. **COMPENSATION:** Subject to the maximum contract liability and all other provisions of this Contract, the County agrees to pay to the Contractor, and the Contractor agrees to accept

payment as described in Exhibit B, attached hereto and incorporated herein, during the term hereof, in accordance with the terms set forth herein.

4. **MAXIMUM CONTRACT EXPENDITURE:** Any other provision of this Contract notwithstanding and pursuant to Section 29-1-110, C.R.S., the amount of funds appropriated for this Contract is Fifteen Thousand Dollars (\$ 15,000.00) through FY2021. In no event shall the County be liable for payment under this Contract for any amount in excess thereof. The County is not under obligation to make any future apportionment or allocation to this Contract nor is anything set forth herein a limitation of liability for Contractor. Any potential expenditure for this Contract outside the current fiscal year, which have not yet been appropriated, are subject to future annual appropriation of funds for any such proposed expenditure.
5. **TERM:** It is mutually agreed by the parties that the term of this Contract shall commence as of \_\_\_\_\_[time] on \_\_\_\_\_[date] and terminate at 5:00 pm on December 31, 2021. This Contract and/or any extension of its original term shall be contingent upon annual funding being appropriated, budgeted and otherwise made available for such purposes and subject to the County's satisfaction with all products and services received during the preceding term.
6. **INVOICING PROCEDURES:** Payments shall be made to the Contractor based upon invoices submitted by the Contractor, provided such invoices have been approved by the Authorized Representative. Payments will be made to the Contractor within thirty (30) days, or within a mutually agreed upon period after County has received complete invoices from the Contractor. The County reserves the right to require such additional documentation, including monthly activity reports detailing the Contractor's activities and services rendered, as the County deems appropriate to support the payments to the Contractor. The signature of an officer of the Contractor shall appear on all invoices certifying that the invoice has been examined and found to be correct.
7. **CONFLICT OF INTEREST:** The Contractor agrees that no official, officer or employee of the County shall have any personal or beneficial interest whatsoever in the services or property described herein, and the Contractor further agrees not to hire, pay, or contract for services of any official, officer or employee of the County. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Contractor by placing the Contractor's own interests, or the interest of any party with whom the Contractor has a contractual arrangement, in conflict with those of County.
8. **INDEMNIFICATION-GENERAL:** The County cannot and by this Contract does not agree to indemnify, hold harmless, exonerate or assume the defense of the 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 Contractor shall defend, indemnify and hold harmless the County, 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 Contract; provided, however, that the Contractor need not indemnify or save harmless the County, its officers, agents and employees from damages resulting from the negligence of the County's commissioners, officials, officers, directors, agents and employees.

9. **INDEMNIFICATION FOR PROFESSIONAL NEGLIGENCE:** The Contractor shall indemnify and hold harmless the County and any of its commissioners, officials, officers, directors, agents and employees from and against damages, liability, losses, costs and expenses, including reasonable attorney's fees, but only to the extent caused by the negligent acts, errors or omissions of the Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable, in the performance of professional services under this Contract. The Contractor is not obligated under this section 9 to indemnify the County for the negligent acts of the County or any of its commissioners, officials, officers, directors, agents and employees.
  
10. **INDEPENDENT CONTRACTOR:** The Contractor is an independent contractor and is free to perform services for other clients. Notwithstanding any provision of this Contract, all personnel assigned by the Contractor to perform work under this Contract shall be and remain at all times, employees, of the Contractor for all purposes. **THE INDEPENDENT CONTRACTOR IS NOT ENTITLED TO WORKER'S COMPENSATION OR UNEMPLOYMENT BENEFITS THROUGH THE COUNTY AND IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONIES EARNED PURSUANT TO THE CONTRACT RELATIONSHIP.**
  
11. **ILLEGAL ALIENS:** If Contractor has any employees or subcontractors, the Contractor shall comply with §§ 8-17.5-101, *et seq.*, C.R.S., regarding Illegal Aliens - Public Contracts for Services, and this Contract. By execution of this Contract, the Contractor certifies that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and that the Contractor will participate in either the E-Verify Program or Department Program in order to confirm the eligibility of all employees who are newly hired for employment to perform work under this Contract.
  - a. Contractor shall not:
    - i. Knowingly employ or contract with an illegal alien to perform work under this Contract; or
    - ii. Enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract.
  - b. The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform Work under this Contract through participation in either the E-Verify Program or Department Program.

- c. The Contractor shall not use either the E-Verify Program or Department Program to undertake pre-employment screening of job applicants while this Contract is in effect.
- d. If the Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Contractor shall:
  - i. Notify the subcontractor and the County 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 the notice required pursuant to the preceding subparagraph d.i., the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- e. The Contractor 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 the authority established in § 8-17.5-102(5), C.R.S.
- f. The Contractor violates this provision of this Contract, the County may terminate the Contract for a breach of contract. If the Contract is so terminated, the Contractor shall be liable for actual and consequential damages to the County as required by law.
- g. The County will notify the Office of the Secretary of State if the Contractor violates this provision of this Contract and the County terminates the Contract for such breach.

12. **NO WAIVER OF GOVERNMENTAL IMMUNITY ACT:** 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 Contract, 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 County.

13. **ASSIGNMENT:** The Contractor covenants and agrees that, other than those subcontractors identified in the Scope of Work, Exhibit A, attached and incorporated herein, it will not assign or transfer its rights hereunder, or subcontract any work hereunder, either in whole or in part without the prior written approval of the Authorized Representative. Any attempt by the Contractor to assign or transfer its rights hereunder shall, at the option of the Authorized Representative, void the assignment or automatically terminate this Contract and all rights of the Contractor hereunder

14. **COUNTY REVIEW OF RECORDS:** The Contractor agrees that, upon request of the Authorized Representative, at any time during the term of this Contract, or three (3) years thereafter, it will make full disclosure to the County and make available for inspection and audit upon request by the Authorized Representative, the County Director of Finance, or any of their authorized representatives, all of its records associated with work performed under this Contract for the purpose of making an audit, examination or excerpts. The Contractor shall maintain such records until the expiration of three (3) years following the end of the term of this Contract.
15. **OWNERSHIP OF DOCUMENTS:** Drawings, specifications, guidelines and any other documents prepared by the Contractor in connection with this Contract shall be the property of the County.
16. **ASSIGNMENT OF COPYRIGHTS:** The Contractor assigns to the County the copyrights to all works prepared, developed, or created pursuant to this Contract, including the right to: 1) reproduce the work; 2) prepare derivative works; 3) distribute copies to the public by sale, rental, lease, or lending; 4) perform the works publicly; and 5) to display the work publicly. The Contractor waives its rights to claim authorship of the works, to prevent its name from being used wrongly in connection with the works, and to prevent distortion of the works.
17. **TERMINATION:** The County shall have the right to terminate this Contract, with or without cause, by giving written notice to the Contractor of such termination and specifying the effective date thereof, which notice shall be given at least ten (10) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies and reports prepared by the Contractor pursuant to this Contract shall become the County's property. The Contractor shall be entitled to receive compensation in accordance with this Contract for any satisfactory work completed pursuant to the terms of this Contract prior to the date of notice of termination. Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Contractor.
18. **NOTICES:** Notices concerning termination of this Contract, notices of alleged or actual violations of the terms or provisions of this Contract, and all other notices shall be made as follows:

By the Contractor to County:	Scott Wall County Administrator P. O. Box 1507 Pagosa Springs, CO 81147
With a copy to:	Todd Weaver Legal Counsel P. O. Box 1507 Pagosa Springs, CO 81147

By the County to the Contractor	Brad Ash Principal 262 Pagosa Street, Ste. 200 Pagosa Springs, CO 81147
---------------------------------	--

Said notices shall be delivered personally during normal business hours to the appropriate office above, or by prepaid first-class U.S. mail, via facsimile, or other method authorized in writing by the Authorized Representative. Mailed notices shall be deemed effective upon receipt or three (3) days after the date of mailing, whichever is earlier. The parties may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered, but such substitutions shall not be effective until actual receipt of written notification.

19. **NONDISCRIMINATION:** In connection with the performance of work under this Contract, the Contractor agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability.
20. **GOVERNING LAW; VENUE:** 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 Contract 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, State of Colorado. Contractor expressly waives the right to bring any action in or to remove any action to any other jurisdiction, whether state or federal.
21. **COMPLIANCE WITH ALL LAWS AND REGULATIONS:** All of the work performed under this Contract by the Contractor shall comply with all applicable laws, rules, regulations and codes of the United States and the State of Colorado. The Contractor shall also comply with all applicable ordinances, regulations, and resolutions of the County and shall commit no trespass on any public or private property in the performance of any of the work embraced by this Contract.
22. **SEVERABILITY:** In the event any of the provisions of this Contract are held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining provisions shall not be affected. Should either party fail to enforce a specific term of this Contract it shall not be a waiver of a subsequent right of enforcement, nor shall it be deemed a modification or alteration of the terms and conditions contained herein.
23. **NO THIRD-PARTY BENEFICIARIES:** The enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement, shall be strictly reserved to the County and the Contractor, and nothing contained in this Contract shall give or allow any such claim or right of action by any other or third person under such Contract.

24. **ADVERTISING AND PUBLIC DISCLOSURE:** The Contractor shall not include any reference to this Contract or services performed pursuant to this Contract in any Contractor's advertising or public relations materials without first obtaining the written approval of the Authorized Agent. Nothing herein, however, shall preclude the transmittal of any information to officials of the County, including without limitation, the County Manager and the Board of County Commissioners.

25. **PRIORITY OF PROVISIONS:** In the event that any terms of this Contract and any Exhibit, attachment, or other referenced document are inconsistent, the following order of priority shall control:

- 1<sup>st</sup> This Contract
- 2<sup>nd</sup> Request for Proposal (RFP) 4569-2021-001
- 3<sup>rd</sup> Exhibit C ~ Insurance Requirements
- 4<sup>th</sup> Exhibit A ~ Scope of Services
- 5<sup>th</sup> Exhibit B ~ Method of Payment
- 6<sup>th</sup> Exhibit C ~ Title VI Assurances and Non-Discrimination Provisions
- 7<sup>th</sup> Response to Request for Proposal (RFP) #4569-2021-001

26. **HEADINGS; RECITALS:** The headings contained in this Contract are for reference purposes only and shall not in any way affect the meaning or interpretation of this Contract. The Recitals to this Contract are incorporated herein.

27. **ENTIRE AGREEMENT:** The parties acknowledge and agree that the provisions contained herein constitute the entire agreement and that all representations made by any commissioner, official, officer, director, agent or employee of the respective parties unless included herein are null and void and of no effect. No alterations, amendments, changes or modifications to this Contract, except those which are expressly reserved herein to the Authorized Representative, shall be valid unless they are contained in writing and executed by all the parties with the same formality as this Contract.

28. **INSURANCE:** The Contractor shall be required to maintain the insurance requirements provided in Exhibit C, attached hereto and incorporated herein by reference. The Contractor shall provide evidence that such requirements have been met and shall provide updated information to the County in the event any changes are made to the Contractor's insurance coverage during the term of this Contract.

29. **COUNTY EXECUTION OF AGREEMENT:** This Contract is expressly subject to and shall not be or become effective or binding on the County, until execution by all signatories of the County.

30. **FORCE MAJEURE:** No party shall be liable for failure to perform hereunder if such failure is the result of force majeure. Any time limit shall be extended for the period of any delay resulting from any force majeure, or this Contract may be terminated if such delay makes performance of the Contract impossible or impracticable. Force majeure shall mean causes beyond the reasonable control of a party such as, but not limited to, weather conditions, acts of God, strikes, work stoppages, unavailability of or delay in





**COUNTY**

Attest:

BOARD OF COUNTY COMMISSIONERS  
OF ARCHULETA COUNTY,  
COLORADO

\_\_\_\_\_  
County Clerk

By: \_\_\_\_\_  
Alan Schaaf, Chair

(Affix County Seal)

Date: \_\_\_\_\_

## Exhibit A SCOPE OF SERVICES

This project shall be broken down into six phases.

- Phase 1: Research the project
- Phase 2: Establish goals and objectives
- Phase 3: Gather relevant information
- Phase 4: Identify Strategies
- Phase 5: Determine Qualitative requirements
- Phase 6: Summarize the program

**Phase 1: Research** – the selected firm will coordinate with key staff to develop a list of stakeholders to be involved in the project formation. Relevant information will be disseminated through a kick-off meeting, and subsequent meetings, such as types of spaces for this building type, space criteria, relationships of space, ratios of net to gross square footage for this building type, typical costs per square foot, typical site requirements, and technical, mechanical, electrical and security requirements.

**Phase 2: Establish Goals and Objectives** – the selected firm will be working with staff and stakeholders to gather and suggest broad goals such as organizational (where the organization is headed), form and image (how aesthetics and surroundings relate), function (what are major functions of building), economic (total budget, operation and maintenance cost potentials), time (when will it be occupied and what potential change will occur in the future), and management (potential grant funding deadlines vs design). There is one site in consideration to house the facility.

**Phase 3: Gather Relevant Information** – based on the goals, the selected firm will research and determine relevant information at a minimum of: users, equipment needed, space criteria, design criteria, policies, codes, energy usage, site analysis components that affect design (surveys, zoning, traffic, utilities, topography, climate, views, etc.)

**Phase 4: Identify Strategies** – through relationship diagrams, the selected firm will take into account the above information, plus categories such as centralization, flexibility, flow, priorities and phasing, and levels of access.

**Phase 5: Determine Quantitative Requirements** – the selected firm will develop a list of spaces to accommodate all activities, determine circulation and other requirements (MEP, IT, toilets, etc.), and test those spaces against budget constraints, to determine total project costs to include building and site construction, professional fees, furniture and equipment, utilities, communications, surveys, topographical surveys, geotechnical tests, and any other costs to be borne by the County.

**Phase 6: Summarize the Program** – the selected firm will provide a summary of work through a draft and then final written report, schematic drawings of two different scenarios, and a final presentation to the County Commissioners.

Exhibit B  
METHOD OF PAYMENT

The Contractor shall supply the County with a completed IRS W-9 Form. Payments shall be made by warrants payable to the trade or business name of the Contractor, if an EIN number is listed on the form, or to the name of an individual (if a Social Security number is listed on the form).

Invoices will be provided monthly, in detail, in accordance with the budget provided in the response to Request for Proposal, 7<sup>th</sup> Attachment to this contract

Exhibit C  
INSURANCE REQUIREMENTS

1. The Contractor agrees to procure and maintain with insurers with an A- or better rating as determined by A.M. Best's Key Rating Guide, at its own expense, the following policies of insurance:

a. **Workers' Compensation Insurance & Employers Liability** to cover obligations imposed by applicable laws for any employee engaged in the performance of work under this contract, and Employers' Liability insurance with the following limits:

Workers' Compensation:	Statutory
Employers' Liability:	\$1,000,000.

b. **Commercial General Liability** insurance with minimum combined single limits of ONE MILLION NINETY THREE THOUSAND DOLLARS (\$1,093,000.00) each occurrence and TWO MILLION DOLLARS (\$2,000,000.00) aggregate. This insurance will apply as primary insurance. The policy will be applicable to all premises and operations. The policy will include coverage for bodily injury, broad form property damage (including completed operations), personal injury, blanket, contractual, independent contractors, products, and completed operations. The policy will contain a severability of interests provision.

c. **Commercial Automobile Liability** insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000.00) each occurrence with respect to each of Contractor's owned, hired and non-owned vehicles assigned to or used in performance of the services. The policy will contain a severability of interests provision.

2. **Certificates of Insurance.** The required Commercial General Liability and Commercial Automobile Liability policies will name Archuleta County, its officers and employees as additional insured and provide for a waiver of subrogation in favor of Archuleta County, Colorado. The required Workers' Compensation Insurance policies will name Archuleta County as a Certificate Holder. The certificate(s) of insurance will be attached to this agreement as evidence that policies providing the required coverage, conditions, and minimum limits are in full force and effect. Any notices, within 20 days of cancellation or termination will provide an email notice to:

LeeAnn Martin,  
Finance Director/Acting Procurement Officer  
Archuleta County  
P.O. Box 1507  
Pagosa Springs, CO 81147  
[lw Walton@archuleta county.org](mailto:lw Walton@archuleta county.org)

3. **Failure to Procure or Maintain Insurance.** The Contractor will not be relieved of any liability, claims, demands, or other obligations, assumed by its failure to procure or maintain insurance, or its failure to procure or maintain insurance in sufficient amounts, durations, or types. Failure on the part of the Contractor to procure or maintain policies providing the required coverage, conditions and minimum limits will constitute a material breach of contract upon which Archuleta County may immediately terminate this contract.

4. **Deductibles and Coinsurance.** The Contractor agrees to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-retention. The Contractor will indemnify Archuleta County, in full, for any amounts related to the above.

5. **Governmental Immunity.** The parties hereto understand and agree that Archuleta County 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, 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 Archuleta County, its officers, or its employees.

Approved by: \_\_\_\_\_ Dated: \_\_\_\_\_  
LeeAnn Martin  
Finance Director/Acting Procurement Officer

Exhibit D  
TITLE VI ASSURANCES AND NON-DISCRIMINATION PROVISIONS

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Transit Authority, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of material and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contract for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor or the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FTA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contract is in the exclusive possession of another who fails or refuses to furnish the information, the contract will so certify to the Recipient or the FTP, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contract will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of

equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FTA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interest of the United States.