REQUEST FOR PROPOSAL
FOR
VAIL/USFS NOXIOUS WEED CONTROL SERVICES

May 20, 2016

The Town of Vail Department of Public Works is seeking a qualified contractor to provide Noxious Weed Control Services in partnership with the U.S. Forest Service on USFS property for the 2016-17 growing seasons. The Contractor shall be licensed with the Colorado Department of Agriculture as a commercial pesticide applicator, and all personnel applying herbicides through this contract must be licensed by the Colorado Department of Agriculture as a Qualified Supervisor, Certified Operator or Documented Technician.

BACKGROUND

The Vail Town Council has approved a Participating Agreement between the Town of Vail, CO (Town) and the U.S. Forest Service (USFS). The agreement sets forth that the Town will fund up to $15,000 for labor as required to manage noxious weeds on USFS property along the Town’s northern boundary and the USFS will supply herbicides for the project.

PROPOSAL REQUIREMENTS

1) See the attached Statement of Work (the “Work”) for USFS Specifications and a description of the Project size and scope
2) Contractors shall submit a written Proposal for the project that includes the following:
   a. Proposed application methods (horseback, backpack, combination, etc.)
   b. Anticipated coverage per day (acres)
   c. Project cost - This should be provided as a unit cost, based on application method, as determined by the Contractor (per acre, per hour etc) and should include the amount of time anticipated to complete the Work.
   d. Any limitations, exclusions or concerns that would prevent completion of the Work
3) As stated in Part 2(e)(f) of the Statement of Work, all herbicides, surfactants and dye will be provided by the USFS
4) Water can be provided to the Contractor, free of charge, at the Town of Vail Public Works facility located at 1309 Elkhorn Drive in Vail.
5) Contractors are strongly encouraged to visit the site prior to submitting a proposal. The project area is a dry, steep, south-facing hillside. Vegetation consists of a sage and serviceberry habitat with aspen forest in some locations. See the attached photos/maps.

6) The successful bidder will be expected to work with the Town to establish suitable staging areas, parking and, if needed, horse pasture.

7) The Agreement for this Work will be awarded for the 2016 and 2017 growing seasons, with $15,000 being the maximum labor budget for the Work in 2016. Any work for 2017 will be dependent upon contractor performance in 2016 and subject to budget approval by the Vail Town Council.

Written Proposals are due at the Town of Vail Public Works Department office by Friday, June 10, 2016 at 4:00 p.m. by mail, fax, email (PDF format) or hand delivery.

Proposals shall include the following:
1. Signed Project Proposal attached to Written Proposal
2. Contractor Information on the attached sheet
3. Department Program Affidavit (attached – signed and notarized)
4. Copy of Contractor’s Commercial Pesticide Applicator license
5. Proof of insurance - insurance requirements are listed in the Sample Agreement

CONTACT INFORMATION

Town of Vail
Gregg Barrie, RLA
1309 Elkhorn Drive
Vail, CO 81657
Office: (970) 479-2337
Fax: (970) 479-2166
Email: gbarrie@vailgov.com

U.S. Forest Service
Stephen Elzinga, Range Technician
24747 U.S. Hwy 24/PO Box 190
Minturn, CO 81645
Office: (970) 328-5896
Fax: (970) 827-5715
Email: selzinga@fs.fed.us

ATTACHMENTS:
1. Statement of Work
2. Project Area Map
3. Photo example of Project Area
4. Proposal Documents
   a. Project Proposal page to sign – attach written proposal
   b. Contractor Information
   c. Department Affidavit
5. Sample Agreement
Statement of Work
Gore Creek Watershed
Remote Weed Management Project

Scope of the BPA Call: The services covered in this BPA Call are for furnishing all labor, equipment, supervision, transportation, and livestock (as needed) to spray approximately 75-100 acres of noxious weeds in the specified project (bid) area of the Holy Cross Ranger District. All applications will be in compliance with terms, specifications, conditions and provisions contained herein. Herbicide will be provided by the Forest Service. Weed species include houndstongue, Canada thistle, musk thistle, plumeless thistle, oxeye daisy yellow toadflax and any other Colorado State Listed noxious weed species identified while in the performance of this contract. Houndstongue, musk thistle and plumeless thistle will be the priority species.

The successful bidder will conduct the work according to Blanket Purchase Agreement specifications, following a pre-work meeting with the District/Forest Noxious Weed Program Manager and/or the Contracting Officer's Representative (COR), clarifying the terms and conditions of the specifications. The COR may base BPA Call selections on bid cost, contractor familiarity with similar type projects (previous three years) and contractors references indicating past proven ability to perform. Selection criteria will be equal in importance.

Location and Description of Project Area:

Gore Creek Watershed Remote Weed Management Project: This project includes herbicide treatment of houndstongue, Canada thistle, musk thistle, plumeless thistle, oxeye daisy yellow toadflax and any other Colorado State Listed noxious weed species within the Gore Creek Watershed of the Holy Cross Ranger District of the White River National Forest. Work for FY16 will begin on the north side of I-70 within and adjacent to the Town of Vail. Specific treatment locations will be identified at a pre-treatment meeting with the East-Zone Range Staff. Approximately 75-100 acres of herbicide weed treatments are to be expected. The priority areas for treatments are the Buffehr Unit (600 acres) and Middle Creek Unit (380 acres), which is an area totaling approximately 980 acres with 56 acres of weed infestations in inventory. For efficient completion of this project in FY16, the contractor may set up a base camp at the USFS Compound in Minturn or Grouse Creek Administrative Site, or elsewhere as determined by the East-Zone Range staff at the pre-work meeting.

The project area is only accessible by foot or horseback. Horse/mule mounted spray equipment is anticipated for the execution of this project. For completion of this project, contractors may anticipate 15-20 person/horse-days depending on equipment (Approximately 2-3 acres per day with hand gun equipment). Each person-day would include a horse and rider/operator and one pack animal for a 10-hour period. If the contractor chooses to utilize backpack sprayers instead of horse mounted equipment, it will take several operators to complete this project in a timely manner. A 4-gallon backpack
will only treat approximately .1 acre per load. If the contractor were to choose backpacks, or some other hand held application method, they would need to show an adequate workforce available to complete the project in the allotted timeframe in order to be awarded the contract.

In accordance with the White River National Forest Weed Environmental Assessment (2007), no boom spraying will be allowed within 100 feet of live water.

Technical Specifications

1. **Equipment:**

Due to the roadless nature of the treatment area, the project will be completed by foot or horseback. All horse-mounted treatments will be conducted using a "Saddle-Light" Horseback Weed Sprayer, available through the White River Soil Conservation District, or an equivalent method. The District Weed Program Manager, prior to contract approval, will approve any application method other than the Saddle-Light sprayer.

2. **Spraying Specifications:**

a) Herbicide shall be applied in accordance with manufacturers and EPA label instructions/specifications and Forest Service direction. All applications will be in compliance with the White River National Forest Invasive Plant Specie Management Environmental Assessment (2007). A minimum of 20 gallons of water per acre must be applied with the recommended acre rate of herbicide and surfactant. It is the contractor's responsibility to comply with all requirements of the Pesticide Applicator's Act (Sec.35-10-101 et seq. C.R.S.). The contractor shall comply with all federal, state, and local rules, regulations, and laws pertaining to the work required by this contract. Herbicide choices and application rates for treatment will be determined by the District/Forest Weed Program Manager, prior to start of work.

b) Timing of application will be consistent with factors such as target species, growth stage, product formulation, and weather. Treatments will be conducted between June 15 and July 15. For FY16 most applications will take place in June and early July.

c) Weeds will be treated by spot spraying. Spraying must be done in a site-specific manner to minimize impacts on non-target vegetation and address any environmental concerns. The application rate will be at a minimum 20 gallons of spray mix per acre. Boom nozzle apparatuses will not be used within 100 feet of live water. No applications will be applied directly to water.

d) Cleaning of all spray equipment and disposal of herbicide containers shall be done in accordance with State and Federal law.
e) Herbicides to be used under this contract include only EPA approved products and those specified and furnished by the COR (Forest Service). These may include, but are not limited to; Telar XP, Milestone, Tordon 22K, and 2,4-D.

f) Surfactant will be utilized in all applications, and added to the mix at the rate of no less than .25% by volume. Surfactant will be furnished by the COR (Forest Service).

g) Dye will be added into all mixtures to insure uniform treatment and also to minimize the number of patches of weeds that could be accidentally missed. Dye will be furnished by the COR (Forest Service).

h) To enable follow-up monitoring by the contracting officers representative, the Contractor shall accurately mark the areas which were treated on topographic maps provided by the COR, collect GPS coordinate(s) and tracklog(s), when applicable, and submit these with billing statements. All GPS coordinates will be in the form of NAD 83, UTM coordinates. Specific reporting requirements will be addressed in the pre-work meeting with the East Zone Range Staff.

i) If necessary, the contractor will supply their own CO₂.

j) Only State Qualified Supervisors, Certified Operators, or Trained Technicians will be allowed to apply herbicides.

3. Reporting Requirements

The contractor shall maintain daily application records and logs containing all applicable information as required by the State of Colorado, and shall provide a copy of those applications for the District Weed Program Manager’s review and records no later than 10 working days after project completion or at time of invoice (whichever comes first). Blank daily pesticide application record sheets will be supplied by the COR (see copy attached). Only Forest Service application records will be accepted unless otherwise agreed upon with the District Program Manager and the Contractor at the pre-work meeting. Application record forms shall be completed in full, along with mapped treatment locations, as specified under clause 2(h.) This information, along with a field inspection, will be the basis of payment. Treatment acreage will be determined on a total gallon per acre (GPA) rate of herbicide mixture used. Example attachment enclosed.

4. Other Requirements

a) Weed-free Equipment: The contractor shall ensure all vehicles, trailers, camp equipment, tack, blankets and stock hooves will be checked and cleaned of weed seeds prior to entering the Forest.
b) Livestock Use

1. Any authorization to graze livestock is temporary and will not establish a priority for future use of the range. Any grazing that occurs must be authorized by the COR in the pre-work meeting.

2. The contractor shall comply with grazing instructions as issued by the Forest Service and shall require all employees to do likewise. Illegal grazing of livestock used in conjunction with this contract will be grounds for termination of the contract.

3. Only the number of livestock necessary to complete the spraying operation will be authorized to graze. (Usually two per sprayer, one saddle and one pack animal) Livestock numbers will be determined in the pre-work meeting.

4. Grazing utilization will be determined by stubble height of the grasses and sedges. Grazing utilization will not exceed a 4-inch forage stubble height. Note: Measurements are average of plant heights within grazed area. Once maximum utilization has been reached, the stock will need to be moved or fed certified weed free hay or pellets. Any new grazing location must be approved by the District Range Staff or the COR.

5. The contractor shall not allow horses to run at large. Unless grazing, horses shall be tied to a high line or kept in a temporary pasture when being fed and watered or when not being used. Animals will be tied to removable hitch racks, or other holding devices rather than tied to individual trees. Any tying to trees will be for very short time durations only and done in a manner so that no tree damage occurs. All pasture locations and materials must be approved in advance by the District Range Staff or COR. Any pasture will be constructed out of temporary electric fence or other approved material. Animals being picketed must be routinely moved to avoid excessive grazing use. The use of hobbles or electric fences is preferred. Stubble height utilization applies in all cases.

6. Grazing of wet meadows is not allowed.

7. **Once grazing use has reached the maximum amount, you must find a new area to allow your stock to graze.**

8. No authorization for grazing use will be approved which results in overuse of the grazing resource.

9. The contractor is responsible for tracking and complying with the allowable forage use levels.

10. Pack and unridden saddle stock must be led and controlled while using trails except where conditions make this practice unsafe. The purpose is to protect trails, people, and livestock.
11. Manure will be routinely raked and spread to reduce odors, flies, resource damage, and unsightly conditions.

12. Livestock, owned or controlled by the contractor, that die on NFS lands, shall be removed or otherwise disposed of in a manner acceptable to the COR.

13. All public lands within the State of Colorado require the use of certified weed free hay, mulch or straw.

14. Livestock will be secured a minimum of 100 feet from all lakes, streams, and trails, unless otherwise restricted by local regulations.

15. When salt is provided for livestock, it shall be in block form and contained to a tub to prevent soil contamination.

c) Licensing: It will be the responsibility of the contractor to obtain the proper certification and or licensing by the State of Colorado. It is the contractor's responsibility to comply with all requirements of the Pesticide Applicator's Act (Sec.35-10-101 et seq. C.R.S.). Only contractors certified by the state of Colorado will be considered.

d) Liability/Safety: The Forest Service is not responsible for the safety of the Contractor or any of their employees. The Forest Service is not liable for damage to adjacent crops, water aquifers or human and animal contamination. The Forest Service is not responsible for damage to equipment or livestock provided by the contractor, or for damage caused to property or individuals as a result of negligence of the contractor or damage caused by his animals.

e) Payment: Payment will be on a per calibrated acre treated basis, per a voucher to be submitted by the contractor, along with daily application records, as specified under item 2(h) above. Following a field inspection by the COR, and review of records kept as specified above, payments will be made according to the calibrated acres treated.
White River National Forest
Daily Pesticide Application Record

Ranger District: ____________________________ Date: ____________

Location of Application

Drainage: ____________________________ Specific Location: ____________________________
Township: ________ Range: ______ Section(s): ____________________________
Township: ________ Range: ______ Section(s): ____________________________
Township: ________ Range: ______ Section(s): ____________________________

Land Ownership: FS___BLM___State___PVT___Other___________

Job Code: __________________

Application Information

Time: Start _______ End _______ Start _______ End _______
Initial Treatment _______ Re-treatment _______
Weather Conditions: Clear _____ Cloudy ______ Partly Cloudy _____
Wind Speed: ________mph, from __________ Temperature _________

** Calibration/Maintenance of Equipment Y/N_______
**In/Over Water Y/N____ **Near Water Y/N____ (below seasonal floodplain)

**Treatment Monitoring Comments: (negative impacts observed?)

Target Weeds
(List most abundant weed first)

Stage of Growth: Bud _____ Flowering _____ Seeding _____

Site of Application:
Rangeland___ Campground___ Trailhead___ Right of Way___ Other______________

Herbicides Used:

Name: __________________ EPA number: _______________ Rate (AI) per acre: _______
Name: __________________ EPA number: _______________ Rate (AI) per acre: _______
Name: __________________ EPA number: _______________ Rate (AI) per acre: _______
Name: __________________ EPA number: _______________ Rate (AI) per acre: _______
Name: __________________ EPA number: _______________ Rate (AI) per acre: _______

Dilutant Used: ________ Gallons per Acre: _______ Total Gallons Mix applied: ______

Application Method: ____________________ Calibrated Acres Treated: __________

Empty Containers Triple Rinsed: Yes _____ No _____
Disposal Site: ____________________________

Affected Acres Treated: _____________
Affected Acreage Justification/Comments: __________________________________________

Applicator’s Signature: _______________________________________________________
Certified Applicator’s Signature: _____________________________________________
SPRAYER CALIBRATION MADE EASY
(No-Math Version)

Step 1. Establish a calibration plot that is exactly 18.5 feet wide by 18.5 feet long.
   Note: This is 1/128 acre and there are 128 ounces in a gallon

Step 2. Spray calibration plot uniformly with water. Note number of seconds required.

   Time Required = ____________ Seconds

Step 3. Spray into bucket or other container for the same number of seconds.

Step 4. Measure the number of ounces of water collected in the bucket.

   Volume Sprayed=____________Ounces

Step 5. Ounces collected equals the number of gallons per acre the sprayer is delivering.

   Gallons Per Acre =____________

Note: Each individual's spraying habits will be enough different that everyone's Gallons Per Acre (GPA) will be slightly different. This makes it imperative that each person using the sprayer must calibrate individually, in order to determine the proper rate of herbicide in the spray mixture.
Tank Mix Based on Calibrated Application Volume

Procedure: Determine the ratio of total spray volume for 1 acre of land.
(Amount of herbicide: gallons of spray per acre)

Example 1: An herbicide label says to apply 2 quarts of product per acre.
Through the 18.5 square feet calibration method you have determined how many
gallons per acre (GPA) you apply with this sprayer.

Note: Each individual will be different for each apparatus.

This is why it is extremely important for everyone to calibrate on every piece
of spray equipment they use.

For our example we'll say you apply 40 GPA. This means for every 40 gallons of total spray
solution you apply, you need 2 qt. (64 oz.) in that mix. Our sprayer utilizes four 5-gallon
canisters. 5 divided by 40 equals .125 acres per can. You need 64 oz. per acre times .125 acres
per can equals 8 ounces of herbicide in each 5-gallon can. Thus you put 8 oz. of herbicide in
your 5 gallon can and then top it off with surfactant and water.

Example 2: One commonly used mix for Leafy Spurge is 2 qt. Tordon 22K, and 1 lb. 2,4-D Low
Vol. per acre. Surfactant at .25% by volume (32 oz/100 gal or .32 oz/gal) This would
come out on a per canister basis at 40 GPA as follows:

\[
\begin{align*}
64 \text{ oz (2 qt) Tordon} \times 0.125 &= 8 \text{ oz.} \\
21.3 \text{ oz. (1 lb) 2,4-D} \times 0.125 &= 2.7 \text{ oz.} \\
0.32 \text{ oz. Surfactant} \times 5 &= 1.6 \text{ oz.}
\end{align*}
\]

Total amount of product for each 5 gallons of spray: 12.3 oz.

You should check your calibration periodically as the season progresses to make sure
your spraying habits have not changed, thus throwing off your application rate.

<table>
<thead>
<tr>
<th>Fluid Measure Conversion Table</th>
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<tbody>
<tr>
<td>1/6 fluid ounce = 1 teaspoon (tsp.)</td>
</tr>
<tr>
<td>1/2 fluid ounce = 1 tablespoon (tbs.) = 3 teaspoons</td>
</tr>
<tr>
<td>1 fluid ounce = 2 tablespoons = 1/8 cup</td>
</tr>
<tr>
<td>8 fluid ounces = 1 cup = 1/2 pint</td>
</tr>
<tr>
<td>16 fluid ounces = 2 cups = 1 pint</td>
</tr>
<tr>
<td>32 fluid ounces = 4 cups = 2 pints = 1 quart</td>
</tr>
<tr>
<td>64 fluid ounces = 8 cups = 4 pints = 2 quarts = 1/2 gallon</td>
</tr>
<tr>
<td>128 fluid ounces = 16 cups = 8 pints = 4 quarts = 1 gallon</td>
</tr>
</tbody>
</table>
Above: Plumeless thistle infestation on hillside above Safeway (West Vail)
PROJECT PROPOSAL
Vail/USFS Noxious Weed Control Services

To: Gregg Barrie, RLA
   Town of Vail

From: __________________________________________
       __________________________________________

The above named Contractor hereby proposes and agrees to furnish all the necessary labor, materials, supplies, equipment, tools and services necessary to perform Noxious Weed Control Services for the Town of Vail in accordance with the Request For Proposals, the Statement of Work, and the Contractor's attached written Proposal.

Submitted by: ________________________________ of ________________________________
               Printed Name Company

Signed: ________________________________ Date: _________________, 2016

Attach written Proposal to this Sheet
CONTRACTOR INFORMATION SHEET

Contractor may use this sheet or provide the information in a different format:

Company Name: _____________________________________________________

Qualified Supervisor Name: ____________________________________________

Mailing Address: ____________________________  Physical Address (if different):

_________________________  _________________________

_________________________  _________________________

_________________________  _________________________

Contact Information:

Phone: ___________________  Fax______________________

Cell: _____________________  email: ____________________

Number of Years providing this service: ______

Please provide a general description of how work is to be performed including equipment types. Also provide experience information as it relates to working within open space and native areas as well as in or adjacent to developed areas. Add general personnel and experience information, and previous or ongoing work references. Use additional sheets as needed.

____________________________________________________________________________

____________________________________________________________________________

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____________________________________________________________________________
DEPARTMENT PROGRAM AFFIDAVIT

[To be completed if Consultant participates in the Department of Labor Lawful Presence Verification Program]

I, ________________________, as a public contractor under contract with the Town of Vail (the “Town”), hereby affirm that:

1. I have examined or will examine the legal work status of all employees who are newly hired for employment to perform work under this public contract for services (“Contract”) with the Town within twenty (20) days after such hiring date;

2. I have retained or will retain file copies of all documents required by 8 U.S.C. § 1324a, which verify the employment eligibility and identity of newly hired employees who perform work under this Contract; and

3. I have not and will not alter or falsify the identification documents for my newly hired employees who perform work under this Contract.

____________________________________  _________________________
Consultant Signature  Date

STATE OF COLORADO                 )
COUNTY OF ______________________   ) ss.

The foregoing instrument was subscribed, sworn to and acknowledged before me this ___ day of __________, 2016, by ______________________ as __________________ of ________________________.

My commission expires:

(S E A L) __________________________________
Notary Public
AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this _____ day of ___________, 2016, by and between the Town of Vail, 75 South Frontage Road, Vail, Colorado 81657, a Colorado municipal corporation (the "Town"), and _________________________________, an independent contractor with a principal place of business at _____________________________ ("Contractor") (each individually a "Party" and collectively the "Parties").

WHEREAS, the Town requires professional services; and

WHEREAS, Contractor has held itself out to the Town as having the requisite expertise and experience to perform the required professional services.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. SCOPE OF SERVICES

A. Contractor shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Request for Proposals and the Proposal submitted on __________ (Exhibit A), attached hereto and incorporated herein by this reference.

B. A change in the Scope of Services shall not be effective unless authorized as an amendment to this Agreement. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

II. TERM AND TERMINATION

A. This Agreement shall commence on the Effective Date, and shall continue until Contractor completes the Scope of Services to the satisfaction of the Town, or until terminated as provided herein.

B. Either Party may terminate this Agreement upon seven (7) days advance written notice. The Town shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity.

III. COMPENSATION

A. In consideration for the completion of the Scope of Services by Contractor, the Town shall pay Contractor an amount not to exceed Twenty-five Thousand and 00/100 Dollars ($25,000.00). This maximum amount shall include all fees, costs and expenses incurred by Contractor, and no additional amounts shall be paid by the Town for such fees, costs and
expenses. Contractor shall not be paid until the Scope of Services is completed to the satisfaction of the Town.

B. Notwithstanding the maximum amount specified in this Section, Contractor shall be paid only for work performed. If Contractor completes the Scope of Services for less than the maximum amount, Contractor shall be paid the lesser amount, not the maximum amount.

IV. PROFESSIONAL RESPONSIBILITY

A. Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law.

B. The work performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community. The work and services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

C. The Town's review, approval or acceptance of, or payment for any services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

D. Because the Town has hired Contractor for its professional expertise, Contractor agrees not to employ subcontractors to perform any work under the Scope of Services.

V. OWNERSHIP

Any materials, items, and work specified in the Scope of Services, and any and all related documentation and materials provided or developed by Contractor shall be exclusively owned by the Town. Contractor expressly acknowledges and agrees that all work performed under the Scope of Services constitutes a "work made for hire." To the extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change such work without providing notice to or receiving consent from Contractor.

VI. INDEPENDENT CONTRACTOR

Contractor is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is a Town employee for any purposes.

VII. INSURANCE

A. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations
assumed by Contractor pursuant to this Agreement. At a minimum, Contractor shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.

2. Commercial General Liability insurance with minimum combined single limits of one million dollars ($1,000,000) each occurrence and one million dollars ($1,000,000) general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision, and shall include the Town and the Town's officers, employees, and contractors as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

3. Professional liability insurance with minimum limits of six hundred thousand dollars ($1,000,000) each claim and one million dollars ($1,000,000) general aggregate.

C. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least thirty (30) days prior written notice to the Town. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers, its employees, or its contractors shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

D. Contractor shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

VIII. INDEMNIFICATION

Contractor agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor, or which arise out of a worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor.
IX. ILLEGAL ALIENS

A. Certification. By entering into this Agreement, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that Contractor will participate in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado Department of Labor and Employment to confirm the employment eligibility of all employees who are newly hired to perform work under this Agreement.

B. Prohibited Acts. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

C. Verification.

1. If Contractor has employees, Contractor has confirmed the employment eligibility of all employees who are newly hired to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.

2. Contractor shall not use the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

3. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien who is performing work under this Agreement, Contractor shall: notify the subcontractor and the Town within three days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien who is performing work under this Agreement; and terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to subsection 1 hereof, the subcontractor does not stop employing or contracting with the illegal alien who is performing work under this Agreement; except that Contractor shall not terminate the subcontract if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien who is performing work under this Agreement.

D. Duty to Comply with Investigations. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Contractor is complying with the terms of this Agreement.

E. Affidavits. If Contractor does not have employees, Contractor shall sign the "No Employee Affidavit" attached hereto. If Contractor wishes to verify the lawful presence of newly hired employees who perform work under the Agreement via the Department Program, Contractor shall sign the "Department Program Affidavit" attached hereto.
X. **MISCELLANEOUS**

A. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Eagle County, Colorado.

B. **No Waiver.** Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. **Integration.** This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. **Third Parties.** There are no intended third-party beneficiaries to this Agreement.

E. **Notice.** Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the party at the address set forth on the first page of this Agreement.

F. **Severability.** If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. **Modification.** This Agreement may only be modified upon written agreement of the Parties.

H. **Assignment.** Neither this Agreement nor any of the rights or obligations of the Parties hereto, shall be assigned by either Party without the written consent of the other.

I. **Governmental Immunity.** The Town and its officers, attorneys and employees are relying on, and do 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 amended, or otherwise available to the Town and its officers, attorneys or employees.

J. **Rights and Remedies.** The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

K. **Subject to Annual Appropriation.** Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.
IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first set forth above.

TOWN OF VAIL, COLORADO

___________________
Stan Zemler, Town Manager

ATTEST:

__________________________________
Patty McKinney, Town Clerk

APPROVED AS TO FORM:

__________________________________
J. Matthew Mire, Town Attorney

CONTRACTOR

By: ________________________________

STATE OF COLORADO )
) ss.
COUNTY OF ________________ )

The foregoing instrument was subscribed, sworn to and acknowledged before me this ___
day of ________________, 2016, by ____________________________ as _________________
of ________________________.

My commission expires:

(S E A L)

Notary Public