

## INDEPENDENT CONTRACTOR AGREEMENT

1. **PARTIES.** This Independent Contractor Agreement (the "Agreement") is effective as of the \_\_\_ day of December, 2018, and is entered into between the Town of Pitkin, Colorado, (the "Town"); and Quartz Creek Company(the "Independent Contractor"). The Town and the Independent Contractor shall be referred to collectively hereinafter as the "Parties."

2. **RECITALS.**

2.1 The Town desires the Independent Contractor to provide snow plowing services in the Town of Pitkin, CO. The Town of Pitkin does not waive governmental immunity pursuant to C.R.S. 24-10-101 et seq.

2.2 This Agreement shall specify the Independent Contractor's responsibilities and the manner in which the Independent Contractor will be compensated for services it provides the Town.

2.3 This Agreement is non-exclusive. The Town may contract with more than one independent contractor, and the Independent Contractor may enter into similar contracts with other persons or entities.

2.4 Therefore, in consideration of the Parties' rights and obligations set out below, the Parties agree as follows.

3. **TERM.**

3.1 The term of this Agreement will be from approximately November 1, 2019 (anticipated start date) through October 31, 2020 (anticipated finish date).

3.2 This Agreement may be extended upon the mutual agreement of the Parties. Such further agreement shall be in writing and signed by the Parties.

4. **INDEPENDENT CONTRACTOR'S DUTIES.**

4.1 The Independent Contractor shall perform the following duties: provide snow plowing services in the Town of Pitkin, Colorado as set forth in the bid attached hereto as Exhibit A. The agreed upon plow route shall be deemed to be an addendum to this Agreement, and is incorporated as though set forth fully herein.

4.2 The Independent Contractor shall be solely responsible for any local, state, and federal tax and insurance responsibilities, including unemployment and FICA.

4.3 The Independent Contractor agrees to maintain, at Independent Contractor's expense, adequate liability insurance to fully protect the Town from any and all claims for property damage, injury or death arising from the performance of this contract. The Independent Contractor agrees to indemnify and hold harmless the Town of Pitkin for any claims relating to damages arising out of the Independent Contractor's snow plowing duties.

4.4 The Independent Contractor agrees to maintain, at Independent Contractor's expense, workers' compensation insurance to fully protect both Independent Contractor and the Town from any and all claims for injury or death arising from the performance of this contract; or the Independent Contractor elects to waive any potential claims against the Town as set forth at paragraph 4.6.

4.5 The Independent Contractor is a Colorado corporation, and warrants that Phil Duetsch is the company president and authorized to sign this Independent Contractor Agreement on its behalf.

4.6 **By signature hereinbelow, the Independent Contractor hereby acknowledges the Independent Contractor is not entitled to worker's compensation benefits and that the Independent Contractor is obligated to pay federal and state income tax on any moneys earned pursuant to the Agreement. Independent Contractor hereby waives claim to all rights of action in common law or under any statute or other law to recover from the Town of Pitkin, Colorado damages for any injuries sustained in the course of Independent Contractor's contractual relationship.**

5. **COMPENSATION.** For all described duties the Independent Contractor performs under this Agreement, the Town will pay the Independent Contractor as follows:

5.1.1 Independent Contractor shall be paid as set forth in Independent Contractor's bid proposal attached hereto as Exhibit A.

6. **TOWN'S DUTIES.**

6.1 The Town shall compensate the Independent Contractor as set forth in this Agreement.

7. **DEFAULT.**

7.1 The Town may immediately terminate this Agreement during the term of the Agreement if the Independent Contractor violates the terms of the Agreement or fails to produce a result that meets the specifications of the contract.

7.2 In the event of a breach of this Agreement, the non-breaching party shall have any remedies available at law and/or equity.

8. **AGREEMENT TO PERFORM SERVICES AS AN INDEPENDENT CONTRACTOR.** The Parties understand and agree that the Town **will not**:

- 8.1 Require the Independent Contractor to work exclusively for the Town;
- 8.2 Establish a quality standard for the Independent Contractor, oversee the actual work or instruct the Independent Contractor as to how the work is to be performed, except that the services provided must comport with any state, local, or federal statutes and regulations, if applicable;
- 8.3 Pay the Independent Contractor a salary or an hourly rate, but rather will pay only the compensation stated in Paragraph 5;
- 8.4 Provide any training for the Independent Contractor;
- 8.5 Provide tools or benefits to the Independent Contractor;
- 8.6 Dictate time of performance, except that a completion schedule and a range of negotiated and mutually agreeable work hours may be established;
- 8.7 Provide any employee benefits from the Town;
- 8.8 Pay the Independent Contractor personally instead of making checks payable to the trade or business name of the Independent Contractor;
- 8.9 Withhold federal, state, or local income taxes, or otherwise withhold any amounts of any nature, including FICA;
- 8.10 Provide Worker's Compensation coverage.

9. **GENERAL PROVISIONS**

- 9.1 **Notices.** Payments required by this Agreement shall be sent to the following addresses:

To the Town: P.O. Box 9  
Pitkin, CO 81241

To the Independent Contractor: P.O. Box 34  
Pitkin, CO 81241

The parties agree that routine communications may be done by email at the following email addresses:

To the Town: [thetownofpitkin@gmail.com](mailto:thetownofpitkin@gmail.com)

To the Independent Contractor: phduetsch@outlook.com

- 9.2 **Applicable Law.** This Agreement is entered into in Gunnison County, Colorado. Gunnison County District Court, Gunnison County Court, or Gunnison County Small Claims Court shall be the venue for any action pertaining to interpretation or enforcement of this Agreement.
- 9.3 **Attorney's Fees.** It is agreed that if any action is brought in a court of law by either party to this Agreement to enforce, interpret or construct this Agreement, or any document provided for herein, the prevailing party in such action shall be entitled to its reasonable attorneys' fees, as well as all costs incurred in the prosecution or defense of such action.
- 9.4 **Captions.** The headings and captions contained in this Agreement are inserted for the convenience of reference only and are not to be deemed a part of, nor to be used in, construing this Agreement. Reference to a paragraph includes any subparagraphs thereunder.
- 9.5 **Invalidity or Inapplicability.** If any term, provision or paragraph of this Agreement, or its application, should be invalidated or declared unenforceable, the remainder of this Agreement shall not be affected and each of the remaining terms, provisions and paragraphs of this Agreement shall continue in force and effect.
- 9.6 **Time of Essence.** It is expressly agreed that time is of the essence of this Agreement. Failure of either party to exercise any right under this Agreement under a default by the other party shall not prevent such party from exercising any of the rights granted resulting from the same or any subsequent default.
- 9.7 **Fees and Expenses.** Each party shall pay its own costs, fees and expenses incurred regarding the preparation and execution of this Agreement. Independent Contractor has the right to consult with an independent attorney prior to signing this Agreement.
- 9.8 **Binding Agreement.** It is understood and agreed that this Agreement shall be binding upon the heirs, personal representatives and assigns of the Parties.
- 9.9 **Entire Agreement.** This Agreement contains the entire and only agreement between the Town and the Independent Contractor and no oral statements or representations not contained in this Agreement shall be of any force or effect between the parties. This Agreement shall not be modified or amended in any manner except by written instrument executed by the Parties.

C.R.S. § 8-40-202(2)(b)(IV) of the Colorado Worker's Compensation Act requires that both parties sign an Independent Contractor Agreement and that all signatures on the Agreement must be "duly notarized" for the contract to create a "rebuttable presumption of an Independent Contractor relationship between the parties."

**IN WITNESS OF OUR AGREEMENT**, the Town and the Independent Contractor have executed this Agreement on the date(s) indicated below.

Town of Pitkin, CO

THE INDEPENDENT CONTRACTOR:  
Quartz Creek Company

By: \_\_\_\_\_  
Rachel New, Mayor

By:   
Phil Duetsch, President


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

Date: 11/1/19

The foregoing Independent Contractor Agreement was signed and acknowledged before me this \_\_\_\_ day of November, 2019 in Gunnison County, Colorado, by Rachel New.

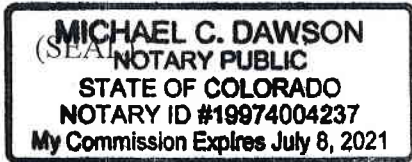
Witness my hand and official seal.  
My commission expires: \_\_\_\_\_


(SEAL)

  
Notary Public

The foregoing Independent Contractor Agreement was signed and acknowledged before me this 1st day of November, 2019 in Gunnison County, Colorado, by Phil Duetsch.

Witness my hand and official seal.  
My commission expires: 7/8/2021



  
Notary Public