

CHAFFEE COUNTY SERVICES CONTRACT

This Contract ("Contract") is made and entered into _____, and is between the County of Chaffee, State of Colorado, acting by and through the Board of Commissioners of Chaffee County, Colorado ("County") and BETCH Foundation ("Contractor").

The County desires to contract for the services of Contractor as an Independent Contractor pursuant to the terms and conditions of the attached **Exhibit A**.

In consideration of the rights and obligations specified below, the County and the Contractor agree as follows:

1. Performance of Services.

- a. Scope of Services. The attached **Exhibit A** describes the work to be performed (the "Work"). Contractor is not required to observe particular working hours or work a specified number of hours. Contractor shall determine whether it possesses the sufficient training and background to carry out specific requests for services. Except as expressly provided in this Contract, Contractor will, in a good and workmanlike manner and at its own cost and expense, furnish all labor and equipment and do all work necessary and incidental to performing the Work. Contractor shall perform the Work in strict accordance with this Contract.
- b. Quality of Performance. The Contractor shall perform the Contract in a manner satisfactory and acceptable to the County. The County shall be the sole judge of the quality of performance.
- c. Other Activities. Contractor may engage in other activities for compensation provided they do not conflict with the responsibilities or limitations set forth in this Contract.
- d. Subcontractors. Contractor may hire, at its expense, any subcontractors if approved in writing by County and provided such assistants do not, in County's sole discretion, hinder County's business, subject to the below Prohibitions on Public Contract for Services.
- e. Reports. Contractor has no duty to provide any reports to County except those that County deems necessary to determine the amount of fees and expenses owed to Contractor pursuant to this Contract or those required by law.

2. **Independent Contractor. Contractor is an independent contractor and is responsible for all taxes (including employment taxes) and insurance applicable under existing laws with respect to the fees paid under this Contract. Neither Contractor, nor its subcontractors, employees or agents shall have authority to bind the County in any contract or agreement. Neither Contractor, nor its subcontractors, employees, or**

agents will have any claim or right to participate in any retirement, bonus, welfare or benefit plans of County. Contractor acknowledges that its employees and subcontractors are not entitled to unemployment insurance benefits or workers' compensation benefits from Chaffee County, its elected officials, agents, or any other County benefits or compensation from any program administered or funded by Chaffee County.

3. Fees. **Exhibit A** details Contractor's Fees. County shall pay such fees within thirty days of County's receipt of Contractor's invoice. Upon termination, County shall pay Contractor for services rendered, less any damages suffered by County as a result of termination by County for cause. Contractor acknowledges that the fees under this Contract are funded entirely by a grant. County reserves the right to discontinue, modify or withhold any payments to be made under this Contract or to require a total or partial refund of any fees due under this Contract if the County determines that the grant funds are no longer available to the County, for whatever reason.
4. Expenses. Except as set forth in **Exhibit A**, Contractor is responsible for Contractor's expenses and overhead, including without limitation, travel, insurance, material and equipment expenses, and expenses in connection with furthering Contractor's skills or membership in professional societies and organizations.
5. Term, Termination and Related Remedies.
 - a. Term. This Contract is effective as of the above date and will continue through **November 30, 2022.**
 - b. Termination. Either party may terminate this Agreement for any reason or no reason at all by giving the other at least fifteen (15) days written notice at the address shown below.
 - c. Remedies. Upon termination, County's sole liability to Contractor shall be to pay compensation with respect to the milestones which have been met, and County shall have the entire right, title and interest in and to such Work. If County terminates this Contract because Contractor has materially breached this Contract, County shall have all rights and remedies available at law or equity.
 - d. Constitutional Requirements - Fund Availability (Section 20(4)(b) of Art. X of the Constitution of the State of Colorado). The other provisions of this Contract notwithstanding, financial obligations of County payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. County is prohibited by law from making financial commitments beyond the term of its current fiscal year. County has contracted for goods and/or services under this Contract and has reason to believe that sufficient funds will be available for the full term of the Contract. Where, however, for reasons beyond the control of County as the funding entity, funds are not allocated for any fiscal period beyond the one in which this Contract is entered into, County

shall have the right to terminate this Contract by providing seven days written notice to the Contractor, and will be released from any and all obligations hereunder. If County terminates the Contract for this reason, County and Contractor shall be released from all obligations to perform Work and make payments hereunder, except that County shall be required to make payment for Work which has been performed by Contractor prior to the effective date of termination under this provision; and, conversely, Contractor shall be required to complete any Work for which County has made payment prior to providing written notice to Contractor of the termination.

6. Representations and Warranties. Contractor represents and warrants the following:

- a. Required Permits and Compliance with Law. Contractor has obtained all authorizations and permits necessary or required by law in connection with the services provided pursuant to this Contract. Contractor shall materially comply with all relevant laws, regulations and ordinances in rendering services under this Contract.
- b. Insurance. Contractor has obtained and shall continue to maintain at its own expense, and without cost to County, insurance protection from a company authorized to do business in Colorado, the following kinds and minimum amounts of insurance for purposes of insuring the liability risks which the Contractor has assumed until this Contract has expired or is terminated:
 - i. Comprehensive General Liability in the amount not less than those limits of liability established from time to time for governmental entities under the provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-114. Currently, such limits are \$424,000.00 per person and \$1,195,000.00 per occurrence. This coverage should be provided on an ISO 1998 Form or the most current form. Coverage to include:
 1. Premises
 2. Products/Completed Operations if Work includes a manufacturing operation
 3. Broad Form Comprehensive, General Liability
 - ii. Automobile Liability. Minimum limits are required to be \$1,000,000.00 for each occurrence. Coverage must include:
 1. All vehicles owned, non-owned, and hired to be used on the Contract;
 2. Medical Payments.
 - iii. Contractor shall secure and maintain employer's liability, Workers' Compensation Insurance and Unemployment Insurance as required by applicable law.
 - iv. Employee Fidelity Bonding. In the event Contractor hires employees to perform the services provided for hereunder, Contractor shall secure and maintain a fidelity bond which protects Chaffee County against loss arising from a fraudulent or dishonest act of the Contractor's employees.

v. Named Insured and Certificates of Insurance.

1. Chaffee County, at Contractor's sole expense, shall be named as insured or additional insured on all insurance policies required under this Contract. The "additional insured" wording shall be as follows: County of Chaffee, State of Colorado, a body corporate and politic, is named as Additional Insured.
2. Contractor shall furnish County prior to the commencement of work under this Contract and annually thereafter copies of company-issued Certificates of Insurance policies obtained by Contractor in compliance with this paragraph demonstrating that the insurance requirements have been met, and Contractor shall ensure that County is notified in writing and at least thirty days in advance of any amendment or cancellation of such policy or policies.

These Certificates of Insurance shall also contain a valid provision or endorsement that these policies may not be canceled, terminated, changed or modified without thirty days written notice to the County.

Certificates shall be forwarded to:
Dan Short, Finance Department
Chaffee County
P.O. Box 699
Salida, CO 81201

7. Non-discrimination. The 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 respecting discrimination and unfair employment practices.
8. Nondiscrimination Provisions Binding on Subcontractors. In all solicitations by the Contractor for any Work related to this Contract to be performed under a subcontract, either by competitive bidding or negotiation, the Contractor shall notify each potential subcontractor of the Contractor's obligations under this Contract, and of all pertinent regulations relative to nondiscrimination and unfair employment practices.
9. Indemnification. The Contractor shall be liable and responsible for any and all damages to persons or property caused by or arising out of the actions, obligations, or omissions of the Contractor, its employees, agents, representatives or other persons acting under the Contractor's direction or control in performing or failing to perform the work under this Contract. The Contractor will defend, indemnify and hold harmless the County, its elected and appointed officials, and its employees, agents and representatives (the "indemnified parties"), from any and all liability, claims, demands, actions, damages, losses, judgments, costs or expenses, including but not limited to attorneys' fees, which may be made or brought or which may result against any of the indemnified parties as a

result or on account of the actions or omissions of the Contractor, its employees, agents or representatives, or other persons acting under the Contractor's direction or control. In addition, the parties reserve the right to bring tort claims in the event of the discovery of an intentional fraud committed during contract performance. Nothing in this indemnification agreement shall be construed in any way to be a waiver of the County's immunity protection under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended and as may be amended from time to time. This section shall survive the termination of this Contract. As a political entity and subdivision of the State of Colorado, Chaffee County is not authorized to indemnify any party, public or private, from the claims, demands, or damages of third parties.

10. No Waiver of Breach. County's failure to insist upon strict compliance with the provisions of this Contract will not be construed in any way as a waiver of any of County's rights or privileges. All remedies afforded in this Contract shall be cumulative, that is, in addition to every other remedy provided in this Contract or by law.
11. Prohibitions on Public Contract for Services.
 - a. The Contractor shall not knowingly employ or contract with a worker without authorization to perform work under the Contract; or enter into a contract with a subcontractor who fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with a worker without authorization to perform work under the Contract.
 - b. Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Contract through participation in either the E-Verify Program or the Colorado Department of Labor and Employment ("Department") Program.
 - c. Contractor shall not use either the E-Verify Program or Department Program to undertake pre-employment screening of job applicants while the Contract is in effect.
 - d. If Contractor obtains actual knowledge that a Subcontractor performing work under the public contract for services knowingly employs or contracts with a worker without authorization, the Contractor shall be required to:
 - 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 a worker without authorization ("Notice"); and
 - ii. Terminate the Subcontract with the Subcontractor if within three (3) days of receiving the Notice required the Subcontractor does not stop employing or contracting with the worker without authorization; except that the Contractor shall not terminate the contract with the Subcontractor if during such three days the Subcontractor provides information to establish that the Subcontractor has not knowingly employed or contracted with a worker without authorization.

- e. 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 C.R.S. § 8-17.5-102(5).
12. Certification Regarding Employing or Contracting with a Worker Without Authorization. If Contractor has any employees or subcontractors, Contractor shall comply with C.R.S. § 8-17.5-101, *et seq.*, regarding Workers Without Authorization - Public Contracts for Services, and this Contract. By execution of this Contract/Addendum, Contractor certifies that it does not knowingly employ or contract with a worker without authorization who will perform work under the Contract and that 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 the Contract.
13. Prohibition on Acceptance of Gifts. Pursuant to Section 3 of Art. XXIX of the Constitution of the State of Colorado, County Employees or contractors cannot accept any gifts, meals, theatre or sporting event tickets unless:
- a. the aggregate value of things received from a single source does not exceed \$65/calendar year; or
 - b. the County employee/elected official gave the donor consideration of equal or greater value; or
 - c. an enumerated exception applies.
14. General Provisions.
- a. Contractor Cooperation. Contractor shall cooperate and provide County all information requested by County for the purpose of submitting legally-required reports or forms to state or federal agencies including, without limitation, the Internal Revenue Service the Colorado Department of Revenue.
 - b. Amendment. This Contract may be amended only by a written instrument signed by the parties to this Contract.
 - c. Successors and Assigns; Assignment by Contractor Prohibited. The rights and obligations of County under this Contract will inure to the benefit of and will be binding upon the successors and assigns of County. Contractor may not pledge, assign or transfer either this Contract or any of the payments or benefits under this Contract without the written consent of County.
 - d. Severability. If a tribunal of competent jurisdiction determines that any provision of this Contract is void, illegal, or unenforceable, the other provisions will remain in full force and effect. Any provision determined to be void, illegal, or unenforceable will be limited so that this Contract will remain in effect to the fullest extent permissible by law.
 - e. Breach. Any waiver of a breach of this Contract shall not be held to be a waiver of any other or subsequent breach of this Contract. All remedies afforded in this

Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law.

- f. Termination of Prior Agreements. This Contract cancels and terminates, as of its effective date, all prior agreements between the parties relating to the services covered by this Contract, whether written or oral or partly written and partly oral.
- g. Third Party Beneficiary. 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 claim or right of action whatsoever by any other or third person. It is the express intent of the parties to this Contract that any person receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.
- h. Notices. All notices shall be in writing. Notices will be deemed to have been duly given if delivered personally or if mailed via certified mail (return receipt requested and postage prepaid) and confirmed by such certified mail receipt, given by facsimile or e-mail confirmed by receipt, or sent by courier confirmed by receipt, addressed to the party at the address set forth below or at such other address as either party may designate to the other in accordance with this Section. Notices shall be deemed to be given on the date of receipt, except that if delivery is refused, notice shall be deemed given on the fifth (5th) day after it is sent.
- i. Counterparts. The parties may execute this Contract in any number of counterparts, each of which will be deemed an original.
- j. Statutory Requirements. This Contract is subject to all statutory requirements that are or may become applicable to counties or political subdivisions of the State of Colorado generally. Without limiting the scope of this provision, the Contract is specifically subject to the following statutory requirement:

Contract payments may be withheld pursuant to C.R.S. § 38-26-107 if the County receives a verified statement that the Contractor has not paid amounts due to any person who has supplied labor or materials for the project.
- k. Entire Agreement. All exhibits to this Contract and provisions set forth in County's Request for Proposal and Contractor's responses to County's Request for Proposal, if any, together with any alterations and/or modifications, are incorporated as part of this Contract and such represent the entire agreement between County and Contractor with respect to the transactions contemplated by this Contract and supersede all previous negotiations, commitments, letters of intent and other writings.
- l. 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:
 - 1st: This Contract unless otherwise provided for in a subsequent agreement
 - 2nd: Request for Proposal (if applicable)
 - 3rd: Insurance Requirements

4th: Exhibit A - Scope of Services and details of Contractor's Fees
5th: Response to Request for Proposal (if applicable)

- m. Colorado Open Records Act. All information provided under this Contract is subject to public disclosure under the Colorado Open Records Act ("CORA") or the Colorado Criminal Justice Act ("CCJRA") unless clearly identified and marked as confidential and qualifies as confidential under CORA or CCJRA.
- n. Controlling Law and Jurisdiction. The interpretation and performance of this Contract shall be construed under the laws of Colorado, without regard to choice of law principles. In the event of litigation, jurisdiction and venue shall be in the Chaffee County District Court.

Contractor

Board of Commissioners of Chaffee County

By: _____

By: _____

Greg Felt, Chairman

Print Name: _____

Title: _____

Federal ID #: _____

Notice Address:

Notice Address:

Attention: County Attorney
P.O. Box 699
Salida, Colorado 81201

Fax: _____

Fax: 719.539.7442

(If this Contract is executed on behalf of a corporation, it must be signed by an agent duly authorized by the corporation to execute such Contract, and if specified by the corporate bylaws, the corporate seal must be affixed to the Contract by the Secretary of the corporation or other authorized keeper of the corporate seal.)