



1309 Elkhorn Drive  
Vail, Colorado 81657  
vailgov.com

**Public Works/Transportation Department**  
970.479.2158  
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**TOWN OF VAIL  
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION  
1309 Elkhorn Drive  
Vail, CO 81657**

**REQUEST FOR PROPOSALS  
FOR  
2022 NOXIOUS WEED CONTROL SERVICES**

**March 25, 2022**

The Town of Vail Department of Public Works is seeking a qualified contractor or contractors to provide Noxious Weed Control Services for the 2022 growing season. Contractors shall be licensed with the Colorado Department of Agriculture as a commercial pesticide applicator, and all personnel applying pesticides through this contract must be licensed by the Colorado Department of Agriculture as a Qualified Supervisor, Certified Operator or Documented Technician to perform work on right-of-way, public open space areas, around public buildings, in public parks and along stream tracts.

**BACKGROUND**

Since 2006, the Town of Vail has aggressively pursued Integrated Weed Management on public lands and rights-of-way. Significant progress has been made towards reducing and eliminating invasive plants listed on the Colorado Noxious Weed List. Cultural, biological, mechanical, and limited chemical control work are employed by town landscape staff. Most chemical control applications have been performed by a private commercial applicator hired by the Town. The applicator has been responsible for effective management of the following areas:

Residential Road Right-of Way:	32 miles	Neighborhood Parks:	6
Frontage Road Right-of-Way:	11 miles	Community Parks:	2
Recreation Trails:	12 miles	Pocket Parks:	6
Open Space Areas	~400 acres	Municipal Facilities:	9

**REQUIRED WORK**

The work required for the 2022 growing season will be split into two project components. Project A will consist of all Right-of-Way work, Project B will consist of open space, parks, recreation trails, stream tracts, and municipal facilities. Contractors may bid on one, or both Projects. It is the town's preference to hire one contractor for both Projects, but it is not a requirement.

All work will be coordinated with the Town of Vail Landscape Architect (TOV staff). Prior to starting work, the selected contractor(s) will meet with TOV staff to develop a work plan for their project. A drive-through of important areas with TOV staff will be required.

The work under this contract will be paid according to the Unit Price Proposal Form submitted by any potential contractor. Contractors will be paid for hours worked and materials used and will be expected to perform the required work within budget. The town has been performing this work for more than a decade and understands the expected budget and time required.

## Project A

### *A. Description*

Project A consists of all work, equipment and materials required to effectively manage noxious weeds along the Frontage road and all residential road Right-of-Ways. It should be anticipated that at least two full treatments will be required over the course of the summer. A third treatment may be added depending on the severity of some infested areas, the species identified and the optimum treatment window.

### *B. Equipment*

For more than a decade, right-of-way work within Vail has been accomplished using “quad” all-terrain vehicles equipped with spraying equipment and visible markings. Herbicides have been applied using hand-wands and weeds are spot-sprayed. ATVs have operated along roadway shoulders, allowing traffic to pass unimpeded.

Other types of equipment may be considered; however, boom spraying is not necessary as there are almost no large, concentrated infestations within right-o-ways. Boom spraying will not be allowed.

### *C. Work Limits*

On most residential roads, the work limits are anywhere within the town-owned right-of-way. This generally extends 10-15' off the edge of pavement. Contractors will be responsible for determining the extents of the right-of-way using up-to-date GIS/GPS products. Contractors are not responsible for elimination of noxious weeds within private landscaping that falls within the right-of-way. Instead, contractors should notify the TOV representative of areas of concern where private landscapes within right-of-way require management.

Along the North and South Frontage Roads, the work limits include the CDOT right-of-way along the “outside” of the Frontage Road (north side of the North Frontage Rd and south side of the South Frontage Rd). The work area also includes the median between the Frontage Roads and Interstate 70. Contractors must operate from the Frontage Roads, not from I-70. The town is not responsible for the median between east and west bound lanes of I-70.

## Project B

### *A. Description*

Project B consists of all work, equipment and materials required to effectively manage all town-owned lands other than right-of-way areas. Not all town-owned lands require management every year. For 2022, the work will likely include spot spraying minor infestations in public parks and open spaces, working significant infestations along the Gore Creek stream tract – both native areas and through the Vail Golf Course, and working a newly acquired open space parcel with a significant infestation. A detailed list of potential areas is included as **Appendix A**.

### *B. Equipment*

Required equipment for Project B will vary by location. Some areas can be accessed by a truck, some by ATV equipped with a tank and calibrated hand-wand sprayer. Some areas will require the use of calibrated backpack sprayers. Even horses mounted with tanks have been used to access steep, open space terrain. The selected contractor shall be prepared to access variable terrain and various landscape types and features.

### *C. Collector App*

The Town of Vail GIS Dept has developed a Collector App that can be accessed on a smartphone, tablet device, or computer. TOV staff enters infestations as they are discovered. The hired Contractor will use that information to help determine a work plan.

## **OTHER REQUIREMENTS**

The selected Contractor(s) shall:

1. Comply with all requirements of Title 35, Article 10: Colorado Pesticide Applicator Act, Sections 35-10-101 to 35-10-128
2. Comply with all Federal, State and Local Rules and Regulations and Laws pertaining to the Work required by an Agreement resulting from this RFP
3. Follow all label requirements for any herbicide used to carry out the Work.
4. Be prepared to engage in conversations with members of the public who have questions regarding the work being performed and to help explain the purpose of the work. At no time will the Contractor argue or engage in a verbal conflict with a member of the public. Instead, the Contractor shall provide the contact information for the Town of Vail project manager if additional questions, or concerns remain.
5. Prior to final payment, the Contractor shall provide to the town the quantities, locations and treatment types for all specific areas treated as part of this program. The cost for record keeping shall be incidental to the work.
6. Notification to Pesticide Sensitive Persons, if required.

## **SCHEDULE AND FEE**

Two or three application windows will be required for the summer of 2022. The windows will coincide with the life cycles of the plants requiring control and should consist of approximately four to five days each. A list of Noxious Weed Species located within the Town of Vail is included as **Appendix B**.

The work will be performed on a seasonal contract basis. The first application should be anticipated during June or as the growing season begins. A mid-summer and fall application should be considered as appropriate. All work and materials will be paid for on a unit price basis as determined by the attached Unit Price Proposal Form. The approximate budget for the work under both contract(s) is up to \$40,000 total. However, as the season progresses, additional funds may be allocated depending on the work required.

## **IMPORTANT NOTES**

1. The Town of Vail does not use any herbicide product containing 2,4-D. Please ensure the herbicides proposed on the Unit Cost Proposal Form do not contain this chemical. The strong odor associated with 2,4-D has caused problems in the past.
2. The Town of Vail Public Works Facility, located at 1309 Elkhorn Drive, will be the staging area for much of the work, if needed. Contractors may park trailers, stage equipment overnight, mix tanks, take breaks, etc. at this area. Water will be available to the Contractor at no charge.

3. The Town will provide “sandwich board” signs to be placed at neighborhood entrances and other strategic areas to inform residents/guests of upcoming spraying work. The Contractor will be required to place and move those signs as needed prior to the work. An hourly rate is included on the Unit Cost Proposal Form for sign placement/movement.
4. There may be additional opportunities for control activities on private properties. Private property owners/managers will be provided the contractors name upon request. All control activities on private property will be contracted separately and outside of the Town’s contract. If a contractor would prefer to NOT do private work, their name will not be shared.

### **SELECTION CRITERIA**

1. In addition to a Commercial Applicator License, Contractors shall hold up to date CDA Categories for Right-of-Way, Ornamental, Rangeland and others as needed to lawfully apply herbicides for their selected Project area.
2. Show a deep understanding of noxious weed species, management techniques, herbicide effectiveness and disadvantages, and experience of working within a populated municipality. Preference may be given to those with experience working within resort communities.
3. Cost of services and materials

### **PROPOSAL REQUIREMENTS**

**Proposals MUST be submitted by Tuesday, April 12, 2022 by 10:00 a.m**

All Proposals shall be submitted in PDF format by email to Gregg Barrie at [gbarrie@vailgov.com](mailto:gbarrie@vailgov.com) prior to the submittal time and day. An email confirming receipt will be sent prior to reviewing proposals. Proposals will be opened and reviewed at the date and time they are due.

1. Unit Cost Proposal Form for Project A, Project B or Both
  - a. If a contractor is only interested in the work associated with one of the projects, only fill out and submit the Proposal Form for that project.
  - b. Fill out the form as you propose to do the work. For instance, if you don’t use a Truck, don’t fill out a cost for Truck.
  - c. Provide recommended herbicides and the cost/unit, usually ounces
2. Include information that describes:
  - a. Previous experience including references and other relevant information on your company, yourself, etc.
  - b. HOW you propose to perform the work. Include equipment types, personnel, suggested timing for the work
3. Copy of Contractor’s Commercial Pesticide Applicator license
4. Proof of insurance - insurance requirements are listed in the attached Sample Agreement

### **TOWN OF VAIL CONTACT INFORMATION**

Town of Vail

Attn: Gregg Barrie  
1309 Elkhorn Drive  
Vail, CO 81657

Office: 970-479-2337  
Cell: 970-390-3286  
Email: [gbarrie@vailgov.com](mailto:gbarrie@vailgov.com)

### **ATTACHMENTS**

1. Unit Price Proposal Form – Project A Right-of-Way
2. Unit Price Proposal Form – Project B Facilities, Parks and Opens Space
3. Appendix A – List of Town-owned Facilities, Parks and Open Space Areas
4. Appendix B –Noxious Weed Species Identified in Vail
5. Appendix C – Sample General Services Agreement and associated Forms

**UNIT COST PROPOSAL FORM  
Noxious Weed Control Services 2022**

**PROJECT A – TOWN OF VAIL RIGHT OF WAY**

**To: Town of Vail**

**From:** \_\_\_\_\_  
(hereinafter Contractor)

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 Proposal Package.

**Identification, Prioritization, Personnel**

- 1. Consulting Time / hr.     \$ \_\_\_\_\_
- 2. Placement of signs / hr   \$ \_\_\_\_\_

**Mechanical Equipment**

- 3. Truck Unit / hr.           \$ \_\_\_\_\_
- 4. ATV Unit / hr.             \$ \_\_\_\_\_
- 5. Backpack Unit / hr.       \$ \_\_\_\_\_

**Herbicides**

- |                             |                  |           |                  |
|-----------------------------|------------------|-----------|------------------|
| 6. _____                    | \$ _____ / _____ | 14. _____ | \$ _____ / _____ |
| 7. _____                    | \$ _____ / _____ | 15. _____ | \$ _____ / _____ |
| 8. _____                    | \$ _____ / _____ | 16. _____ | \$ _____ / _____ |
| 9. _____                    | \$ _____ / _____ | 17. _____ | \$ _____ / _____ |
| 10. _____                   | \$ _____ / _____ | 18. _____ | \$ _____ / _____ |
| 11. _____                   | \$ _____ / _____ | 19. _____ | \$ _____ / _____ |
| 12. _____                   | \$ _____ / _____ | 20. _____ | \$ _____ / _____ |
| 13. _____                   | \$ _____ / _____ | 21. _____ | \$ _____ / _____ |
| 22. Surfactant (Name) _____ | _____ /qt        |           | \$ _____ / _____ |

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**Noxious Weed Control Services 2022**

**PROJECT A – TOWN OF VAIL RIGHT OF WAY (continued)**

Name of Bidder: \_\_\_\_\_

Name of Company: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_, 2022

**UNIT COST PROPOSAL FORM  
Noxious Weed Control Services 2022**

**PROJECT B – TOWN OF VAIL FACILITIES, PARKS and OPEN SPACE**

To: Town of Vail

From: \_\_\_\_\_  
(hereinafter Contractor)

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 Proposal Package.

**Identification, Prioritization, Personnel**

- 1. Consulting Time / hr.     \$ \_\_\_\_\_
- 2. Placement of signs / hr   \$ \_\_\_\_\_

**Mechanical Equipment**

- 3. Truck Unit / hr.           \$ \_\_\_\_\_
- 4. ATV Unit / hr.             \$ \_\_\_\_\_
- 5. Backpack Unit / hr.       \$ \_\_\_\_\_

**Herbicides**

- |           |                  |           |                  |
|-----------|------------------|-----------|------------------|
| 6. _____  | \$ _____ / _____ | 14. _____ | \$ _____ / _____ |
| 7. _____  | \$ _____ / _____ | 15. _____ | \$ _____ / _____ |
| 8. _____  | \$ _____ / _____ | 16. _____ | \$ _____ / _____ |
| 9. _____  | \$ _____ / _____ | 17. _____ | \$ _____ / _____ |
| 10. _____ | \$ _____ / _____ | 18. _____ | \$ _____ / _____ |
| 11. _____ | \$ _____ / _____ | 19. _____ | \$ _____ / _____ |
| 12. _____ | \$ _____ / _____ | 20. _____ | \$ _____ / _____ |
| 13. _____ | \$ _____ / _____ | 21. _____ | \$ _____ / _____ |
22. Surfactant (Name) \_\_\_\_\_ /qt   \$ \_\_\_\_\_ / \_\_\_\_\_
23. Surfactant (Name) \_\_\_\_\_ /qt   \$ \_\_\_\_\_ / \_\_\_\_\_

(continued on the following page)

**Noxious Weed Control Services 2022**

**PROJECT B – TOWN OF VAIL FACILITIES, PARKS and OPEN SPACE**  
**(continued)**

Name of Bidder: \_\_\_\_\_

Name of Company: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_, 2022



## APPENDIX A

### Town-owned Facilities, Parks and Open Space Areas

Town-owned parcels in the Town of Vail can be viewed via the town's GIS mapping website, available at [maps.vailgov.com](https://maps.vailgov.com) (do not enter [www](http://www)). Click on "*General Property and Zoning*" and use the layer list on the right to check "Parcels" and "Town Owned Properties". All town properties will show in orange.

Not all properties will require treatments every year. Contractors shall work with TOV staff to develop a plan managing the highest priority properties.

#### Municipal Facilities

1. Vail Municipal Complex	75 South Frontage Road West
2. Fire Station 1 (East Vail)	4116 Columbine Drive
3. Fire Station 2 (Vail Village)	42 West Meadow Drive
4. Fire Station 3 (West Vail)	2399 Arosa Drive
5. Public Works Facility	1309 Elkhorn Drive
6. Vail Public Library/Dobson Ice Arena	292 West Meadow Drive
7. Village Parking Structure	241 South Frontage Rd East
8. Lionshead Parking Structure	395 South Frontage Rd West

#### Parks and Plaza Areas

1. Bighorn Park	4825 Meadow Drive (East Vail)
2. Booth Creek Park	2900 Manns Ranch Rd
3. Ford Park	580 South Frontage Rd East
4. Chalet Road Pickleball Courts	461 Vail Valley Drive
5. Roger Staub Park	361 Gore Creek Drive
6. Ted Kindel Park	300 Gore Creek Drive
7. Pirateship Park	East of Gondola One/Mountain Plaza
8. Covered Bridge Pocket Park	East/west of Covered Bridge - south bank
9. Pedestrian Overpass (both ends)	591 N. Frontage Rd W/600 S. Frontage Rd W
10. Red Sandstone Park	725 North Frontage Rd West
11. Donovan Park	1600 South Frontage Rd West
12. Buffehr Creek Park	1953 North Frontage Rd West
13. Ellefson Park	2485 Garmisch Drive
14. Stephens Park	2470 South Frontage Rd West

#### Open Space Areas (not inclusive)

1. Katsos Open Space	184 acres	East Vail Interchange to Sunburst Dr
2. Beutel Parcel	45 acres	off Willow Way (only about 2 acres treatment req'd)
3. Waterfall Cons. Easmt.	5 acres	3886 & 3896 Lupine Dr
4. East Vail Berms	13 acres	2800 Bald Mountain Rd
5. Ptarmigan Cons. Easmt.	4 acres	1050 Ptarmigan Rd
6. West PW shops	31 acres	1309 Elkhorn Dr to Spraddle Creek
7. Middle Creek Trailhead	27 acres	150 Spraddle Creek Rd
8. Spraddle to RSES	17 acres	Spraddle Ck to Red Sandstone School
9. Red Sandstone parcel	18 acres	Red Sandstone School to Red Sandstone Road
10. Lionshead Streamtract	6 acres	South side of Gore Creek, east of Lionshead
11. Lionsridge parcel	41 acres	1301 Lions Ridge Loop
12. Donovan Pk Benches	41 acres	1563 Matterhorn Cir (Middle and Upper Benches)
13. Ptarmigan Cons. Easmt.	3 acres	South of Stephens Park
14. The Town of Vail owns approximately 6.6 miles of Stream Tract along Gore Creek between the East Vail Interchange and Donovan Park, as well as along many tributaries. This includes the Vail Golf Course.		

APPENDIX B

**Noxious Weed Species Identified in Vail**

Common Name	Scientific Name	Severity
<b>A LIST SPECIES</b>		
*Myrtle Spurge	* <i>Euphorbia myrsinites</i>	Several hot spots
<b>B LIST SPECIES</b>		
*Leafy Spurge	* <i>Euphorbia esula</i>	Several hot spots
Canada Thistle	<i>Cirsium arvense</i>	Widespread - significant
Musk Thistle	<i>Carduus nutans</i>	Widespread - medium
Plumeless Thistle	<i>Carduus acanthoides</i>	Widespread - medium
Scotch Thistle	<i>Onopordum acanthium</i>	Occasional
Houndstongue	<i>Cynoglossum officinale</i>	Widespread - medium
Yellow Toadflax	<i>Linaria vulgaris</i>	Widespread - medium
Dalmatian Toadflax	<i>Linaria dalmatica</i>	Occasional
Common Tansy	<i>Tanacetum vulgare</i>	Several hot spots
Oxeye Daisy	<i>Chrysanthemum leucanthemum</i>	Widespread
Scentless Chamomile	<i>Matricaria perforata</i>	Widespread - medium
*Russian Knapweed	* <i>Acroptilon repens</i>	Rare
*Diffuse Knapweed	* <i>Centaurea diffusa</i>	Rare
*Spotted Knapweed	* <i>Centaurea stoebe</i>	Occasional
*Hoary Cress/ Whitetop	* <i>Cardaria draba</i>	Occasional but growing
Absinth Wormwood	<i>Artemisia absinthium</i>	Occasional
Dame's Rocket	<i>Hesperis matronalis</i>	Occasional
Sulfur Cinquefoil	<i>Potentilla recta</i>	Occasional
<b>C LIST SPECIES</b>		
Common Mullein	<i>Verbascum thapsus</i>	Widespread - medium
*Poison Hemlock	<i>Conium maculatum</i>	Several hot spots

\* Indicates a priority species for Vail due to current small populations. The goal for these species is eradication in the Town of Vail.

APPENDIX C

**AGREEMENT FOR SERVICES**

THIS AGREEMENT FOR SERVICES (the "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022 (the "Effective Date"), by and between the Town of Vail, a Colorado home rule municipal corporation with an address of 75 South Frontage Road, Vail, CO 81657, (the "Town"), and \_\_\_\_\_, an independent contractor with an address of \_\_\_\_\_, ("Contractor") (each a "Party" and collectively the "Parties").

WHEREAS, the Town requires services; and

WHEREAS, Contractor has held itself out to the Town as having the requisite expertise and experience to perform the required 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 Scope of Services set forth in **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 meruit 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 30 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**

In consideration for the completion of the Scope of Services by Contractor, the Town shall pay Contractor \$ \_\_\_\_\_. This 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.

#### **IV. 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 licenses in good standing, required by law. The work performed by Contractor shall be in accordance with generally accepted practices and the level of competency presently maintained by other practicing contractors 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.

B. 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.

C. Contractor shall at all times comply with all applicable law, including without limitation all current and future federal, state and local statutes, regulations, ordinances and rules relating to: the emission, discharge, release or threatened release of a Hazardous Material into the air, surface water, groundwater or land; the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a Hazardous Material; and the protection of human health, safety or the indoor or outdoor environmental, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.* ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*; the Clean Water Act, 33 U.S.C. § 1251, *et seq.*; the Clean Air Act; the Federal Water Pollution Control Act; the Occupational Safety and Health Act; all applicable environmental statutes of the State of Colorado; and all other federal, state or local statutes, laws, ordinances, resolutions, codes, rules, regulations, orders or decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, in effect now or anytime hereafter.

#### **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; provided that Contractor shall have no liability for any work that has been modified by the Town.

## **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 \$1,000,000 each occurrence and \$2,000,000 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.

B. 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 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.

C. 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. WORKERS WITHOUT AUTHORIZATION**

A. *Certification.* Contractor hereby certifies that, as of the Effective Date, it does not knowingly employ or contract with a worker without authorization who will perform work under this Agreement and that Contractor will participate in either the E-Verify Program administered by the U.S. 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 a worker without authorization 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 a worker without authorization 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 a worker without authorization who is performing work under this Agreement, Contractor shall: notify the subcontractor and the Town within 3 days that Contractor has actual knowledge that the subcontractor is employing or contracting with a worker without authorization who is performing work under this Agreement; and terminate the subcontract with the subcontractor if within 3 days of receiving the notice required pursuant to subsection 1 hereof, the subcontractor does not stop employing or contracting with the worker without authorization who is performing work under this Agreement; except that Contractor shall not terminate the subcontract if during such 3 days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization 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 U.S. 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 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.

L. *Force Majeure.* No Party shall be in breach of this Agreement if such Party's failure to perform any of the duties under this Agreement is due to Force Majeure, which shall be defined as the inability to undertake or perform any of the duties under this Agreement due to acts of God, floods, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, the authority and orders of government or pandemics.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**TOWN OF VAIL, COLORADO**

\_\_\_\_\_  
Scott Robson, Town Manager

ATTEST:

\_\_\_\_\_  
Tammy Nagel, Town Clerk

**CONTRACTOR**

By: \_\_\_\_\_

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was subscribed, sworn to and acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

My commission expires:

(SEAL)

\_\_\_\_\_  
Notary Public



**NO EMPLOYEE AFFIDAVIT**

***[To be completed only if Contractor has no employees]***

**1. Check and complete one:**

I, \_\_\_\_\_, am a sole proprietor doing business as \_\_\_\_\_ . I do not currently employ any individuals. Should I employ any employees during the term of my Agreement with the Town of Vail (the "Town"), I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

OR

I, \_\_\_\_\_, am the sole owner/member/shareholder of \_\_\_\_\_, a \_\_\_\_\_ [specify type of entity – *i.e.*, corporation, limited liability company], that does not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the Town, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

**2. Check one.**

I am a United States citizen or legal permanent resident.

*The Town must verify this statement by reviewing one of the following items:*

- *A valid Colorado driver's license or a Colorado identification card;*
- *A United States military card or a military dependent's identification card;*
- *A United States Coast Guard Merchant Mariner card;*
- *A Native American tribal document;*
- *In the case of a resident of another state, the driver's license or state-issued identification card from the state of residence, if that state requires the applicant to prove lawful presence prior to the issuance of the identification card; or*
- *Any other documents or combination of documents listed in the Town's "Acceptable Documents for Lawful Presence Verification" chart that prove both Contractor's citizenship/lawful presence and identity.*

OR

I am otherwise lawfully present in the United States pursuant to federal law.

*Contractor must verify this statement through the federal Systematic Alien Verification of Entitlement ("SAVE") program and provide such verification to the Town.*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**DEPARTMENT PROGRAM AFFIDAVIT**

***[To be completed only if Contractor 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 ("Agreement") with the Town within 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 Agreement; and

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

STATE OF COLORADO )

) ss.

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was subscribed, sworn to and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

My commission expires:

(S E A L)

\_\_\_\_\_  
Notary Public