

SERVICE AGREEMENT FOR ELECTRICAL INSPECTIONS

THIS SERVICE AGREEMENT FOR ELECTRICAL INSPECTIONS (the “Agreement”) is made and entered into as of date written below, by and between the TOWN OF GYPSUM (the “Gypsum”) and the TOWN OF VAIL (the “Vail”).

A. WHEREAS, Vail is a home-rule municipal corporation duly organized and existing under Articles XX of the Colorado Constitution and Vail’s Home Rule Charter; and

B. WHEREAS, Gypsum is a home rule municipality duly organized and existing under Articles XX of the Colorado Constitution and Gypsum’s Home Rule Charter effective October 21, 1982; and

C. WHEREAS, Vail has adopted the 2018 International Building Code (the “Building Code”) and the 2017 National Electric Code (“Electric Code”); and

D. WHEREAS, pursuant to Section 31-15-601, C.R.S., and their respective municipal codes, Gypsum and Vail each have the power to issue and withhold building permits, and provide plan review, inspections, and permitting for electrical systems within their respective jurisdictions (“Electrical Review Services”); and

E. WHEREAS, pursuant to Section 29-1-203, C.R.S., the parties are authorized to enter into intergovernmental agreements for the provision of services of mutual benefit; and

F. WHEREAS, Vail and Gypsum could enjoy operational and financial efficiencies if Gypsum’s building inspectors performed electrical inspections within Vail when Vail’s building inspectors are on vacation (the “Electrical Inspection Vacation Coverage”), as further provided herein; and

G. WHEREAS, the Town Councils of Gypsum and Vail have found and determined that it is in the best interest of the public that each serves to enter into this Agreement to provide for the provision of Electrical Inspection Vacation Coverage within Vail.

NOW, THEREFORE, in consideration of the terms and conditions of this Agreement, the receipt and sufficiency of which is mutually acknowledged, Gypsum and Vail agree as follows:

1. Purpose. The purpose of this Agreement is to set forth the responsibilities of Gypsum and Vail as regards the provision of Electrical Inspection Vacation Coverage within Vail.

2. Term. The term of this Agreement shall begin immediately upon execution and shall continue through December 31, 2019, and shall be automatically renewed for up to five (5) additional one-year terms unless terminated by written notice, such notice given not less than thirty (30) days prior to the end of the year, unless otherwise agreed to by the parties. In addition, either party may terminate this Agreement with or without cause at any time by giving the other party written notice of such termination not less than thirty (30) days prior to such termination date.

3. Electrical Inspection Vacation Coverage. By written notice provided at least 10 business days in advance, Vail may request that Gypsum's building inspectors provide substitute coverage for Vail's electrical inspectors who are on vacation, and Gypsum, at its sole option based on Gypsum's own workload, will make its building inspectors available to Vail during this period. Electrical Inspection Vacation Coverage will include electrical inspections only.

4. Building Inspectors Credentials. Gypsum's building inspectors who provide the Electrical Inspection Vacation Coverage shall at all times have and maintain all licenses, certificates, credentials and education as are required under the laws of the State of Colorado and the Building Code to perform the Electrical Review Services.

5. Compensation and Reimbursement. Gypsum will be compensated for the Electrical Inspection Vacation Coverage as follows:

(a) Vail will pay Gypsum \$85 per hour for all inspections of electrical systems, with a minimum of one-hour charge for each inspection, plus an \$85 trip charge for drive time to and from Vail for each inspection.

Gypsum will provide invoices to Vail monthly, by the first week of the following month and Vail will pay the invoices within 30 days of receipt.

6. Independent Contractors. In performing any acts or duties contained in this Agreement, the Gypsum building inspectors will remain employees of Gypsum for all purposes, including but not limited to, all employment-related laws and regulations including payment of Worker's Compensation and compliance with the Federal Fair Labor Standards Act, and shall not be considered an employee of Vail. It is expressly acknowledged and understood by the parties hereto that nothing contained in this Agreement shall result in, or be construed as, establishing an employment relationship. Gypsum's building inspectors shall perform as independent contractors. No agent, subcontractor, employee, or Gypsum shall be, or deemed to be, the employee, agent or servant of Vail. Gypsum's building inspectors shall not represent, act, purport to act or be deemed the agent, representative, employee or servant of Vail.

7. Indemnification. To the maximum extent allowed by law and without either party waiving the protections and limitations of the Colorado Governmental Immunity

Act, the parties agree to indemnify, defend and hold harmless each other, their respective agents, officers, servants, volunteers and employees of and from any and all losses, costs, damages, injuries, liability, claims, liens, demands, actions and causes of action whatsoever, arising out of or related to their own intentional or negligent acts, errors or omissions, or those of their agents, officers, servants and employees, whether contractual or otherwise, related to performance or lack of performance of this Agreement. This indemnity provision specifically includes all general building inspection services performed by, or on behalf of, either party.

8. Insurance. Each party shall provide its own public liability and property damage insurance coverage as it may deem necessary for any potential liability arising from this provision of this Agreement.

9. Assignment. This Agreement shall not be assigned or amended by either party, unless in writing executed by both parties.

10. Entire Agreement. This Agreement represents the full understanding of Gypsum and Vail and supersedes all prior understandings, agreements and discussion of Gypsum and Vail regarding the subject matter.

11. Annual Appropriation. Any obligation of either party under this Agreement that is dependent upon the expenditure of funds by such party shall be conditioned upon the annual appropriation of funds by such party's governing body in its sole discretion.

12. Miscellaneous.

(a) This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. Venue for any legal action shall be in Eagle County District Court.

(b) All notices, requests, demands, consents and other communications hereunder shall be transmitted in writing and shall be deemed to have been duly given when hand-delivered or sent by certified, United States mail, postage prepaid, with return receipt requested, addressed to the parties as follows:

Town of Gypsum
Attn: Building Inspector
50 Lundgren Boulevard
PO Box 130
Gypsum, CO 81637

Town of Vail
Attn: Building Official

75 S Frontage Road W
Vail, CO 81657

(c) Nothing herein expressed or implied is intended or should be construed to confer or give to any person or corporation or governmental entity other than Vail and Gypsum, any right, remedy or claim under or by reason hereof or by reason of any covenant or condition herein contained, nor limit in any way the powers and responsibilities of Gypsum, Vail, or any other entity not a party hereto.

(d) If any portion of this Agreement is held invalid or unenforceable for any reason by a court of competent jurisdiction as to either party or as to both parties, such portion shall be deemed severable and its invalidity or its unenforceability shall not affect the remaining provisions; such remaining provisions shall be fully severable and this Agreement shall be construed and enforced as if such invalid provisions had never been inserted into this Agreement.

(e) This Agreement may be amended from time to time by a written agreement duly authorized and executed by all the parties to this Agreement.

(f) This Agreement represents the full and complete understanding of the parties, and supersedes any prior agreements, discussions, negotiations, representations or understandings of the parties with respect to the subject matter contained herein.

[Signature page follows]

EXECUTED as of the _____ day of June, 2019.

GYPSUM OF GYPSUM

By: _____
Steve Carver, Mayor

Attest:

Danette Schlegel, Town Clerk

TOWN OF VAIL

By: _____
Patty McKenny, Town Manager

Attest:

Tammy Nagel, Town Clerk