

ALPENSEE WATER DISTRICT
Resolution Approving Independent Contractor Agreement

WHEREAS, Alpensee Water District (the "District") desires to engage the services of a District Manager to handle the day to day operations of the District and to perform the duties of Operator in Responsible Charge in accordance with the terms and conditions of that certain Independent Contractor Agreement attached hereto (the "Agreement"); and

WHEREAS, Lori Cutunilli is specially trained and possesses certain skills, experience, education and competency to perform those services as set forth in the Agreement, and Lori Cutunilli is able and willing to provide such services as an independent contractor under the terms and conditions of the Agreement; and

WHEREAS, the Board desires to approve entry into the Agreement.

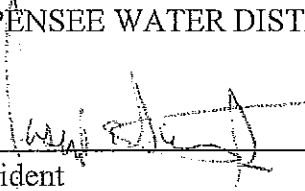
BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ALPENSEE WATER DISTRICT, SUMMIT COUNTY, COLORADO THAT:

1. The Board has the authority to adopt this Resolution and enter into the Agreement pursuant to Section 32-1-1001(1)(d)(I), C.R.S.
2. The Board hereby approves entry into the Independent Contractor Agreement with Lori Cutunilli and authorizes the President and Secretary of the District to execute the same on behalf of the District.

Effective Date. This Resolution shall be effective immediately.

RESOLVED THIS 31st DAY OF MAY, 2001.

ALPENSEE WATER DISTRICT



President

ATTEST:



Secretary

INDEPENDENT CONTRACTOR AGREEMENT

This Agreement is entered into this 31st day of May, 2001, by and between **Alpensee Water District**, a quasi-municipal corporation and political subdivision of the State of Colorado (herein after referred to as "AWD"), and **Lori A. Cutunilli**, an individual (hereinafter referred to as "Manager").

WITNESSETH:

WHEREAS, AWD desires to engage the services of Manager in accordance with the terms and conditions of this Agreement; and

WHEREAS, Manager is specially trained and possesses certain skills, experience, education and competency to perform those services as hereinafter set forth, and Manager is able and willing to provide such services under the terms and conditions of this Agreement; and

WHEREAS, Manager was formerly a member of the Board of Directors of the District, but held no director, employment or officer position on the Board or with the District at the time of entry into this Agreement. All potential conflicts of interest that may be involved in the entry into this Agreement have been disclosed by the members of the Board as provided in § 24-18-110, C.R.S.

NOW, THEREFORE, in consideration of the compensation to be paid hereunder and the mutual agreements hereafter set forth, the parties agree as follows:

1. Performance of Services. AWD does hereby engage Manager as an independent contractor to perform and provide the services set forth in this Agreement in accordance with the terms and conditions hereof. Manager shall provide at its sole cost and expense all personnel required to perform its services under and pursuant to this Agreement.

2. Scope of Services. Manager shall perform the functions of district manager including the collection of all district fees and charges, including monthly water usage billing; ensuring compliance with the District's rules and regulations; performing the duties of Operator in Responsible Charge (as defined by Colorado Water Quality Control Division); and such other duties as may be mutually agreed upon by the parties during the term of this Agreement. Manager shall perform all services in accordance with applicable laws and regulations and in accordance with the highest standards of ethical and business behavior.

3. Term. The term of this Agreement shall commence on June 1, 2001 and continue in effect through December 31, 2001 and shall automatically renew for successive one year periods, unless terminated by either party in accordance with the terms of this Agreement.

[~~chose one~~]

4. Compensation. For the services specified herein, Manager shall be compensated at the rate of ONE THOUSAND TWO Dollars (\$ 200.00) per month.

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4. Compensation. For the services specified herein, Manager shall be compensated at the rate of _____ Dollars (\$ _____) per hour.

4. Compensation. As compensation for the services to be performed by Manager hereunder, AWD will pay Manager:

- a. for start up services, an amount not to exceed \$ _____ for work to be done on or before December 31, 2001.
- b. for the ongoing services of district administration and performing the duties of operator in responsible charge, an amount not to exceed \$ _____ per month, for work to be during the remainder of the contract term.

5. Documentation. Manager shall submit time sheets to AWD on the 15th and last day of each month detailing the status of projects completed and the status of ongoing tasks.

6. Status as an Independent Contractor. Manager, for all purposes arising out of this Agreement, is an independent contractor. Manager shall maintain his/her own tax records, shall pay all income and other taxes as and when due, and shall indemnify and hold AWD harmless for any liability or expense arising from Manager's failure to pay any such taxes. Manager is not an agent for AWD and cannot enter into contractual or other legal obligations on behalf of AWD. Manager shall be solely responsible for, and AWD shall exercise no control over, the manner and means in which Manager performs his/her duties.

Manager and AWD agree that Manager shall have a fiduciary duty to AWD in the performance of this Agreement. This fiduciary duty accepted by Manager shall include, but not be limited to, the highest duties of good faith, fair dealing, disclosure of all information to AWD, confidentiality on behalf of AWD, avoidance of conflicts of interest, and avoidance of the appearance of conflicts of interest in carrying out the goals and objectives of AWD under this Agreement.

7. Confidentiality. Manager recognizes and acknowledges that he/she will have access to certain confidential information of AWD. Manager will not, during or after the term of this Agreement, disclose such information to any other person, firm, corporation, association or entity for any reason or purpose, except as may be ordered by a court or government agency or as may be otherwise required by law or by this Agreement, without the prior written approval of the Board of Directors of AWD.

8. Ownership of Material. All reports, information, data, statistics, forms, designs, plans, procedures, systems, studies and any other materials or properties produced under this Agreement shall be the sole and exclusive property of AWD. All such materials shall be returned to the possession of AWD at the termination date of this Agreement.

9. Termination. Either party may, at any time, terminate this Agreement, with or without cause, by giving written notice of such termination to the other party at least sixty (60) days prior to the date on which the termination is to be effective. Such date shall be specified in the notice.

10. Notice. Any notice required or permitted to be given under this Agreement shall be effective upon receipt and may be personally served on the other party by the party giving such notice, or may be served by certified mail, postage prepaid, return receipt requested, to the following addresses:

To AWD: Alpensee Water District
 P.O. Box 2044
 Frisco, CO 80443
 Attn: District Manager

With a copy to: Grimshaw & Harring, P.C.
 1700 Lincoln Street, Suite 3800
 Denver, Colorado 80203-4538
 Attn: Norman F. Kron, Esq.

To Manager: Ms. Lori Cutunilli
 P.O. Box 1653
 Frisco, CO 80443

11. Insurance. Manager agrees to maintain such insurance as will fully protect Manager and AWD from any and all claims under the Workers' Compensation laws of the State of Colorado and similar laws relating to employer's liability; and from any and all other claims of whatsoever kind or nature for the damage to property or for personal or bodily injury, made by anyone whomsoever which may be caused by negligent acts, errors and omissions, in whole or in part, arising out of the services of Manager hereunder.

12. Indemnification. Manager hereby agrees to defend, indemnify and hold harmless AWD and its officers, directors, employees, agents, contractors, and servants from any and all claims and liabilities of any type or nature whatsoever arising out of any act, omission or negligence by Manger which may now or hereafter arise out of or result from or in any way be related to providing services pursuant to this Agreement.

13. Standard of Performance. Manager shall be responsible for performing to the level of competency presently maintained by other practicing professionals in the same type of work for the professional and technical soundness, accuracy and adequacy of all tasks designated under this Agreement and set forth by the Colorado Water Quality Control Commission for Operators in Responsible Charge. This provision is not intended to reduce any standard otherwise imposed by law.

14. Awareness of Laws. Manager agrees at all times to comply with ordinances, laws, orders, decrees, rules and regulations which are relevant to the Manager's work and services to be performed hereunder.

15. No Multiple Year Obligation. This Agreement shall not be deemed or construed to create a debt or multiple fiscal year obligation whatsoever of AWD. AWD shall have no obligation whatsoever to budget or appropriate funds for the performance of this Agreement for any future fiscal year.

16. Applicable Law. This Agreement shall be governed in all respects by the laws of the State of Colorado. In the event any dispute arising out of this Agreement, the parties consent to the jurisdiction of any court of competent jurisdiction in the County of Summit, State of Colorado, and they submit to the jurisdiction of such court regardless of their residence or where this Agreement is executed.

17. Entire Agreement. This Agreement constitutes the entire agreement between the parties covering this subject matter. No modifications or amendment shall be valid unless in writing and signed by both parties to this Agreement.

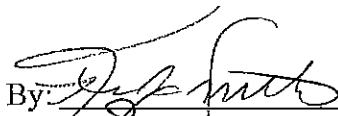
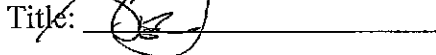
18. Assignment. Neither party may assign this Agreement without the prior written consent of the other party. This Agreement is binding upon and shall inure to the benefit of both parties hereto and their permitted successors and assigns.

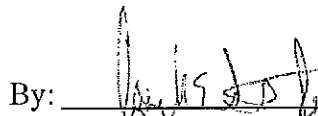
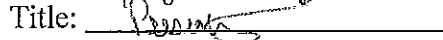
19. Specific Provisions. If any provision of this Agreement is held to be invalid, illegal, or unenforceable, then such provision shall be enforced or severed to the extent possible without affecting the remainder of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first above written.

ALPENSEE WATER DISTRICT

Attest:

By: 
Title: 

By: 
Title: 

LORI CUTUNILLI

By: 