

## AGREEMENT TO PROVIDE LEGAL SERVICES

This Agreement is made and entered into by Canyon County ("County"), a duly formed and existing county pursuant to the laws and constitution of the state of Idaho, and William D. Shepherd, PA. ("Contractor"), a Florida corporation with an address of 244 SW 27<sup>th</sup> Ter, Delray Beach, Florida 33445-4466, for legal services. The County's Board of County Commissioners ("Board") possesses the authority pursuant to Idaho Code §§ 31-801, 31-813, and 31-828 to enter this Agreement. The Board and the Canyon County Assessor ("Assessor") has consulted with the Canyon County Prosecuting Attorney ("Prosecutor"), who agrees with the need for this Agreement and has approved this Agreement. The services contracted for in this Agreement are professional services, and as such, are exempt from formal procurement requirements pursuant to Idaho Code § 67-2803(4). The parties agree as follows.

1. **Scope of work.** The Contractor agrees to represent the Assessor as co-counsel with the Prosecutor in the following matter:

CF Hippolyta Nampa, LLC/Amazon.com Services LLC (2023 values). Caption: CF Hippolyta Nampa, LLC (through its tenant, Amazon.com Services, LLC), Petitioner, v. Canyon County, Respondent. Case No.: CV14-24-05249.

The Prosecutor agrees to assist the Contractor to ensure that the pleadings prepared by the Contractor comply with applicable court rules and all civil procedure and court deadlines are met. The Contractor agrees to wait to perform any work on any given case until it receives written confirmation from the Prosecutor to commence work on that specific case.

2. **Compensation.**

a. **Rates.** The County shall compensate the Contractor for services provided, which include hourly fees of both attorneys and support staff. Attorney's hourly fee is \$250. Time spent riding on an airplane to and from Canyon County is also charged at the hourly rate. Payments shall be remitted by check to Brian Stender at [brian.stender@canyoncounty.id.gov](mailto:brian.stender@canyoncounty.id.gov).

b. **Invoices.** The Contractor will invoice the County on a monthly basis. Invoices are to be sent directly to both the Canyon County Assessor Brian Stender, and the Canyon County Prosecutor's Office by email to both [brian.stender@canyoncounty.id.gov](mailto:brian.stender@canyoncounty.id.gov) and [pacivilmail@canyoncounty.id.gov](mailto:pacivilmail@canyoncounty.id.gov). The Contractor understands that the invoices must go to the Board for approval. The County agrees to pay the Contractor's invoices within 45 days of receipt of the statement. The Contractor may apply a late payment charge of 1.5 percent per month (or the maximum rate permitted by law, whichever is less) on any amount more than 45 days past due. If the County disputes any charge, the County agrees to promptly advise Contractor in writing and pay any undisputed sums when due. If the account on this engagement is more than 45 days past due, the Contractor reserves the right to, without liability, suspend all work.

c. **Itemization.** The Contractor's invoices shall include records showing time records and applicable hourly rates showing the Contractor's work on the County's behalf. The Contractor's bills will include all reasonable case-related expenses (e.g., travel, lodging, per diem,

delivery/courier services, postage, document copying). The Contractor will provide an itemized statement of such expenses and copies of the original invoice or other documentation on itemized expenses.

d. Initial paperwork. To obtain payment pursuant to this Agreement, the Contractor must provide a filled-out W-9 form, proof of the Contractor's current and valid licenses needed to provide the services, and proof of insurance to the County prior to commencing work. If the Contractor intends to use any subcontractors, then the Contractor must provide this same information to the County for each of the subcontractors as well.

e. Sales tax. The County is exempt from sales tax pursuant to Idaho Code § 63-3622O(f).

### 3. **Termination.**

a. *By County.* The Board or the Assessor may terminate this Agreement at any time for any or no reason upon seven (7) calendar days' written notice. Upon such termination, the County may pursue any and all legal, equitable and other remedies available to the County.

b. *By Contractor.* The Contractor may terminate this Agreement at any time for any or no reason upon thirty (30) days' written notice.

c. *Immediate termination.* Notwithstanding any other provision in this Agreement, the County may terminate this Agreement immediately if the Contractor becomes insolvent or bankrupt, or if a receiver or other liquidating officer is appointed for substantially all of the business of the Contractor, or if the Contractor makes an assignment for the benefit of creditors.

d. *Mutual termination.* The parties may terminate this Agreement at any time, in whole or in part, by a mutual written agreement executed by both parties.

e. *Notice.* Notice under this Agreement shall be effective when sent. If mailed, notice shall be deemed effective forty-eight (48) hours after mailing registered or certified mail, postage prepaid.

f. *Compensation in event of termination.* In the event of termination prior to completion of the litigation listed in this Agreement, the Contractor shall be entitled to be paid for services satisfactorily rendered to the date of such termination. In no event shall the Contractor be entitled to recover anticipated profits or consequential damages from the County on account of any termination of this Agreement.

4. **Ownership of documents.** Upon payment to the Contractor in accordance with Section 3 of this Agreement, any work product generated by the Contractor during the course of this Agreement, whether completed or terminated as contemplated herein, shall belong to the County and be provided to the County within three business days of the County's written request. In the event that this Agreement is terminated prior to the Contractor's completion of the work product, the County agrees that the work product may not be suitable for use unless completed by the

Contractor for the specific purpose intended, and the County shall assume the liability and risk associated with the use of incomplete work product.

5. **Indemnification.** In the event the County is alleged to be liable solely as a result of wrongful acts, omissions, negligence, or failure to comply with the law, or all four (4), of the Contractor, its employees, subcontractors, and agents, the Contractor shall indemnify, defend, and hold the County, its elected officials, officers, agents, employees, representatives, externs, interns, and volunteers harmless from and against all liability, claims, loss, costs, and expenses arising out of, or resulting from, the actions of the Contractor. This duty shall extend only to the extent there are no allegations of wrongful acts, omissions or negligence of the County and/or its elected officials, officers, agents, employees, representatives, externs, interns, and volunteers

6. **Insurance.** Without limiting the County's right to indemnification, the Contractor shall secure and provide to the County, and receive approval of such by the County, prior to commencing any activities under this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:

- a. **General liability.** Contractor shall obtain and keep in force during its acts under this agreement a comprehensive general liability insurance policy in the minimum amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, which shall name and protect Contractor, all Contractor's employees, subcontractors, County, and its officers, agents and employees, from and against any and all claims, losses, actions, and judgments for damages or injury to persons or property arising out of or in connection with Contractor's acts. Contractor's insurer must have an A.M. Best Rating of not less than "A."
- b. **Worker's compensation.** Contractor shall maintain in full force and effect worker's compensation for Contractor and any agents, employees, subcontractors, volunteers, and provide proof to COUNTY of such coverage or that such worker's compensation insurance is not required under the circumstances.

7. **Insurance policy terms.** The aforementioned commercial general liability insurance, business auto liability insurance, and professional liability insurance policies of the Contractor shall contain, or be endorsed to contain, the following provisions:

- a. The County, its officers, officials, employees, and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Contractor's products, services, and completed operations of the Contractor; premises owned, leased or used by the Contractor; and automobiles owned, leased, hired, or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of the protection afforded to the County, its officers, officials, employees or volunteers. For the commercial general liability insurance policy, the aggregate shall be on a per-project basis.

- b. This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after 30 days prior written notice has been given to the County.

c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.

d. Any insurance maintained by the County shall apply in excess of and not contribute with insurance provided by the Contractor's policies.

8. **Administration.** Each of the parties has designated the following individuals to be its administrator or point-of-contact for the purpose of this Agreement:

Contractor

Administrator name: William D. Shepherd Esq.  
Administrator email: wds@wshepherdlaw.com  
Administrator phone: (813) 309-8125  
Administrator address: 244 SW 27<sup>th</sup> Ter, Delray Beach, Florida 33445-4466

Assessor

Administrator name: Mike Cowan  
Administrator email: mike.cowan@canyoncounty.id.gov  
Administrator phone: (208) 454-6628  
Administrator address: 111 North 11th Avenue, Ste. 250, Caldwell, Idaho 83605

Prosecutor

Administrator name: Laura Keys  
Administrator email: laura.keys@canyoncounty.id.gov  
Administrator phone: (208) 454-7396  
Administrator address: 1115 Albany Street, Caldwell, Idaho 83605

Communications to coordinate efforts between the parties with regard to this Agreement shall be made between these individuals or their designee. A party must provide written notice to the other party to change the point-of-contact and contact information within two (2) business days of changing the point-of-contact.

9. **Right of control.** The County agrees that it will have no right to control or direct the details, manner, or means by which the Contractor accomplishes the results of the services performed hereunder. The Contractor has no obligation to work any particular hours or days or any particular number of hours or days other than otherwise set forth in this Agreement. The Contractor must not let its other contracts or services interfere with the performance of its services under this Agreement.

10. **Independent contractor.**

a. The Contractor is an independent contractor and is not an employee, servant, agent, partner, or joint venturer of the County. The County shall determine the work to be done by the Contractor, but the Contractor shall determine the legal means by which it accomplishes the work specified by the County.

b. Neither federal, state or local income taxes, nor payroll taxes of any kind shall be withheld and paid by the County on behalf of the Contractor or the employees of the Contractor. The Contractor shall not be treated as an employee with respect to the services performed hereunder for federal or state tax purposes. The Contractor understands that the Contractor is responsible to pay, according to law, the Contractor's income tax. The Contractor further understands that the Contractor may be liable for self-employment (Social Security) tax to be paid by the Contractor according to law.

c. Because the Contractor is engaged in its own independently established business, the Contractor is not eligible for, and shall not participate in, any employee pension, health, or other fringe benefit plans of the County.

11. **Representations.** The Contractor represents as follows:

a. Neither it nor any of its principals are related to a county commissioner or other Canyon County official by blood or marriage within the second degree of kindred.

b. The Contractor agrees to comply with all federal, state, city, and local laws, rules, and regulations in any way affecting the Agreement, or the work performed under the Agreement.

c. The Contractor is a licensed attorney in good standing with the state bar of licensure. The Contractor possesses the skill, experience, licenses, and permits required to provide the services and products under this Agreement.

d. There are no judgments, liens, actions, or proceedings existing or pending against it that would materially affect its ability to enter into or perform under this Agreement.

e. The Contractor is duly organized, validly existing, and in good standing under the laws of the state in which it resides. The Contractor is duly authorized to conduct business in the state of Idaho, and has all necessary corporate powers to enter into this Agreement.

f. The Contractor shall provide services under this Agreement in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality.

12. **Confidential information.** The Contractor agrees to comply with the Idaho Rules of Professional Conduct, including the provision pertaining to maintaining the confidentiality of information protected by the attorney-client privilege or the attorney work-product doctrine.

13. **No exclusivity.** This is not an exclusive Agreement. It is expressly understood and agreed by the parties hereto that the County may choose to use the services of the Contractor or not, at the County's sole election. The County is under no obligation to refer other litigation or legal services contracts to the Contractor and has no obligations to the Contractor except as set forth in the Agreement. It is further understood and agreed that the Contractor may solicit potential clients and may perform services for other clients.

14. **Non-appropriation.** In order to comply with the requirements of Article VIII, Section 3 of the Constitution of the state of Idaho, the County may cancel this Agreement for any fiscal year when the necessary funds for the fulfillment of this Agreement are not budgeted for, and appropriated by, the County. The County may, solely at its option, at the end of any fiscal year of the County, cancel this contract, without penalty, if the County determines not to budget or appropriate funds from revenues legally available to it, for the goods and services contracted for. The County's fiscal year commences on the 1st day of October of each year and terminates on the 30th day of September of the following year.

15. **Equal employment opportunity.** The Contractor shall comply with all provisions of federal, state and local laws and regulations to ensure that no employee or applicant for employment is discriminated against because of race, religion, color, sex, marital status, age, disability, or national origin.

16. **Drugs and alcohol.** No alcoholic beverages, illegal drugs under state and federal laws, non-prescribed controlled substances, or otherwise legal, but illicitly used substances that may impair a person's job performance or pose a safety hazard (collectively "Prohibited Substances") shall be allowed on the County's property. Illicitly used substances include prescription drugs obtained without proper medical authorization for the user and prescribed drugs, over-the-counter drugs, and other substances not being used for their intended purposes or at intended dosage. The only permitted possession and use of controlled substances on any County property shall be prescription medicines, properly dispensed by a licensed medical practitioner, which, in that medical practitioner's judgment, do not impair the person's ability to perform work safely and competently. The County may remove from County property any person suspected or found to be using, under the influence of, in possession of, or selling or attempting to sell a Prohibited Substance on County property.

17. **Force majeure.**

a. "Force Majeure Event" means, with respect to a party, any event or circumstance, whether or not foreseeable, that was not caused by that party. Force majeure event shall not

include, however, a strike or other labor unrest that affects only that party, an increase in prices or other change in general economic conditions, or a change in the law.

b. If a Force Majeure Event prevents a party from complying with any one or more obligations under this Agreement, that inability to comply will not constitute breach if (i) that party uses reasonable efforts to perform those obligations, (ii) that party's inability to perform those obligations is not due to its failure to (A) take reasonable measures to protect itself against events or circumstances of the same type as that Force Majeure Event or (B) develop and maintain a reasonable contingency plan to respond to events or circumstances of the same type as that Force Majeure Event, and (iii) that party complies with its obligations under this section.

c. If a Force Majeure Event occurs, the noncomplying party shall promptly notify the other party of occurrence of that Force Majeure Event, its effect on performance, and how long the noncomplying party expects it to last. Thereafter the noncomplying party shall update that information as reasonably necessary. During a Force Majeure Event, the noncomplying party shall use reasonable efforts to limit damages to the other party and to resume its performance under this Agreement.

18. **Assignment.** Except with the prior written consent of the other party, each party shall not transfer, including by merger (whether that party is the surviving or disappearing entity), consolidation, dissolution, or operation of law, (a) any discretion granted under this Agreement, (b) any right to satisfy a condition under this Agreement, (c) any remedy under this Agreement, or (d) any obligation imposed under this Agreement. Any purported transfer in violation of this section will be void.

19. **Entire agreement.** This Agreement, together with the County's request for proposal, the County's addendums, and the Contractor's proposal, and any exhibits incorporated herein by reference, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and the aforementioned documents, the statements in the exhibits shall control.

20. **Modification.** This Agreement may only be amended, modified, or supplemented by an agreement executed by the Board and a member of the Contractor having full authority to legally bind the Contractor.

21. **Waiver.** No waiver by any party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

22. **Severability.** This Agreement is intended to be as broad and inclusive as is permitted by applicable law, and if any provision of this Agreement is held to be unenforceable by a court of competent jurisdiction for any reason whatsoever, (a) the validity, legality, and enforceability of the remaining provisions of this Agreement (including without limitation, all portions of any provisions containing any such unenforceable provision that are not themselves unenforceable) shall not in any way be affected or impaired thereby, and (b) to the fullest extent possible, the unenforceable provision shall be deemed modified and replaced by a provision that approximates the intent and economic effect of the unenforceable provision and the Agreement shall be deemed amended accordingly.

23. **Binding authority.** The member of the Contractor signing below represents that he has full authority to enter into this Agreement on behalf of the Contractor, knowing that the County will rely thereon.

24. **Venue.** This Agreement shall be construed and enforced in accordance with the laws of the United States and of the state of Idaho without regard to its conflict of law provisions. The Idaho state courts of Canyon County, Idaho (or, if there is exclusive federal jurisdiction, the United States District Court for the District of Idaho) shall have exclusive jurisdiction and venue over any dispute arising out of this Agreement, and the parties hereby consent to the jurisdiction of such courts.

25. **Waiver of jury trial.** The parties hereby waive their respective rights to a jury trial of any claim or cause of action based upon or arising out of this Agreement or any of the transactions contemplated therein, including, without limitation, contract claims, tort claims, breach of duty claims, and all other common law or statutory claims. The parties represent that each has reviewed this waiver and each knowingly and voluntarily waives its jury trial rights. In the event of litigation, a copy of this Agreement may be filed as written consent to a trial by the court.

26. **Attorney fees.** Reasonable attorney fees shall be awarded to the prevailing party in any action to enforce this Agreement or to declare forfeiture or termination of this Agreement.

27. **Survival.** Sections 3(f), 4, 5, 6(d), 12, 24, 25, and 26 of this Agreement survive for two years past termination or expiration of this Agreement.

**IN WITNESS WHEREOF,** the parties have executed this Agreement.



DATED this 14<sup>th</sup> day of September, 2024.

**CONTRACTOR**

[Signature]  
Signature

William D. Shepherd  
Printed name

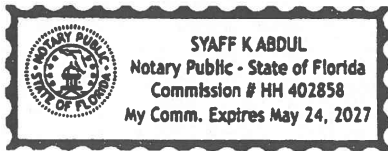
William D. Shepherd, P.A.  
Company name

Owner/ President  
Title

STATE OF Florida )  
County of Palm Beach ) ss.

On the 14<sup>th</sup> day of September, 2024, before me, the undersigned Notary Public, personally appeared William D. Shepherd, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same.

IN WITNESS WHEREOF, I have set my hand and seal the day and year as above written.





[Signature]  
Notary Public for FL (Chase)  
Residing at 4899 W Atlantic, Delray Beach FL 33445  
Commission Expires: May 24, 2027

DATED this 17<sup>th</sup> day of September, 2024.

**CANYON COUNTY BOARD OF COUNTY COMMISSIONERS**

- Motion Carried Unanimously
- Motion Carried/Split Vote Below
- Motion Defeated/Split Vote Below


	Yes	No	Did Not Vote
 _____ Commissioner Leslie Van Beek	<u>          </u>	<u>          </u>	<u>          </u>
 _____ Commissioner Brad Holton	<u>  X  </u>	<u>          </u>	<u>          </u>
<u>Unavailable for signature</u> _____ Commissioner Zach Brooks	<u>          </u>	<u>          </u>	<u>          </u>

ATTEST: RICK HOGABOAM, CLERK

By: J Ross  
Deputy Clerk

DATED this 17th day of September, 2024.

**CANYON COUNTY PROSECUTING ATTORNEY**

  
\_\_\_\_\_  
Bryan F. Taylor, Prosecuting Attorney

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**CANYON COUNTY ASSESSOR**

  
\_\_\_\_\_  
Brian Stender, Assessor