

RESOLUTION NO.

22-09

Series of 2022

TITLE: A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH HR ADVANTAGE GROUP, LLC FOR HUMAN RESOURCES SERVICES

NOW THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HUDSON, COLORADO, AS FOLLOWS:

Section 1. The Town Council hereby approves the services agreement with HR Advantage Group, LLC, for human resources consulting services in substantially the form attached hereto and authorizes the Mayor to execute the same on behalf of the Town.

INTRODUCED, READ and PASSED this 19 day of January, 2022.

TOWN OF HUDSON, COLORADO


Laura Hargis, Mayor

ATTEST:


Town Clerk



AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (the "Agreement") is made and entered into this 19 day of January, 2022 by and between the TOWN OF HUDSON, State of Colorado (the "Town") and HR Advantage Group, LLC, a Colorado limited liability company, an individual with an address of 1615 Platte Street, 2nd Floor, Denver, Colorado 80202 (the "Consultant").

RECITALS:

A. The Town requires human resources consulting and services.

B. Consultant has held itself out to the Town as having the requisite expertise and experience to perform the professional services required by the Town as set forth in the Scope of Services as described below.

NOW, THEREFORE, it is hereby agreed for the consideration hereinafter set forth, that Consultant shall provide to the Town professional services as follows.

I. SCOPE OF SERVICES

The scope of services is attached hereto as **Exhibit A** and incorporated herein by this reference. Consultant shall furnish all labor and materials to perform the work and services required for the complete and prompt execution and performance of the duties, obligations and responsibilities set forth in Exhibit A.

II. THE TOWN'S OBLIGATIONS/CONFIDENTIALITY

The Town shall provide Consultant with reports and such other data as may be available to the Town and reasonably required by Consultant to perform hereunder. No project information shall be disclosed by Consultant to third parties without prior written consent of the Town or pursuant to a lawful court order directing such disclosure. All documents provided by the Town to Consultant shall be returned to the Town. Consultant is authorized by the Town to retain copies of such data and materials at Consultant's expense.

III. OWNERSHIP OF WORK PRODUCT

Upon payment to Consultant pursuant to this Agreement, all work, data, drawings, design standards, plans, reports, computer input and output, analyses, maps, surveys, or any other materials developed for this Project are, and shall be, the sole and exclusive property of the Town. However, any reuse of the documents by the Town without prior written authorization by Consultant other than for the specific intended purpose of this Agreement will be at the Town's sole risk. Consultant will provide the Town with a ten (10) day written notice prior to disposal of Project documents it has retained, during which time the Town may take physical possession of same at the storage site.

IV. COMPENSATION

A. Payment shall not exceed \$16,500.00 and shall be made in accordance with the schedule of charges in **Exhibit A**. Invoices will be itemized and include hourly breakdown for all personnel and other charges.

B. Consultant shall submit monthly statements requesting payment. Such request shall be based upon the amount and value of the work and services performed by Consultant under this Agreement, except as otherwise supplemented or accompanied by such supporting data as may be required by the Town.

1. All invoices, including Consultant's verified payment request, shall be submitted by Consultant to the Town no later than the twenty-fourth (24th) day of each month for payment pursuant to the terms of this Agreement. In the event Consultant fails to submit any invoice on or before the twenty-fourth (24th) day of any given month, Consultant defers its right to payment pursuant to said late invoice until the twenty-fourth (24th) day of the following month.

2. Progress payments may be claimed on a monthly basis for reimbursable costs actually incurred to date as supported by detailed statements, including hourly breakdowns for all personnel and other charges. The amounts of all such monthly payments shall be paid within thirty (30) days after the timely receipt of invoice as provided by this Agreement.

C. The Town has the right to ask for clarification on any Consultant invoice after receipt of the invoice by the Town.

D. In the event payment for services rendered has not been made within forty-five (45) days from the receipt of the invoice for any uncontested billing, interest will accrue at the legal rate of interest. In the event payment has not been made within ninety (90) days from the receipt of the invoice for any uncontested billing, Consultant may, after giving seven (7) days' written notice and without penalty or liability of any nature, suspend all work on all authorized services specified herein. In the event payment in full is not received within thirty (30) days of giving the seven (7) days' written notice, Consultant may terminate this Agreement. Upon receipt of payment in full for services rendered, Consultant will continue with all authorized services as soon as practicable.

E. Final payment shall be made within sixty (60) calendar days after all data and reports (which are suitable for reproduction and distribution by the Town) required by this Agreement have been turned over to and approved by the Town, and upon receipt by the Town of Consultant's certification that services required herein by Consultant have been fully completed in accordance with this Agreement and all data and reports for the Project.

V. COMMENCEMENT AND COMPLETION OF WORK

Consultant shall commence work upon execution of this Agreement and shall provide the services for a term of six months. By written agreement, the Town and the Consultant may extend this Agreement for an additional six-month term.

VI. PROFESSIONAL RESPONSIBILITY

A. Consultant hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing required by law.

B. The work performed by Consultant shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community.

C. Consultant shall be responsible for the professional quality, technical accuracy, timely completion and the coordination of all designs, drawings, specifications, reports and other services furnished by Consultant under this Agreement. Consultant shall, without additional compensation, correct or resolve any errors or deficiencies in its designs, drawings, specifications, reports and other services, which fall below the standard of professional practice.

D. Approval by the Town of drawings, designs, specifications, reports and incidental work or materials furnished hereunder shall not in any way relieve Consultant of responsibility for technical adequacy of the work. Neither the Town's review, approval, or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of the rights under this Agreement, and Consultant shall be and remain liable in accordance with applicable performance of any of the services furnished under this Agreement.

E. The rights and remedies of the Town provided for under this Agreement are in addition to any other rights and remedies provided by law.

VII. COMPLIANCE WITH LAW

The work and services to be performed by Consultant hereunder shall be done in compliance with Consultant's best interpretation of applicable laws, ordinances, rules and regulations.

VIII. INDEMNIFICATION

Consultant agrees to indemnify and hold harmless the Town, its officers, employees and insurers, from and against all liability, claims and demands, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, if such injury, loss or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the negligent act, omission, error, professional error, mistake, negligence or other fault of Consultant, or any officer, employee, representative or agent

of Consultant, or which arise out of any workmen's compensation claim of any employee of Consultant. Consultant agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of Consultant, or at the option of the Town, agrees to pay the Town or reimburse the Town for the defense costs incurred by the Town in connection with, any such liability, claims or demands. Consultant also agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent. If it is determined by the final judgment of a court of any competent jurisdiction that such injury, loss or damage was caused in whole or in part by the act, omission or other fault of the Town, its officers or its employees, the Town shall reimburse Consultant for the portion of the judgment attributable to such act, omission or other fault of the Town, its officers or employees.

IX. INSURANCE

A. Consultant 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 Consultant pursuant to Section VIII. Indemnification, above. Such insurance shall be in addition to any other insurance requirements imposed by this Agreement or by law. Consultant shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to Section VIII. Indemnification, above, by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations or types.

B. Consultant shall procure and maintain the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the Town. All coverages shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by Consultant pursuant to Section VIII. Indemnification, above. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. Worker's compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of work under this Agreement and Employer's Liability insurance with minimum limits in accordance with Colorado law. Evidence of qualified self-insured status may be substituted for the workmen's compensation requirements of this paragraph.

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. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products and completed operations. The policy shall contain a severability of interests provision.

3. Professional liability insurance with minimum limits of \$1,000,000 each claim and \$2,000,000 general aggregate general aggregate.

4. The policy required by paragraph 2. above shall be endorsed to include the Town and the Town's officers, employees and Consultants as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the Town, its officers, its employees or its Consultants shall be excess and not contributory insurance to that provided by Consultant. No additional insured endorsement to the policy required by paragraph 1. above shall contain any exclusion for bodily injury or property damage arising from completed operations. Consultant shall be solely responsible for any deductible losses under any policy required above.

5. The certificate of insurance provided for the Town shall be completed by Consultant's insurance agent as evidence that policies providing the required coverages, conditions and minimum limits are in full force and effect, and shall be reviewed and approved by the Town prior to commencement of the Agreement. No other form of certificate shall be used. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled, terminated or materially changed until at least thirty (30) days' prior written notice has been given to the Town. The completed certificate of insurance shall be sent to the Town according to Section XII(F) herein.

6. Failure on the part of Consultant to procure or maintain policies providing the required coverages, conditions and minimum limits shall constitute a material breach of agreement upon which the Town may immediately terminate this Agreement, or at its discretion, the Town may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the Town shall be repaid by Consultant to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to Consultant from the Town.

7. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

8. The parties hereto understand and agree that the Town, its officers and its 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 from time to time amended, or otherwise available to the Town, its officers or its employees.

X. NONASSIGNABILITY

Neither this Agreement nor any of the rights or obligations of the parties hereto shall be assigned by either party without the written consent of the other.

XI. TERMINATION

This Agreement shall terminate as specified in Section V or upon the Town providing Consultant with thirty (30) days' advance written notice, whichever occurs first. In the event the

Agreement is terminated by the Town's issuance of said written notice of intent to terminate, the Town shall pay Consultant for all work previously authorized and completed prior to the date of termination. If, however, Consultant has substantially or materially breached the standards and terms of this Agreement, the Town shall have any remedy or right of set-off available at law and equity. If the Agreement is terminated for any reason other than cause prior to completion of the Project, any use of documents by the Town thereafter shall be at the Town's sole risk, unless otherwise consented to by Consultant.

XII. GENERAL PROVISIONS

A. **Conflict of Interest.** The Consultant shall disclose any personal or private interest related to property or business within the Town. Upon disclosure of any such personal or private interest, the Town shall determine if the interest constitutes a conflict of interest. If the Town determines that a conflict of interest exists, the Town may treat such conflict of interest as a default and terminate this Agreement.

B. **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 the County of Weld, State of Colorado.

C. **Independent Contractor.** Consultant is an independent contractor. Notwithstanding any provision appearing in this Agreement, all personnel assigned by Consultant to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Consultant for all purposes. Consultant shall make no representation that it is the employee of the Town for any purposes.

D. **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 obligations of this Agreement.

E. **Entire Agreement.** This Agreement and the attached Exhibit A constitute the entire Agreement between Consultant and the Town, superseding all prior oral or written communications. None of the provisions of this Agreement may be amended, modified or changed, except as specified herein.

F. **Notice.** Any notice or communication between Consultant and the Town which may be required, or which may be given, under the terms of this Agreement shall be in writing, and shall be deemed to have been sufficiently given when directly presented or sent pre-paid, first class United States mail, addressed as follows:

The Town: Town of Hudson
 50 S. Beech Street
 P.O. Box 351
 Hudson, Colorado 80642
 (303) 536-9311

Copy to: Corey Y. Hoffmann, Esq.
Hoffmann, Parker, Wilson & Carberry, P.C.
511 Sixteenth Street, Suite 610
Denver, Colorado 80202
(303) 825-6444

Consultant:

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 or 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. Third Parties. There are no intended third-party beneficiaries to this Agreement.

XIII. UNAUTHORIZED WORKERS

A. Consultant hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an worker without authorization who will perform work under this Agreement and that Consultant will participate in either the E-Verify Program administered by the United States 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. Consultant 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 Consultant that the subcontractor shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement.

C. Verification.

1. If Consultant has employees, Consultant 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. Consultant 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 Consultant 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, Consultant shall: notify the subcontractor and the Town within 3 days that Consultant 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 Consultant 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. Consultant 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 Consultant is complying with the terms of this Agreement.

E. Affidavits. If Consultant does not have employees, Consultant shall sign the "No Employee Affidavit" attached hereto. If Consultant wishes to verify the lawful presence of newly hired employees who perform work under the Agreement via the Department Program, Consultant shall sign the "Department Program Affidavit" attached hereto.

Signature page follows.

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in duplicate.



TOWN OF HUDSON, COLORADO

By: Laura Hargis
Laura Hargis, Mayor

ATTEST:

Hester Mierlan
Town Clerk

CONSULTANT

By: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____ day of _____, 2022, by _____.

My commission expires:

(S E A L)

Notary Public

DEPARTMENT PROGRAM AFFIDAVIT

[To be completed only if Consultant participates in the Department of Labor Lawful Presence Verification Program]

Consultant, _____, as a public contractor under contract with the Town of Hudson (the "Town"), hereby affirm that:

1. Consultant has 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. Consultant has 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. Consultant has 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 _____, 2022, by _____ as _____ of _____.

My commission expires:

(S E A L)

Notary Public

EXHIBIT A

Consultant shall provide the following services, as needed, for a minimum of 15 hours of service per month for a monthly fee of \$2,475. Hours not used may be rolled over for 30 days prior to expiration.

Consultant agrees to:

- Learn and understand the Town of Hudson's culture and values.
- Collaborate with you and other key leaders of the team.
- Provide fair, consistent, and compliant employment practices for your employees.
- Deliver organizational leadership to an ever-changing workplace demographic.
- Provide an experienced HR professional team as a resource for your staff.

Consultant will provide an array of strategic human resources, training and development, outsourcing, and organizational development services including, as directed, recruitment and executive search, organizational assessment, workforce planning, talent development, compensation review and analysis, benefits administration, executive coaching and mentoring, project/program management and change management. Consultant will complete necessary services and projects throughout the course of the contract, based upon identified needs. In addition to on-call availability, Consultant will schedule recurring check-in meetings with Town leadership to ensure Consultant is on target with the Town's goals. Consultant will adjust timelines and goals based on changes to these needs.

Consultant will provide, as needed, access to an applicant tracking system, up to date compensation benchmarking surveys, handbook and policy templates, and an array of training, development, and coaching tools. In addition, the following services will be available, as needed:

- On-call, video, email availability for employment or other HR related issues as they arise.
- Scheduled office visit(s), or check-ins done remotely.
- Attend leadership team meetings.
- Guidance to navigate employee relation and workplace issues.
- Onboarding and off-boarding employees as needed.
- Compensation system surveying, evaluation, and administration.
- Broker management and other vendor support in any HR-related areas (Health Insurance, Payroll, Business Insurance and Retirement Programs).
- Open Enrollment services, inclusive of employee communication and partnering with brokers and carriers as needed.
- Provide HR audit services, compliance, policy development and implementation of best practices.
- Integrate performance management systems and processes.
- HR alignment with overall business strategies, which embraces Town culture.
- 3rd party reporting option for employees, they can email us directly just as they would for an in-house HR operation.
- Talent Acquisition services, evaluate establish process and procedures, fill vacancies.
- Training and development delivery in the areas of leadership, compliance, harassment, or other ad hoc requests, as needed.

- Executive coaching for managers and executives.