

**VEHICLE USE AGREEMENT
LARAMIE COUNTY, WYOMING / PEAK WELLNESS CENTER**

THIS AGREEMENT is made and entered into by and between Laramie County, Wyoming, P.O. Box 608, Cheyenne, Wyoming 82003-0608, ("COUNTY") and Peak Wellness Center, 2526 Seymour Avenue, Cheyenne, Wyoming 82001 ("PEAK"). The parties agree as follows:

I. PURPOSE

The purpose of this Agreement is to allow PEAK the use of a COUNTY owned vehicle for the purpose of delivering mental health services to the citizens of eastern Laramie County.

II. TERM

This Agreement shall commence on the date last executed by the duly authorized representatives of the parties to this Agreement, and shall remain in full force and effect until terminated in accordance with this agreement.

III. RESPONSIBILITIES OF COUNTY

COUNTY shall provide PEAK an automobile for use in the delivery of services in Eastern Laramie County. COUNTY will further provide gasoline, oil and maintenance for said vehicle through the Laramie County Public Works Department and maintain the vehicle on its list of fixed assets.

IV. RESPONSIBILITIES OF PEAK

A. PEAK shall use the provided vehicle for delivery of mental health services for the citizens of Eastern Laramie County.

B. To the fullest extent permitted by law, PEAK agrees to defend, indemnify and hold harmless COUNTY, its elected and appointed officials, employees and volunteers from any and all liability for injuries, damages, claims, penalties, actions, demands or expenses arising from or in connection with the use of the vehicle provided pursuant to this Agreement. PEAK shall carry liability insurance sufficient to cover its obligations under this provision and provide COUNTY with proof of such insurance.

C. PEAK warrants and guarantees that only their agents, employees and/or volunteers will make use of the provided vehicle and only in the delivery of mental health services in eastern Laramie County at the direction of PEAK. Further, PEAK warrants and guarantees that any individual operating said vehicle shall be properly licensed and insured.

D. PEAK agrees and understands that as the vehicle will still list Laramie County as its owner, and Laramie County and the County's insurance pool requires all operators of County vehicles to complete an annual defensive driving course, PEAK will arrange, at their own expense, for any individuals who would be operating this vehicle, to complete, once annually, a defensive driving course, said course to approved by Laramie County Risk and Management, and submit proof of that completion to Laramie County risk management.

E. PEAK agrees to retain all required records for three (3) years after the County makes final payment and all other matters relating to the Agreement are concluded. PEAK agrees to permit access by the COUNTY or any of its duly authorized representatives to any books, documents, papers and records of the PEAK which are directly pertinent to this specific Agreement and not otherwise privileged, for purposes including but not limited to audit, examination, excerpts, and transcriptions.

V. GENERAL PROVISIONS

A. Independent Contractor: The services to be performed by PEAK are those of an independent contractor and not as an employee of COUNTY. PEAK is not eligible for Laramie County Employee benefits and will be treated as an independent contractor for federal tax filing purposes. PEAK assumes responsibility for its personnel who provide services pursuant to this contract and will make all deductions required of employers by state, federal and local laws and shall maintain liability insurance for each of them. PEAK is free to perform the same or similar services for others.

B. Acceptance Not Waiver: COUNTY's allowance of the use of the vehicle by PEAK pursuant to this Agreement shall not in any way relieve PEAK of responsibility for its obligations hereunder. COUNTY approval of or continued allowance of the use of the vehicle pursuant to this Agreement 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. Termination: This Agreement may be terminated (a) by either party at any time for failure of the other party to comply with the terms and conditions of this agreement; (b) by either party, with thirty (30) days' prior written notice to the other party; or (c) upon mutual written agreement by both parties.

D. Entire Agreement: This Agreement (4 pages) represents the entire and integrated agreement and understanding between the parties and supersedes all prior negotiations, statements, representations and agreements, whether written or oral.

E. Assignment: Neither this Agreement, nor any rights or obligations hereunder shall be assigned or delegated by a party without the prior written consent of the other party.

F. Modification: This Agreement shall be modified only by a written agreement,

duly executed by all parties hereto.

G. Invalidity: If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, or if the COUNTY is advised of any such actual or potential invalidity or unenforceability, such holding or advice shall not invalidate or render unenforceable any other provision hereof. It is the express intent of the parties that the provisions of this Agreement are fully severable.

H. Applicable Law and Venue: The parties mutually understand and agree this Agreement shall be governed by and interpreted pursuant to the laws of the State of Wyoming. If any dispute arises between the parties from or concerning this Agreement or the subject matter hereof, any suit or proceeding at law or in equity shall be brought in the District Court of the State of Wyoming, First Judicial District, sitting at Cheyenne, Wyoming. The foregoing provisions of this paragraph are agreed by the parties to be a material inducement to PEAK and to COUNTY in executing this Agreement. This provision is not intended nor shall it be construed to waive COUNTY's governmental immunity as provided in this Agreement.

I. Contingencies: PEAK certifies and warrants no gratuities, kick-backs or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts or other considerations made contingent upon the award of this Agreement.

J. Discrimination: All parties agree they will not discriminate against any person who performs work under the terms and conditions of this Agreement because of race, color, gender, creed, handicapping condition, or national origin.

K. ADA Compliance: All parties agree they will not discriminate against a qualified individual with disability, pursuant to a law as set forth in the Americans With Disabilities Act, P.L. 101-336, 42 U.S.C. § 12101, *et seq.*, and/or any properly promulgated rules and regulations relating thereto.

L. Governmental/Sovereign Immunity: COUNTY does not waive its Governmental/Sovereign Immunity, as provided by any applicable law including W.S. § 1-39-101 *et seq.*, by entering into this Agreement. Further, COUNTY fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Agreement.

M. Third Parties: The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to the Agreement, and shall inure solely to the benefit of the parties to this Agreement.

N. Force Majeure: Neither party shall be liable to perform under this Agreement if

such failure arises out of causes beyond control, and without the fault or the negligence of said party. Such causes may include, but are not restricted to, Act of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. In every case, however, a failure to perform must be beyond the control and without the fault or the negligence of said party.

O. Limitation on Payment: COUNTY's payment obligation is conditioned upon the availability of funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services and equipment provided by PEAK the Agreement may be terminated by COUNTY at the end of the period for which funds are available. COUNTY shall notify PEAK at the earliest possible time of the services which will or may be effected by a shortage of funds. At the earliest possible time means at least thirty (30) days before the shortage will affect payment of claims, if COUNTY knows of the shortage at least thirty (30) days in advance. No penalty shall accrue to COUNTY in the event this provision is exercised, and COUNTY shall not be obligated or liable for any future obligations due or for any damages as a result of termination under this provision.

P. Notices: All notices required and permitted under this Agreement shall be deemed to have been given, if and when deposited in the U.S. Mail, properly stamped and addressed to the party for whom intended at such parties' address listed herein, or when personally delivered personally to such party. A party may change its address for notice hereunder by giving written notice to the other party.

LARAMIE COUNTY, WYOMING

By: _____
Buck Holmes, Chairman
Laramie County Commissioners

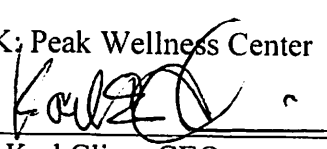
Date _____

ATTEST:

By: _____
Debra Lee, Laramie County Clerk

Date _____


PEAK: Peak Wellness Center

By:  _____
Karl Cline, CEO

Date 5-30-18

This Agreement is effective the date of the last signature affixed to this page.

REVIEWED AND APPROVED AS TO FORM ONLY:

By: 
Mark Voss, Laramie County Attorney