



Boulder County Purchasing
1325 Pearl Street
Boulder, CO 80302
purchasing@bouldercounty.org

INFORMAL
SOLICITATION OF QUALIFICATIONS
COVER PAGE

SOQ Number: 7130-20

SOQ Title: **Portable Restroom Services on
Boulder County Parks and
Open Space Properties**

SOQ Questions Due: March 23, 2020 – 2:00 p.m.

Submittal Due Date: April 2, 2020 – 2:00 p.m.

Email Address: purchasing@bouldercounty.org

Documents included in this package:

- Proposal Instructions
- Terms and Conditions
- Specifications
- Insurance and W-9 Requirements
- Submittal Section
- Signature Page
- Attachments:
 - A: Sample Contract
 - B: Map Portable Restroom Location Examples
 - C: Map of Bidding areas, Plains and Mountains
 - D: Photo Portable Restroom owned by BCPOS
 - E: Map BCPOS Parking Lot
 - F: Example of the “Date of Service” Sheet



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PROPOSAL INSTRUCTIONS

BACKGROUND:

Boulder County Parks and Open Space (BCPOS) is seeking bids from qualified and experienced Contractors for Portable Restroom Services. Contractors will supply and clean Contractor owned portable restrooms (pottys) on various Open Space properties in Boulder County, as well as clean pottys owned by BCPOS at the Longmont Office. These services are required in order to maintain clean and welcoming restroom facilities at trailheads and project sites throughout Boulder County.

BCPOS is seeking two (2) separate companies to service areas, as depicted in the map attachments for the service areas located in the plains and for the service areas located in the mountains on an as needed basis for the duration of the year and subsequent years to follow.

CONTRACT LANGUAGE:

The County is seeking qualified contractors to retain for future projects of the discipline as described above.

The successful proposer will be required to enter into a Contract for Services and meet all insurance requirements as required prior to any work beginning. The County retains the right to select more than one contractor. The selected contractor(s) will be required to enter into a Continuing Services Contract, for the current year with an option to renew, in writing, for four (4) additional years. The Contractor acknowledges that a Contract does not constitute a guarantee that Contractor will receive any Projects or Work of any kind under this Contract, if selected, and in such event, Contractor would not receive any payment from County. Projects will be awarded, on a Project-by-Project basis. Each Project will include a separate Scope of Work, as defined in the Specifications section and bids/proposals will be solicited from the approved Contractor list compiled from this solicitation.

Proposers should list the Boulder County and Colorado professional and/or contractor licenses held by the company and the key personnel who will be assigned to County awarded projects. Proposers are to provide the license number and explain if held by an individual or the company. All workers shall be certified by the County and/or the State of Colorado for these types of projects, if required. Proof of certification must be submitted for each worker in the submittal package.

The evaluation of the qualifications shall be based on the requirements described in this ISOQ. All properly submitted qualifications will be reviewed, evaluated, and selected by the Evaluation Committee.

Qualification submittal information must include information regarding company rates, in detail and including personnel hourly rates, equipment, meetings, reports, administrative costs, mileage, travel, and/or other cost information relevant to do business with the County.

Boulder County reserves the right to reject submittals that do not include evidence of prior experience and current capabilities, including manpower and equipment, necessary to provide the required services and to successfully complete this type of work.

All proposers are instructed to thoroughly review all the stated insurance requirements for this Project, the insurance requirements stated are the minimum and standard for Boulder County Government, for this Project. All hired contractors are required to meet the insurance requirements, as stated, for contracted services as part of the Boulder County contracting process. Owner/Sole Proprietors/Officer are not Exempt from the county's insurance requirements and coverage limits. Please refer to the Insurance Requirements listed in this ISOQ.

Additionally, the Contractor is aware all insurance requirements, as stated, are required to be active for the duration of the contract, or as otherwise stated, whether Projects or Work are awarded from the County.

PRE-PROPOSAL MEETING:

A Pre-proposal meeting will NOT be held for this Project.

ATTACHMENTS:

The following documents are part of this ISOQ:

1. Attachment A: Sample Contract
2. Attachment B: Map of Portable Restroom Location Examples
3. Attachment C: Map of Bidding areas, Plains and Mountains
4. Attachment D: Photo of Portable Restroom owned by BCPOS
5. Attachment E: Map of Portable Restroom Locations in the BCPOS Parking Lot
6. Attachment F: Example of the "Date of Service" Sheet

WRITTEN INQUIRIES:

All inquiries regarding this SOQ will be submitted via email to the Boulder County Purchasing Office at purchasing@bouldercounty.org on or before **2:00 p.m., March 23, 2020**. A response from the county to all inquiries will be posted and sent via email no later than **March 27, 2020**.

Please do not contact any other county department or personnel with questions or for information regarding this solicitation.

SUBMITTAL INSTRUCTIONS:

SOQs are due at the Administrative Services Information Desk or email box (preferred) listed below, for time and date recording on or before **2:00 p.m., Mountain Time on April 2, 2020**.

Your response can be submitted in the following ways. Please note that email responses to this solicitation are preferred but are limited to a maximum of 25MB capacity. NO ZIP FILES ALLOWED. Electronic submittals must be received in the email box listed below. Submittals sent to any other box will NOT be forwarded or accepted. This email box is only accessed on the due date of your questions or proposals. Please use the Delivery Receipt option to verify receipt of your email. It is the sole responsibility of the proposer to ensure their documents are received before the deadline specified above. Boulder County does not accept responsibility under any circumstance for delayed or failed email or mailed submittals.

Email purchasing@bouldercounty.org; identified as **SOQ# 7130-20** in the subject line.

-OR-

US Mail One (1) unbound copy of your submittal, printed double-sided, 11 point, on at least 50% post-consumer, recycled paper must be submitted in a sealed envelope, clearly marked as **SOQ# 7130-20**, to the Administrative Services Information Desk located at 1325 Pearl Street, Boulder, CO 80302.

All SOQs must be received, and time and date recorded by authorized county staff by the above due date and time. Sole responsibility rests with the proposer to see that their SOQ response is received on time at the stated location(s). Any responses received after due date and time will be returned to the proposer.

The Board of County Commissioners reserves the right to reject any and all responses, to waive any informalities or irregularities therein, and to accept the proposal that, in the opinion of the Board, is in the best interest of the Board and of the County of Boulder, State of Colorado.

Americans with Disabilities Act (ADA): If you need special services provided for under the Americans with Disabilities Act, contact the ADA Coordinator or the Human Resources office at (303) 441-3525 at least 48 hours before the scheduled event.



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TERMS AND CONDITIONS

1. Proposers are expected to examine the drawing, specifications, schedule of delivery, and all instructions. Failure to do so will be at the proposer's risk.
2. Each proposer will furnish the information required in the Solicitation of Qualifications.
3. The Contract/Purchase Order will be awarded to that responsible proposer whose submittal, conforming to the Solicitation of Qualifications, will be most advantageous to the County of Boulder, price and other factors considered.
4. The County of Boulder reserves the right to reject any or all proposals and to waive informalities and minor irregularities in proposals received, and to accept any portion of or all items proposed if deemed in the best interest of the County of Boulder to do so.
5. No submittal will be withdrawn for a period of thirty (30) days subsequent to the opening of proposals without the consent of the County Purchasing Agent or delegated representative.
6. A signed purchase order or contract furnished to the successful proposer results in a binding contract without further action by either party.
7. Late or unsigned proposals will not be accepted or considered. It is the responsibility of proposers to ensure that the proposal arrives at the Administrative Services Information Desk prior to the time indicated in the "Solicitation of Qualifications."
8. The proposed price will be exclusive of any Federal or State taxes from which the County of Boulder is exempt by law.
9. Any interpretation, correction or change of the SOQ documents will be made by Addendum. Interpretations, corrections and changes of the SOQ documents made in any other manner will not be binding, and proposer will not rely upon such interpretations, corrections and changes. The County's Representative will not be responsible for oral clarification.
10. Confidential/Proprietary Information: Proposals submitted in response to this "Solicitation of Qualifications" and any resulting contract are subject to the provisions of

the Colorado Public (Open) Records Act, 24-72-201 et.seq., C.R.S., as amended. Any restrictions on the use or inspection of material contained within the proposal and any resulting contract will be clearly stated in the proposal itself. Confidential/proprietary information must be readily identified, marked and separated/packaged from the rest of the proposal. **Co-mingling of confidential/proprietary and other information is NOT acceptable. Neither a proposal, in its entirety, nor proposal price information will be considered confidential/proprietary. Any information that will be included in any resulting contract cannot be considered confidential.**

The Boulder County Attorney's Office retains sole authority for determining whether the Colorado Open Records Act requires or permits Boulder County to disclose proposal or bid documents, or any information contained therein, pursuant to an open records request.

11. Boulder County promotes the purchase/leasing of energy efficient, materials efficient and reduced toxic level products where availability, quality and budget constraints allow. Proposers are expected whenever possible to provide products that earn the ENERGY STAR and meet the ENERGY STAR specifications for energy efficiency with power management features enabled. Proposers are encouraged to offer products and equipment with post-consumer recycled-content materials. Products should be packaged and delivered with a minimum amount of recycled packaging that adequately protects the product but is not excessive.
12. Pursuant to Colorado law (House Bill 1292), in any bidding process for public works in which a bid is received from a non-resident bidder who is from a state that provides a percentage bidding preference, a comparable percentage disadvantage will be applied to the bid of that bidder. Bidders may obtain additional information from the Department of Personnel's website: <http://www.colorado.gov/dpa/>.



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SPECIFICATIONS

SPECIFICATIONS:

Services will be required all year round. In general, service calls tend to be greater in the summer months and in some instances, routine services will be required for specific areas. Attachment B depicts examples of areas and not actual service sites.

Contractor will clean the requested BCPOS owned potty during the specified date range to BCPOS' standards. Cleaning includes draining and replacing the fluid, removing any trash, scrubbing and disinfecting the interior, and restocking toilet paper and hand sanitizer. In some cases, the Contractor may be requested to refill the potty liquid if substantial evaporation between uses has occurred. The Contractor is required to complete the "Date of Service" sheet hanging on the interior potty door, for each service cleaning completed, see Attachment F. The servicing location for each potty will be included in the service request. Some pottys owned by BCPOS, requiring service, will be located in the county's shop parking lot located at 5201 St. Vrain Road Longmont, CO 80503, see Attachment E.

It is the responsibility of the Contractor to complete the Date of Service sheet each time service is performed. If this is not completed the Contractor will not be paid for the cleaning service call. Date of Service sheets will be cross-matched with service requests for verification of payment, see Attachment F.

Contractor will supply standard or ADA Compliant pottys to requested trailhead or project locations. Contractor will ensure the potty is placed on level ground and is in a convenient and accessible area. Contractor will drop the potty off to be used by 8:00 a.m. on the specified start date and have the potty removed promptly by 4:30 p.m. on the specified end date. Contractor will be responsible for securely setting the potty in place and making sure it is fixed firmly and will remain secure for the duration of the stay. If pottys are tipped over or moved due to weather related events, the Contractor will be responsible for any actions needed to re-secure them with no additional cost to the county. The Contractor is expected to attend to any issues that arise with the pottys in the field within 24 hours of notice. Contractor will clean pottys on location with a predetermined regular schedule and fill out the "Date of Service" sheet.

In some cases, additional cleaning may be requested. Additionally, the County may need to shorten or lengthen the time a potty is reserved for. Contractor is expected to clearly communicate any concerns or issues with each project request via email. Contractor is expected to accept or deny each request via email within two business days. Contractor is expected to respond to emails and phone calls within two (2) business days. County will not be responsible for

additional fees if Contractor delivers potty prior to date requested or retrieves potty after the end date.

Contractor will be responsible for any damages resulting from their services, including but not limited to, damage to landscaping, fencing, other park structures, accidents with park visitors, etc. All damage reports should be made immediately to your Boulder County Portable Restroom Coordinator. These reports should include photos, the date and time of the incident, property address, and a detailed description of the damages. Contractors need to carry property insurance to cover the cost of their pottys in the event of vandalism or severe weather. If a potty is considered damaged and no longer operational, by the Contractor and Portable Restroom Coordinator, the Contractor is expected to remove it immediately and replace it within 48 hours.

Project requests will be emailed to the selected Contractor(s) as they are received by the Portable Restroom Coordinator and will include all relevant information: such as start and end date, type of potty, servicing location, servicing frequency, and type of service. The selected Contractor will respond, by email, confirming the acceptance of each request, or denying the request. Additionally, the Contractor is responsible for providing a reason for denying a service request. A response is required within two (2) business days of receiving the request. If accepted, the Contractor will complete all aspects of the specifications on the mutually agreed upon date and time of services for each project.

RATES:

The following rates for services should be included with your submittal:

- a. Monthly portable restroom rental for standard restroom
- b. Monthly portable restroom rental for ADA Compliant restroom
- c. Weekly portable restroom rental for standard restroom
- d. Weekly portable restroom rental for ADA Compliant restroom
- e. Daily portable restroom rental for standard restroom
- f. Daily portable restroom rental for ADA Compliant restroom
- g. Extra cleanings
- h. Potty liquid refill
- i. One-time cleaning rate for BCPOS owned pottys
- j. Travel time
- k. Identify After-hours and provide rates
- l. Identify Weekend and provide rates
- m. Identify Holidays and provide rates

PAYMENT:

It is the responsibility of the Contractor to complete the Date of Service sheet each time service is performed. If this is not completed the Contractor will not be paid for the cleaning service call. Date of Service sheets will be cross-matched with service requests for verification of payment.

Invoices should be submitted monthly and must clearly state the potty's location, dates of service, and order number. The invoices will be cross matched with county orders by the Portable Restroom Coordinator.

BCPOS staff will be responsible for direct payment to Contractor by County issued Purchasing Cards, if there are additional fees for credit card payments, this information should be included in the rate sheet.

CONTRACTOR LICENSING:

It is the responsibility of the selected Contractor to apply for and ensure the appropriate Contractor's license is obtained through Boulder County.

CONFLICT OF INTEREST:

Any party that has developed, designed or drafted specifications, requirements, statements of work and/or has participated in planning activities for this ISOQ may be excluded from consideration for the award of this ISOQ. Additionally, any party that has developed, designed or drafted specifications, requirements, statements of work and/or has participated in planning activities for future Projects may be excluded from consideration for the award of those Projects.

CHANGE ORDERS:

Any unplanned, change orders, modifications or additional services to this Project, shall be submitted by the Contractor, in a separate, written document, including a fee schedule and completion schedule and presented to the County for review. Approval from the County, in writing, must accompany all change order requests.

OVERNIGHT CAMPING:

Boulder County prohibits any overnight camping for awarded Projects; all operational staff, including designated security staff, are not authorized to be present at Project sites from sunset to sunrise, the open space property will remain closed during these hours to the contractor and its subcontractors and/or designated representatives and/or agents, unless specifically authorized by a BCPOS representative.

HOURS OF OPERATION:

Contractor work hours shall be designated as **Monday through Friday, sunrise to sunset**. Unless specified otherwise in individual awarded Projects. Work on Saturdays and Sundays, nights, and designated Federal Holidays shall not be allowed unless approved, in writing, by the County.



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INSURANCE AND W-9 REQUIREMENTS

INSURANCE REQUIREMENTS:

Note that the insurance amounts listed below are the minimum required for this project. **Proof of current insurance must be provided with your proposal in the form of a sample certificate or your proposal will be deemed non-responsive.** If you require a waiver of insurance requirements (e.g. Workers' Compensation and sole proprietorships) you may request one in your response with an explanation.

***This type of coverage will be required to remain in place and be maintained by the selected contractor for the 3-year period as noted after completion of the Project.**

General Liability \$1,000,000 Each Occurrence
 \$2,000,000 General Aggregate
 \$2,000,000 Products Completed Operations Aggregate

Automobile Liability \$1,000,000 Each Accident
 *Including Hired & Non-Owned Auto

Worker's Compensation and Employer's Liability
 Statutory limits

***Pollution Liability** \$1,000,000 Per Loss
 \$1,000,000 Aggregate
 *Coverage maintained or extended discovery period for 3 years

***In regards to General Liability, Umbrella/Excess Liability, and Pollution Liability: If any or all of these coverages are required above, additional insured status will be required at the time a contract is executed.**

W-9 REQUIREMENT:

Please provide a copy of your business's W-9 with your proposal.



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SUBMITTAL SECTION

The proposer’s attention is especially called to the items listed below, which must be submitted in full as part of the PROPOSAL. Failure to submit any of the documents listed below as a part of your PROPOSAL, or failure to acknowledge any addendum in writing with your PROPOSAL, or submitting a proposal on any condition, limitation or provision not officially invited in this Informal Solicitation of Qualifications (ISOQ) may be cause for rejection of the PROPOSAL.

PROPOSERS ARE INSTRUCTED TO CLEARLY MARK WHICH AREA THEY ARE SUBMITTING QUALIFICATIONS FOR: PLAINS OR MOUNTAINS

THIS CHECKLIST MUST BE SUBMITTED AS PART OF YOUR PROPOSAL PACKAGE: Proposer will check each box indicating compliance:

INCLUDED	ITEM
	Name of your company / organization
	Type of organization (Corporation, Partnership, etc.)
	Address
	Name and Address of the Partners and Subcontractors if applicable
	Contact Person(s)
	Telephone and email
	State your compliance with the Terms and Conditions in the Sample Contract contained in this SOQ. Specifically list any deviations and provide justification for each deviation.
	Information on the relevant experience of key personnel
	Submit a copy of any contract you would require to be executed in this process
	Submit three (3) references for similar projects your company has completed within the last three years and contact information
	Insurance Certificate - <i>Sample</i>
	W-9
	Signature Page
	Addendum Acknowledgement(s) (If Applicable)



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SIGNATURE PAGE

Contact Information	Response
Company Name including DBA	
List Type of Organization (Corporation, Partnership, etc.)	
Name, Title and Email Address of Person Authorized to Contract with Boulder County	
Company Address	
Company Phone Number	
Company Website	

By signing below, I certify that:

- I am authorized to bid on my company's behalf.
- I am not currently an employee of Boulder County.
- None of my employees or agents is currently an employee of Boulder County.
- I am not related to any Boulder County employee or Elected Official.
- (Sole Proprietorships Only) I am not a Public Employees' Retirement Association (PERA) retiree.

**Signature of Person Authorized to Bid on
 Company's Behalf**

Date

Note: If you cannot certify the above statements, please explain in a statement of explanation.

ATTACHMENT A
SAMPLE CONTRACT

THIS CONTRACT ("Contract") is entered into by and between the Board of County Commissioners on behalf of the County of Boulder, State of Colorado, a body corporate and politic, for the benefit of the Parks and Open Space Department ("County") and **NAME OF CONTRACTOR** ("Contractor"). County and Contractor are each a "Party," and collectively the "Parties."

In consideration of the mutual covenants contained in this Contract, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Incorporation into Contract: The **Details Summary** is incorporated into this Contract. The **Contract Documents** are incorporated into this Contract by reference, except to the extent that the Proposal, if any is incorporated, contains any obligations placed upon County and not otherwise contained in this Contract.
2. Work to be Performed: Contractor will provide all labor and equipment and do all tasks necessary and incidental to performing the work as described in the **Details Summary** and **Contract Documents** (the "Work"). Contractor will perform the Work (a) in a good and workmanlike manner, (b) at its own cost and expense, (c) in accordance with recognized industry standards of care, skill and diligence for the type of work being performed, and (d) in strict accordance with the Contract. **Work shall not commence until the County has provided a NOTICE TO PROCEED to Contractor, which shall set forth the date that Contractor may begin the Work.**
3. Term of Contract: The **Contract Term** begins on the **Start Date** and expires on the Expiration Date. Notwithstanding, Work shall not commence until the County has provided a NOTICE TO PROCEED to Contractor, which shall set forth the date that Contractor may begin the Work. As specified in SOQ# XXXX-XX, Contractor shall have calendar days to complete the Work, unless this Contract is terminated earlier or the County grants Contractor a written extension in accordance with paragraph 6 or 7. In no event shall Work be performed outside the **Contract Term**.
4. Payment for Work Performed: In consideration of the Work performed by Contractor, and subject to conditions contained in this Contract, County will pay an amount not to exceed the **Contract Amount** to Contractor in accordance with the **Contract Documents**.
5. Invoicing: Contractor will promptly provide a copy of its Form W-9 and invoice template to County upon request. Contractor must submit an invoice to the County by the fifteenth (15th) day of the month following completion of the Work. All invoices submitted require the following components: Contractor's name and address (submitted W-9 address must match remit address), detailed description of services, dates of services, itemization of labor and materials costs, "Bill to: Boulder County" language, payment remittance address, payer, name and address, date of invoice, unique invoice number, and total amount due. Contractor must send all completed invoices to the **Invoice Contact** in the **Details Summary**. Email delivery is preferred by the County; County may require delivery of invoices by email. Failure to submit invoices in a timely manner and in accordance with the terms of this Contract may cause a delay in payment. County may recoup any damages incurred because of Contractor's failure to submit invoices pursuant to the terms of this paragraph. County's acceptance or payment of an invoice will not constitute acceptance of any Work performed under this Contract.
6. Extra Time to Complete the Work: If Contractor cannot complete the Work by the **Expiration Date**, Contractor may request extra time to complete the Work. County, in its sole

discretion, may grant Contractor additional time to complete the Work and, if so, will provide Contractor with written notice of the amount of extra time granted. County granting extra time to complete the Work will not entitle Contractor to additional compensation from County. This Contract will remain in full force and effect during any time period that Contractor is permitted to finish completing the Work.

7. Extension of Contract Term (Additional Work): Upon mutual agreement of the Parties, this Contract may be extended until the **Final End Date**. During any extended **Contract Term**, the terms of this Contract will remain in full force and effect, unless otherwise amended in writing by the Parties. Where the Contractor will provide additional services for additional compensation beyond the initial **Contract Amount**, the Parties must execute a written amendment before the then-current **Expiration Date**. If necessary, the written amendment will incorporate an updated Scope of Work and updated Fee Schedule as exhibits. Contractor must provide a current Certificate of Insurance to the County that complies with the **Insurance Requirements** of this Contract, if any, prior to any extended **Contract Term**.

8. Schedule of Work: County may designate the hours (on a daily or weekly basis) during which Contractor can perform the Work, strictly for the purposes of minimizing inconvenience to the County and interference with County operations. Contractor will otherwise set its own work schedule.

9. Indemnity: Contractor will be liable for any damages to persons or property caused by or arising out of the actions, obligations, or omissions of Contractor, its employees, agents, representatives or other persons acting under Contractor's direction or control in performing or failing to perform the Work under this Contract. Contractor will indemnify and hold harmless County, its elected officials and appointed department heads, and its employees, agents and representatives (the "indemnified parties"), from any and all liability, claims, demands, actions, damages, losses, judgments, costs or expenses, including attorneys' fees, which may be made or brought or which may result against any of the indemnified parties as a result or on account of the actions or omissions of Contractor, its employees, agents or representatives, or other persons acting under Contractor's direction or control. This indemnification obligation will extend to claims based on Contractor's unauthorized use or disclosure of confidential information and intellectual property infringement. County will not be obligated to indemnify or defend Contractor under any circumstances. Contractor's obligations under this provision shall survive expiration or termination of this Contract. Nothing contained in this Contract or the **Contract Documents** is intended to limit or restrict the indemnification rights or obligations of any Party under this provision, or damages available for breaches of the obligations herein.

10. Nondiscrimination: Contractor will comply with the letter and spirit of the Colorado Anti-Discrimination Act, C.R.S. § 24-34-401, et seq., as amended, and all applicable local, State and Federal laws concerning discrimination and unfair employment practices. County prohibits unlawful discrimination on the basis of race, color, religion, gender, gender identity, national origin, age 40 and over, disability, socio-economic status, sexual orientation, genetic information, or any other status protected by applicable Federal, State or local law. Contractor must require that its subcontractors, if any, similarly comply with all applicable laws concerning discrimination and unfair employment practices.

11. Information and Reports: Contractor will provide to authorized County, State, and Federal government representatives all information and reports that may be required for any purpose authorized by law. Contractor will permit access to such representatives to Contractor's facilities, books, records, accounts, and any other relevant sources of information. Where information

required by a representative is in the exclusive possession of a person or entity other than Contractor, Contractor must so certify to the County and explain what efforts it has made to obtain the information.

12. Independent Contractor: Contractor is an independent contractor for all purposes in performing the Work. Contractor is not an employee of the County for any purpose, including the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the Colorado Workers' Compensation Act, the Colorado Unemployment Insurance Act, and the Public Employees Retirement Association. Accordingly, County will not withhold or pay any income tax, payroll tax, or retirement contribution of any kind on behalf of Contractor or Contractor's employees. As an independent contractor, Contractor is responsible for employing and directing such personnel and agents as it requires to perform the Work. Contractor will exercise complete authority over its personnel and agents and will be fully responsible for their actions.

13. Termination for Non-Appropriation: The other provisions of this Contract notwithstanding, the County is prohibited by law from making commitments beyond the current fiscal year. Payment to Contractor beyond the current fiscal year is contingent on the appropriation and continuing availability of funding in any subsequent year. County has reason to believe that sufficient funds will be available for the full **Contract Term**. Where, however, funds are not allocated for any fiscal period beyond the current fiscal year, County may terminate this Contract without penalty by providing seven (7) days' written notice to Contractor.

14. Termination for Breach: Either Party's failure to perform any of its material obligations under this Contract, in whole or in part or in a timely or satisfactory manner, will be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) days after the institution of such proceeding, will also constitute a breach. In the event of a breach, the non-breaching Party may provide written notice of the breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within thirty (30) days after delivery of notice, the non-breaching Party may exercise any of its remedies provided under this Contract or at law, including immediate termination of this Contract.

15. Termination for Convenience: County may terminate this Contract, in whole or in part, for any reason, upon seven (7) days' advance written notice to Contractor.

16. Remedies for Non-Performance: If Contractor fails to perform any of its obligations under this Contract, County may, at its sole discretion, exercise one or more of the following remedies, which shall survive expiration or termination of this Contract:

a. Suspend Performance: County may require that Contractor suspend performance of all or any portion of the Work pending necessary corrective action specified by the County and without entitling Contractor to an increase in compensation or extension of the performance schedule. Contractor must promptly stop performance and incurring costs upon delivery of a notice of suspension by the County.

b. Withhold Payment Pending Corrections: County may permit Contractor to correct any rejected Work at the County's discretion. Upon County's request, Contractor must correct rejected work at Contractor's sole expense within the time frame established by the County. Upon completion of the corrections satisfactory to the County, County will remit payment to Contractor.

c. Deny Payment: County may deny payment for any Work that does not comply with the requirements of the Contract or that Contractor otherwise fails to provide or complete, as determined by the County in its sole discretion. Upon County request, Contractor will promptly refund any amounts prepaid by the County with respect to such non-compliant Work.

d. Removal: Upon County 's request, Contractor will remove any of its employees or agents from performance of the Work, if County, in its sole discretion, deems any such person to be incompetent, careless, unsuitable, or otherwise unacceptable.

17. Binding Arbitration Prohibited: County does not agree to binding arbitration by any extra-judicial body or person.

18. Conflicts of Interest: Contractor must not engage in any business or personal activities or practices or maintain any relationships that conflict in any way with the full performance of Contractor's obligations.

19. Notices: All notices provided under this Contract must be in writing and sent by Certified U.S. Mail (Return Receipt Requested), electronic mail, or hand-delivery to the other Party's **Contact** at the address specified in the **Details Summary**. For certified mailings, notice periods will begin to run on the day after the postmarked date of mailing. For electronic mail or hand-delivery, notice periods will begin to run on the date of delivery.

20. Statutory Requirements: This Contract is subject to all statutory requirements that are or may become applicable to counties or political subdivisions of the State of Colorado generally, including but not limited to: C.R.S. § 38-26-107, which requires withholding funds where the County receives a claim for payment from a supplier or subcontractor of Contractor upon notice of final settlement (required for public works contracts that exceed \$150,000); C.R.S. § 8-17-101 et seq.; C.R.S. § 18-8-301, et seq.; and C.R.S. § 18-8-401, et seq.

21. Public Contracts for Services (C.R.S. §§ 8-17.5-101, et seq.): Contractor hereby certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and further certifies that it will confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Contract by participating in the E-Verify Program established under Pub. L. 104-28 or the department verification program established under C.R.S. § 8-17.5-102(5)(c). Contractor (i) shall not knowingly employ or contract with an illegal alien to perform work under this Contract; (ii) shall not enter into a contract with a subcontractor that fails to certify to the contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract; (iii) has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract through participation in the E-Verify program or department program; (iv) is prohibited from using either the E-Verify program or department program procedures to undertake preemployment screening of job applicants while this Contract is being performed; and (v) shall comply with any reasonable request by the department made in the course of an investigation that the Colorado Department of Labor and Employment is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5). If Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, Contractor shall (a) notify the subcontractor and County within three (3) days that Contractor has actual knowledge that subcontractor is employing or contracting with an illegal alien; and (b) terminate the subcontract if, within three (3) days of receiving notice hereunder, subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the

subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. Contractor's violation of this provision will constitute a material breach of this Contract, entitling the County to terminate the contract for breach. If this Contract is so terminated, Contractor shall be liable for actual and consequential damages to the County.

22. Entire Agreement/Binding Effect/Amendments: This Contract represents the complete agreement between the Parties and is fully binding upon them and their successors, heirs, and assigns, if any. This Contract terminates any prior agreements, whether written or oral in whole or in part, between the Parties relating to the Work. This Contract may be amended only by a written agreement signed by both Parties.

23. Assignment/Subcontractors: This Contract may not be assigned or subcontracted by Contractor without the prior written consent of the County. If Contractor subcontracts any of its obligations under this Contract, Contractor will remain liable to the County for those obligations and will also be responsible for subcontractor's performance under, and compliance with, this Contract.

24. Governing Law/Venue: The laws of the State of Colorado govern the construction, interpretation, performance, and enforcement of this Contract. Any claim relating to this Contract or breach thereof may only be brought exclusively in the Courts of the 20th Judicial District of the State of Colorado and the applicable Colorado Appellate Courts.

25. Breach: The failure of either Party to exercise any of its rights under this Contract will not be deemed to be a waiver of such rights or a waiver of any breach of the Contract. All remedies available to a Party in this Contract are cumulative and in addition to every other remedy provided by law.

26. Severability: If any provision of this Contract becomes inoperable for any reason but the fundamental terms and conditions continue to be legal and enforceable, then the remainder of the Contract will continue to be operative and binding on the Parties.

27. Third-Party Beneficiary: Enforcement of the terms and conditions and all rights and obligations of this Contract are reserved to the Parties. Any other person receiving services or benefits under this Contract is an incidental beneficiary only and has no rights under this Contract. Notwithstanding, where the beneficiary **Department** is led by an Elected Official, such Elected Official shall be considered a third-party beneficiary.

28. Colorado Open Records Act: County may disclose any records that are subject to public release under the Colorado Open Records Act, C.R.S. § 24-72-101, et seq.

29. Conflict of Provisions: If there is any conflict between the terms of the main body of this Contract and the terms of any of the **Contract Documents**, the terms of the main body of the Contract will control.

30. Governmental Immunity: Nothing in this Contract shall be construed in any way to be a waiver of the County's immunity protection under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended.

31. Representations and Warranties: Contractor represents and warrants the following:

- a. Execution of this Contract and performance thereof is within Contractor's duly authorized powers;
- b. The individual executing this Contract is authorized to do so by Contractor;
- c. Contractor is authorized to do business in the State of Colorado and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over the Work and the Contractor; and
- d. Contractor and its subcontractors, if any, are financially solvent, able to pay all debts as they mature, and have sufficient working capital to complete the Work and perform all obligations under the Contract.

32. Legal Compliance: Contractor assumes full responsibility for obtaining and maintaining any permits and licenses required to perform the Work. Contractor's performance under this Contract and the Work itself will comply with all Federal, State, and local laws, regulations, ordinances and codes.

33. Litigation Reporting: Contractor is not currently involved in any action before a court or other administrative decision-making body that could affect Contractor's ability to perform the Work. Contractor will promptly notify the County if Contractor is served with a pleading or other document in connection with any such action.

34. Tax Exemption: County is exempt from payment of Federal, State, and local government taxes. Contractor shall collect no tax from the County, and the County shall not be liable to pay any taxes imposed on Contractor. County shall provide its tax exemption status information to Contractor upon request.

35. Delegation of Authority: The Parties acknowledge that the Board of County Commissioners has delegated authority to the Department Head or Elected Official that leads the beneficiary **Department** and their designees to act on behalf of the County under the terms of this Contract, including but not limited to the authority to terminate this Contract.

36. Ownership of Work Product: All work product, property, data, documentation, information or materials conceived, discovered, developed or created by Contractor pursuant to this Contract ("Work Product") will be owned exclusively by the County. To the extent possible, any Work Product will be deemed to be a work made for hire. Contractor unconditionally and irrevocably transfers and assigns to the County all right, title and interest in and to any Work Product.

37. Publicity Releases: Contractor will not refer to this Contract or the County in commercial advertising without prior written consent of the County. This provision shall survive expiration or termination of this Contract.

38. Execution by Counterparts; Electronic Signatures: This Contract may be executed in multiple counterparts, each of which will be deemed an original, but all of which will constitute one agreement. The Parties approve the use of electronic signatures, governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24 71.3 101 to 121. The Parties will not deny the legal effect or enforceability of this Contract solely because it is in electronic form or because an electronic record was used in its creation. The Parties will not object to the admissibility of this Contract in the form of electronic record, or paper copy of an electronic document, or paper copy of a document bearing an electronic signature, because it is not in its original form or is not an original.

39. Limitation on Public Statements and Lobbying Activity: During the term of this Contract, Contractor may receive from the County its confidential data, work product, or other privileged or confidential information that is protected by law. To maintain the fact and appearance of absolute objectivity, Contractor shall not, without the prior written consent of the County, which shall not be unreasonably withheld, do any of the following: (a) disclose information obtained because of this contractual relationship to any third party; (b) lobby any State or Federal agency on any pending matter while this Contract is effective; or (c) make any public statements or appear at any time to give testimony at any public meeting on the subject matters regarding which Contractor is or was retained by the County. County may set reasonable conditions on any disclosure authorized by the County under this provision. Notwithstanding, Contractor may make disclosures as required by law, and to law enforcement officials in connection with any criminal justice investigation.

40. Sustainability: County encourages Contractor to consider the procurement and use of environmentally preferable products and services while performing services under this Contract. "Environmentally preferable purchasing" means making purchasing choices for products and services that have a lesser or reduced adverse effect on human health and the environment when compared with competing products and services that serve the same purpose. Environmentally preferable purchasing is consistent with the County's commitment to protecting our air, water, soil, and climate for current and future generations. County encourages Contractor to incorporate the following actions into Contractor's performance of the Work: environmentally preferable supplies and services; conservation of water; efficient energy use; waste prevention; reuse and recycle construction and de-construction materials in a manner that maximizes reuse of materials; sustainable transportation choices, including consideration to business communication software such as Skype alternative to air travel and public transit or carpooling for in-person meetings; pollution prevention; low toxicity for public health & safety; and reduced emissions to address climate change.

41. Limitation of Liability: COUNTY SHALL NOT BE LIABLE TO CONTRACTOR FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES ARISING FROM OR RELATING TO THIS CONTRACT, REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. COUNTY'S AGGREGATE LIABILITY, IF ANY, ARISING FROM OR RELATED TO THIS CONTRACT, WHETHER IN CONTRACT, OR IN TORT, OR OTHERWISE, IS LIMITED TO, AND SHALL NOT EXCEED, THE AMOUNTS PAID OR PAYABLE HEREUNDER BY COUNTY TO CONTRACTOR. ANY CONTRACTUAL LANGUAGE LIMITING CONTRACTOR'S LIABILITY SHALL BE VOID.

42. Insurance Requirements: Prior to commencing the Work, Contractor will provide a Certificate of Insurance to the County demonstrating adequate insurance coverage as required by this paragraph. All policies evidencing coverage required by the Contract will be issued by insurance companies satisfactory to the County. Contractor will forward Certificates of Insurance directly to the **County Department** and **Contact** listed in the **Details Summary**.

a. For the entire duration of this Contract including any extended or renewed terms, and longer as may be required by this Contract, Contractor shall procure and maintain at its own expense, and without cost to the County, the following kinds and minimum amounts of insurance to insure the liability risks that Contractor has assumed under this Contract:

i. **Commercial General Liability**

This coverage should be provided on an Occurrence Form, ISO CG001 or equivalent, with Minimum limits of \$1,000,000 Each Occurrence, \$2,000,000 General Aggregate and \$2,000,000 Products Completed Operations Aggregate.

ii. **Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of the Contract. Minimum limits \$1,000,000 Each Accident.

iii. **Workers' Compensation and Employer's Liability**

Workers' Compensation must be maintained with the statutory limits. Employer's Liability is required for minimum limits of \$100,000 Each Accident/\$500,000 Disease-Policy Limit/\$100,000 Disease-Each Employee.

iv. **Pollution Liability**

Coverage pay for those sums the Contractor becomes legally obligated to pay as damages because of Bodily Injury, Property Damage or environmental Damage arising out of a pollution incident caused by the Contractor's work including Completed Operations. Coverage shall include emergency response expenses, pollution liability during transportation (if applicable) and at Non-Owned Waste Disposal Site (if applicable). The Minimum limits required are \$1,000,000 Per Occurrence/Loss and \$1,000,000 Policy Aggregate. If the coverage is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning from the time that work under this contract is completed. County shall be named as an additional insured for ongoing operations and completed operations.

b. **Boulder County as Additional Insured:** Boulder County shall be named as an additional insured for General Liability, Umbrella/Excess Liability, and Pollution Liability, as designated in this Contract. Additional insured shall be endorsed to the policy.

THE ADDITIONAL INSURED WORDING SHOULD BE AS FOLLOWS: *County of Boulder, State of Colorado, a body corporate and politic, is named as Additional Insured.*

c. **Notice of Cancellation:** Each insurance policy required by this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days' prior written notice has been given to the County except when cancellation is for non-payment of premium, then ten (10) days' prior notice may be given. If any insurance company refuses to provide the required notice, Contractor or its insurance broker shall notify the County any cancellation, suspension, or nonrenewal of any insurance policy within seven (7) days of receipt of insurers' notification to that effect.

d. Insurance Obligations of County: County is not required to maintain or procure any insurance coverage beyond the coverage maintained by the County in its standard course of business. Any insurance obligations placed on the County in any of the **Contract Documents** shall be null and void.

e. Deductible: Any and all deductibles contained in any insurance policy shall be assumed by and at the sole risk of Contractor.

f. Primacy of Coverage: Coverage required of Contractor and its subcontractors, if any, shall be primary over any insurance or self-insurance program carried by the County.

g. Subrogation Waiver: All insurance policies in any way related to this Contract secured or maintained by Contractor as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against County, its organizations, officers, agents, employees, and volunteers.

43. Payable Costs in the Event of Termination: As set forth herein, the County reserves the right to terminate this Contract at any time for either breach or convenience. In the event that the County terminates the Contract before its expiration, Contractor shall be entitled to receive payment only for Work satisfactory executed and actual costs incurred prior to delivery of the notice to terminate.

44. Stormwater Quality Protection Requirements: Contractor will take all measures necessary to prevent pollutants from entering storm drains and watercourses. To eliminate stormwater pollution, Contractor shall implement effective Best Management Practices (BMPs). BMPs include general good housekeeping practices, appropriate scheduling of activities, operational practices, maintenance procedures and other measures to prevent the discharge of pollutants directly or indirectly to the storm drain system. These BMPs shall be maintained for the duration of this Contract. Contractor shall also be responsible for proper disposal of all waste materials, including wastes generated by the implementation of BMPs. Contractor shall otherwise comply with the Federal Clean Water Act, Colorado Water Quality Control Act, and Boulder County's local Clean Water Act, Illegal Discharge Ordinance (No. 2012-4). For work performed in urbanized areas, Contractor must comply with the requirements of MS4 permit (COR090000), which is available through the Colorado Department of Public Health and Environment.

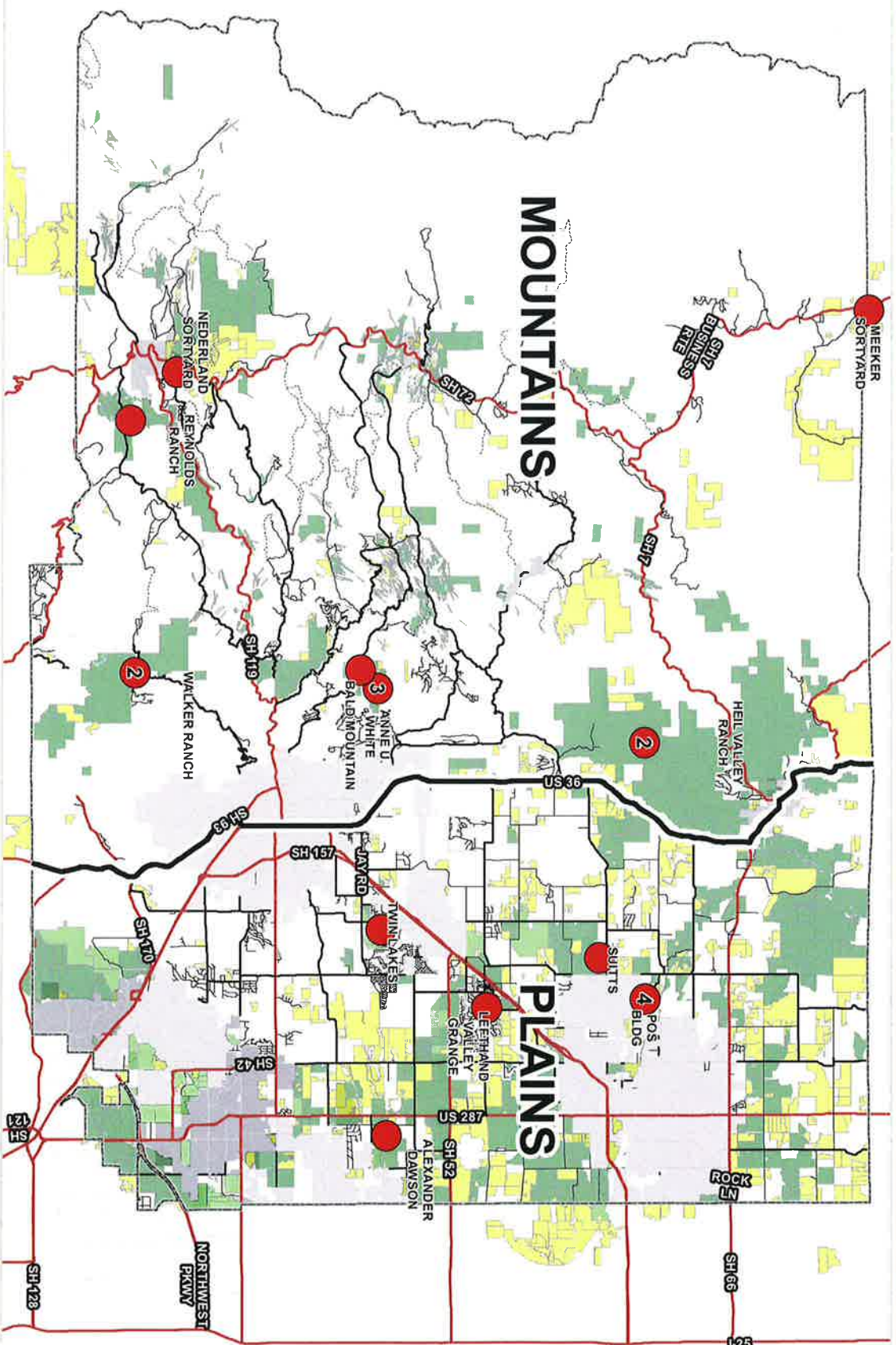
[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties have executed and entered into this Contract as of the latter day and year indicated below.

SIGNED for and on behalf of Boulder County	SIGNED for and on behalf of Contractor
Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:
↓↓ <i>For Board-signed documents only</i> ↓↓	
Attest:	<i>Initials</i>
Attestor Name:	
Attestor Title:	

ATTACHMENT B

Boulder County Portable Toilet Locations



- County Open Space
- Joint County and Municipal Open Space
- County Conservation Easement
- County Miscellaneous Easement
- Portable Toilet

2020

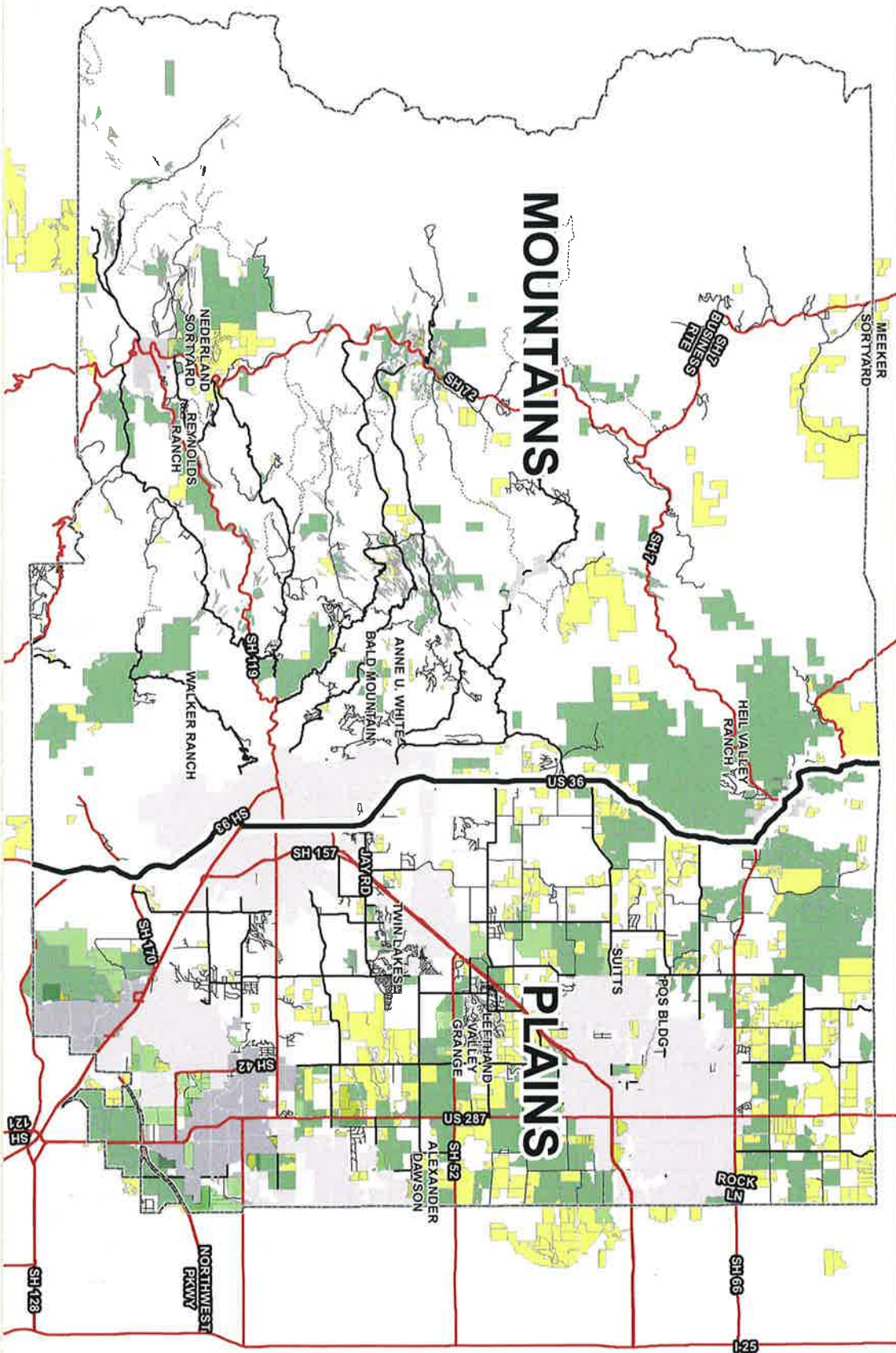
Scale: 1" = 1/2 mile

Map prepared by: www.bouldercounty.gov

Map data provided by: www.bouldercounty.gov

ATTACHMENT C

Boulder County Portable Toilet Bidding Boundaries



- 2020
- County Open Space
- Joint County and Municipal Open Space
- County Conservation Easement
- County Miscellaneous Easement

This map is prepared by the Parks & Open Space Department, Boulder County, Colorado. It is not intended to be used for any other purpose. The map is prepared by the Parks & Open Space Department, Boulder County, Colorado. It is not intended to be used for any other purpose.

ATTACHMENT D



ATTACHMENT E



