



Boulder County Purchasing  
1325 Pearl Street  
Boulder, CO 80302  
[purchasing@bouldercounty.org](mailto:purchasing@bouldercounty.org)

## REQUEST FOR PROPOSAL (RFP) COVER PAGE

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RFP Number: **7162-20**

RFP Title: **Boulder County Mosquito Control District**

Due Date for RFP Questions: July 15, 2020 – 2:00 p.m.

**RFP Submittal Due Date:** July 29, 2020 – 2:00 p.m.

Email Address: [purchasing@bouldercounty.org](mailto:purchasing@bouldercounty.org)

Documents Included in This Package:

- Bid Proposal Instructions
- Terms and Conditions
- Specifications
- Insurance and W-9 Requirements
- Submittal Checklist
- Evaluation Criteria
- Sustainability Questionnaire
- Signature Page

1. Attachment A: Contractor Qualification Statement (must be completed and submitted with proposal)
2. Attachment B: Boulder County Sample Contract
3. Attachment C: City of Longmont Sample Contract
4. Attachment D: Town of Superior Contract
5. Attachment E: City of Longmont Comprehensive Plan
6. Attachment F: City of Longmont Mosquito Control Map
7. Attachment G: Town of Superior Boundaries
8. Attachment H: County District Map
9. Attachment I: Trap Locations



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## RFP Bid Proposal Instructions

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### 1. PURPOSE/BACKGROUND.

Please provide a brief summary of the goods/services you would provide to Boulder County if awarded.

### 2. WRITTEN INQUIRIES.

If you have any questions regarding this RFP, you must submit them via email to the Boulder County Purchasing Office ([purchasing@bouldercounty.org](mailto:purchasing@bouldercounty.org)) on or before 2:00 p.m., **July 15, 2020**. A response from Boulder County on all inquiries received will be subsequently posted on <https://www.bouldercounty.org/government/bids-and-purchasing/bid-opportunities> and on the Rocky Mountain E-Purchasing System and sent out via email no later than **July 22, 2020**.

**Please do not contact any other Boulder County department or personnel with questions or to request information regarding this RFP solicitation. Inquiries received will NOT be forwarded to the Purchasing Office.**

### 3. SUBMITTAL INSTRUCTIONS.

#### A. Submittal Requirements: In order for RFP submittals to be accepted for consideration by Boulder County:

1. All bids must be submitted by email only.
2. All bids must be received and time/date recorded by authorized Boulder County staff before the established RFP due date and time.
3. **NO LATE SUBMITTALS WILL BE ACCEPTED.** If your RFP bid is received after the established RFP due date and time for any reason, your proposal will automatically be rejected, there are NO EXCEPTIONS. Boulder County does not accept responsibility under any circumstance for delayed or failed RFP submittals.
4. You must include all required documents with your RFP bid, including but not limited to:
  - RFP Submittal Checklist (included in RFP package)
  - RFP Signature Page (included in RFP package)
  - Certificates of insurance, if applicable
  - W-9
5. It is the sole responsibility of RFP bidders to ensure that your RFP submittals are received by Boulder County before the deadline, as detailed in "Submission Instructions" below.
6. The Board of County Commissioners ("Board") reserves the right to reject any and all RFP bids; 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 Boulder County, Colorado.

#### B. Submission Instructions: All RFP submittals must be received by Boulder County for time and date recording on or before 2:00 p.m., MST, on **July 29, 2020**, by email only:

##### 1. Email Instructions:

- a. Maximum size of submittal is 50MB.
- b. NO ZIP FILES WILL BE ACCEPTED.
- c. Electronic submittals must be emailed to [purchasing@bouldercounty.org](mailto:purchasing@bouldercounty.org):
  - 1) Submittals emailed to any other mailbox will NOT be accepted or forwarded.
  - 2) This email box will ONLY be monitored by Boulder County on the due dates for: 1) RFP inquiries; and 2) RFP submission.
- d. You must include **RFP #7162-20** in your email subject line.
- e. Please use the delivery receipt option to verify receipt of your email.
- f. **Americans with Disabilities Act (ADA):** If you need special services, as provided for under the Americans with Disabilities Act, contact the ADA Coordinator or Boulder County Human Resources at 303-441-3525 at least 48 hours before the scheduled event.



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## RFP Terms and Conditions

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1. Request for Proposal (“RFP”) bidders are expected to examine drawings, specifications, schedule of delivery, and all instructions. Failure to do so will be at the bidder’s risk.
2. Each bidder must furnish all information required in the RFP.
3. The RFP contract/purchase order will be awarded to the responsible bidder whose submittal, conforming to the RFP, will be most advantageous to Boulder County, Colorado, and/or Boulder County Public Health (“BCPH”), price and other factors considered.
  - a. The sample contract included with this RFP packet is indicative of the contract that the winning bidder will be required to sign. The final contract may contain additional terms required under the award agreement between Boulder County Public Health (“BCPH”) and the awarded bidder; a copy of that agreement is available to the bidder upon request.
4. Boulder County and/or BCPH reserves the right to reject any or all RFP proposals, to waive informalities and minor irregularities in bids received, and to accept any portion of or all items proposed if deemed in the best interest of Boulder County to do so.
5. No submittal will be withdrawn for a period of thirty (30) days subsequent to the opening of bids without the consent of the Boulder County Purchasing Agent or delegated representative.
6. A signed purchase order or contract furnished to the successful bidder shall result in a binding contract without further action by either party.
7. Late or unsigned RFP submittals will not be accepted or considered. It shall be the responsibility of RFP bidders to ensure that their proposals arrive at the designated Boulder County email box or Administrative Services Information Desk prior to the due date and time indicated in the RFP.
8. The proposed price shall be exclusive of any federal or state taxes from which Boulder County and BCPH are exempt by law.
9. Any interpretation, correction, or change of RFP documents shall be made by Addendum. Interpretations, corrections, and changes of the RFP documents made in any other manner will not be binding, and bidders must 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 RFP and any resulting contract shall be 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 shall be clearly stated in the proposal itself.

Confidential/proprietary information must be readily identified, marked, and separated/packaged from the rest of the RFP submittal. **Co-mingling of confidential/proprietary and other information is NOT acceptable. Neither a proposal, in its entirety, nor bid price information will be considered confidential/proprietary. Any information that will be included in any resulting contract cannot be considered confidential.**

11. Boulder County promotes the purchase/leasing of energy-efficient materials and efficient and reduced toxic-level products where availability, quality, and budget constraints allow. Bidders will be 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. Bidders 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 (e.g. [House Bill 13-1292](#)), 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 shall be applied to the bid of that bidder. Bidders may obtain additional information from the [State of Colorado website](#).



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## RFP Specifications

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### A. PROJECT DESCRIPTION

1. Boulder County Public Health (BCPH), the Boulder County Board of County Commissioners (BOCC), the City of Longmont and Town of Superior are seeking proposals through the Boulder County Purchasing office (hosting agency) from qualified vendors to conduct Mosquito Control in the unincorporated areas of Boulder County within the designated Mosquito Control District, within the City of Longmont's Municipal Service Area ([http://www.ci.longmont.co.us/planning/lacp/documents/3tier\\_update10.pdf](http://www.ci.longmont.co.us/planning/lacp/documents/3tier_update10.pdf)) as well as the Expanded Service Area in Weld County, see attached City Map and within the Town of Superior.

The control efforts must follow an Integrated Pest Management (IPM) methodology consisting of "an environmentally sensitive program of pest management that utilizes a combination of cultural, biological, and chemical measures that emphasize the least-toxic approach to control established and potential nuisance/disease-vector pest populations, and which is also within economically feasible considerations, with a strong emphasis on minimizing the use of chemical adulticide control".

2. The awarded contractor will be required to enter into separate contracts with each participating agency beginning with a 2-year contract with 1- two year optional renewal periods beginning January, 2021. Funding for each contract year is contingent upon funds for that purpose being appropriated by each participating agency, budgeted, and otherwise made available.

3. It is anticipated that each participating agency will be invoiced separately, and that payment will be made through each participating agency.

### B. PROJECT AREA

1. The Boulder County Mosquito Control District (BCMCD) consists of approximately 172 square miles and was created by County Ordinance No. 94-2 and amended by Ordinance

Nos. 95-1, 95-3, 98-2, 2002-1, 2003-1, and 2006-4, it is that portion of Boulder County, excluding incorporated lands, described as follows:

Township 1 South, Range 69 West

Sections 1-36

Township 1 South, Range 70 West

Sections 1-4, 9-12, West ½ of 15, 16, North ½ of 21

Township 1 North, Range 69 West

Sections 1-36

Township 1 North, Range 70 West

Sections 1-36

Township 2 North, Range 69 West

Sections 1-36

Township 2 North, Range 70 West

Sections 1-36

Township 2 North, Range 71 West

Sections 12, 13, 24

Township 3 North, Range 69 West

Sections 1-36

Township 3 North, Range 70 West

Sections E ½ of 1, East ½ 12, 13, South ½ of 14, North ½ of 20, 21-28, E ½ of 32, 33-36

The City of Longmont's Municipal Service Area is referenced on the attached Longmont bid map Attachment F.

The town of Superior's boundaries can be found in Attachment G of this RFP.

## SECTION II

### A. SCOPE OF WORK

1. Establish and maintain a Mosquito Control Call Line. Contractor must provide a call line for residents in the Boulder County Mosquito Control District, City of Longmont and the Town of Superior. The call line must allow district residents to:

- a. Opt their property out of any adulticiding (spraying) via a "Shut-Off List."
- b. Request that they be notified when spraying is going to occur in or around their neighborhood.
- c. Report mosquito annoyance areas.
  - a. Report sites that are harboring larval mosquitoes
  - b. Request fish to control mosquitoes (where applicable).

- c. Request information on how to control/prevent mosquitoes on their property and mosquito borne disease, such as West Nile Virus, Western Equine Encephalitis, St. Louis Encephalitis and other mosquito borne diseases.
  - d. Request safety/health information about mosquito control including, control products used.
  - e. Documentation must be maintained of each call to include name, address, type of complaint, response, and resolution.
2. Complaint Response
- a. Contractor is required to respond appropriately to all complaints and refer all service-related complaints to Boulder County Public Health (BCPH), the City of Longmont or Town of Superior within 24 hours based on the location of the complaint.
  - b. Vendor must also verify the validity of nuisance complaints by on-site inspection that can include any of the following: adult mosquito trapping (floater traps), landing counts, or larval dipping in breeding sites.
  - c. Vendor must resolve all valid complaints to the satisfaction of BCPH, the City of Longmont or the Town of Superior based on the location of the complaint.
  - d. Vendor must provide education to complainant to promote self-management of mosquito problem.
  - e. Contractor must submit a weekly report of all complaints, response and resolution to BCPH, the City of Longmont and Town of Superior. Report must contain any complaints that could not be resolved and explain reasons why. A report should be prepared for each agency separately. The BCPH report should be consolidated on a monthly basis and shared with the Boulder County Mosquito Control Advisory Board.

3. Adult Mosquito Trapping

- a. Contractor must conduct adult mosquito trapping during the mosquito season (approximately May-September). Trapping of adult mosquitoes, at minimum, must include:
  - i. Weekly trapping at 22 predetermined locations within the BCMCD and 12 traps within the City of Longmont's Municipal Service Area and 3 traps for the Town of Superior (see attached list of traps, trap type, and trap locations).
  - ii. An appropriate number of floater traps shall be available for use in areas in the District, the City and Town of Superior that are not covered by 1 of the predetermined trap locations. Floater traps will be used to determine adult mosquito numbers in areas where complaints regarding high numbers of mosquitoes have been received and to determine whether spraying for adult mosquito control is justified. Floater traps can be used when a permanent trap site is over 1 mile from the complaint area (see Adult Mosquito Control, below).
  - iii. The use of both CDC light traps or other accepted and BCPH approved trapping methods (where applicable) at each site.
  - iv. Genus, speciation, and counts of adult mosquitoes within 24 hours of trapping. Counts using statistically valid sampling methods may be used in large sample sizes (minimum of 300 mosquitoes/trap).
  - v. Ensure that speciated mosquitoes are made available for submission to the State lab for disease testing (when applicable) within 24 hours of trap retrieval.
  - vi. The maintenance of trapping data and reporting individual trap results to BCPH, the City of Longmont and Town of Superior within 24 hours of trap collection.
  - vii. No subcontracting of adult mosquito trapping will be permitted.
- viii. Maintain surveillance data on Company's website for public viewing in a format that is understandable and meaningful to the public

- ix: Conduct west nile virus sentinel surveillance for three zones within Boulder County consisting of 5 traps per zone. The traps will be identified by BCPH and trapping will begin as early as the second week of June and could extend into September as the season warrants. Likely beginning dates will be the end of June but each season may need flexibility in dates. Costs for testing are currently supported by the Colorado Department of Public Health but in the event that those resources no longer are available then testing through CSU would need to be implemented.

#### 4. Larval Mosquito Control

The larval control component of these programs is the most significant area of focus and should be reflected in the proposal and services offered. Boulder County has approximately 1,921 sites, the City of Longmont **see Attachment F**, and the Town of Superior has **approximately** 72 larval sites that are historically monitored as mosquito-breeding sites. Larval control efforts are conducted from March through September (dependent on weather and presence of larvae). The contractor shall:

- a. Maintain a larval site inventory database with site locations (latitude & longitude), site size, and habitat type. This database must be kept updated on a weekly basis and made available to BCPH, the City of Longmont and Town of Superior and the individual conducting quality assurance inspections.
- b. Maintain a larval site treatment database that includes date inspected/treated; method, amount, and product used for control; and genus and species of mosquito observed.
- c. The contractor should seek to identify potential new sites in areas with high mosquito activity to ensure all larval surveillance sites are addressed.
- d. Categorize sites into weekly, monthly and seasonal/annual inspection frequency
- e. Re-inspect and treat when applicable, on a 5-day interval, all sites treated the previous inspection during peak mosquito production, June 21–August **31**. Sites that are not producing at inspection may be placed on a 7-day interval during this time for all sites designated for weekly monitoring.
- f. Conduct larval control efforts that must include:
  - i. A prescription-based larval control that incorporates habitat type and species history of the site.
  - ii. Biological treatment of larvae with appropriate product or physical control to reduce standing water.
  - iii. Working with property owners to reduce standing water through water management and source reduction treatment, including clearing clogged ditches, hand digging of channels, and working with property owner to mitigate these sites.
  - iv. Stormwater catch basins inspection and treatment, where applicable.
  - v. Water management and source reduction treatment including clearing clogged ditches, hand digging of channels and working with property owners to mitigate these sites.
  - vi. Distributing mosquito fish (*Gambusia affinis* or other approved species) to District residents for use in ornamental ponds and fountains in accordance with all wildlife regulations.
  - vii. No subcontracting of larval control efforts will be permitted.

#### 5. Community Education

- a. The contractor should outline a proposal for expanded education of the mosquito control district residents to better inform the actions of the contractor, personal role in mosquito population reduction, taking personal protection, etc.



Contractor must report any possible breeding sites that are not being remediated and the reason why to BCPH, the City of Longmont or Town of Superior. When access to a property for an inspection, site visit, or larval treatment cannot be gained, the contractor must notify BCPH, the City of Longmont or Town of Superior of these areas. Additionally, contractor must work with the BCMCD, BCPH, City of Longmont and Town of Superior to identify new problem areas for future control efforts and to suggest new approaches and technologies to find, identify and eliminate mosquito breeding areas.

**6. Adult Mosquito Control**

- a.** In keeping with an IPM approach to mosquito control, the vendor must focus on minimizing the use of chemicals. A prescription-based adulticiding program must be used. Contractor may only utilize pesticides approved by the BOCC, BCPH, the City of Longmont and Town of Superior.
- b.** No subcontracting for adult mosquito control is permitted.
- c.** The use of chemical pesticides to control adult mosquitoes shall be limited to:
  - i.** A pyrethroid-based formulation or other product with similar/less toxicity, as approved by BCPH.
  - ii.** Backpack and truck-mounted Ultra Low Volume (ULV) dispersal. Truck-mounted ULV must have integrated variable flow to adjust pesticide rate with speed of vehicle and integrated GPS to document spray routes including vehicle speed, vehicle heading, time, spray on/off, spray shutoffs, and total spray time. All ULV equipment shall be calibrated as needed, but not less than once annually.
  - iii.** Adulticide should be used *only* when nuisance and vector mosquitoes cannot be controlled by any other means (e.g. water management, vegetation control, biological controls, larvacide, etc.) and when any one of the following conditions exist:

BCPH Criteria

- 1.** Adult mosquito spraying will be determined in consult with BCPH using varying thresholds based on nuisance abundance, vector abundance, and/or disease risk.
- 2.** In other areas of the District not routinely trapped, if a "floater" trap is set and there are 100 or greater adult mosquitoes captured per trap per night
- 3.** For areas designated for nuisance control adjacent to the City of Boulder properties a higher threshold may be set as approved by the BOCC and BCPH (250 adult mosquitoes for these traps is currently the threshold for 3 city traps).

City of Longmont Criteria:

See Attachment E

Town of Superior Criteria

See Attachment D

- d.** Frequency and levels of adulticiding may be reduced or redirected at the discretion of BCPH, the BOCC, the City of Longmont or Town of Superior.

## 7. Mosquito Reduction Projects

When awarding the mosquito control contract the BOCC, City of Longmont and Town of Superior will heavily weigh proposals that will maintain existing mosquito control efforts and comprehensively address specific areas within the BCMCD, the City of Longmont and Town of Superior that have traditionally had large numbers of mosquitoes that are trapped consistently from one trap week to the next and breeding sites associated with irrigation. The contractor must allocate resources for finding the sources of these mosquitoes and utilize the appropriate treatment for larval mosquitoes with the goal of lowering the number of mosquitoes and reducing the amount of adulticide required.

The BOCC, BCPH, the City of Longmont and Town of Superior reserve the right to extend the effort for the projects above or refocus the effort used in the above projects to another part of the District, City of Longmont or Town of Superior for the third and fourth year of the contract.

## 8. Reporting Requirements

*All data developed under this contract becomes the sole property of Boulder County, the Town of Superior and the City of Longmont.* Contractor must provide all data to Boulder County, the City of Longmont and Town of Superior in a common, easy to use and manipulate, electronic/digital format.

- a. Contractor is required to submit weekly reports. At minimum, the weekly report must include:
  - i. The number, size, and location of breeding sites inspected and/or treated.
  - ii. Weekly adult mosquito trapping data to include total numbers and numbers of mosquitoes per Genus species (*Aedes spp.*, *Culex spp.*, *Culiseta spp.*, & *Coquillettidia spp.*) per site.
  - iii. Weekly GIS layers and reports maps indicating where adulticide application occurred, shutoff areas, # ULV miles, type and amount of product applied
  - iv. Summary of weekly calls by type and date. Must also include any complaints that were not resolved and explain why.
  - v. Any breeding sites or properties that were not inspected and the reason why.
  - vi. Reports should begin when activities related to that report begin and may cease when activities cease.
- b. Contractor is required to submit monthly reports of control efforts during the months of April-September by the 15<sup>th</sup> of the following month. Monthly reports shall include, at a minimum:
  - i. Number, date, location, and size of sites inspected.
  - ii. Number, type and size of new sites added to inventory.
  - iii. % of the sites that were wet.
  - iv. % of the sites breeding mosquitoes.
  - v. A summary of the number, size, and location of breeding sites treated.
  - vi. Amount and type of larval control product used.
  - vii. A summary of weekly adult mosquito trapping data.
  - viii. A summary of weekly calls by type and date.
- c. Contractor is required to submit an annual report to BCPH, the City of Longmont and Town of Superior by October 14<sup>th</sup> of the current contract year. At minimum, the annual report must include:

- i. An overview of the control efforts for that year.
  - ii. Location, type, and size of larval production sites.
  - iii. Genus and species of mosquitoes observed at each site.
  - iv. Number of larval sites inspected; number of sites treated; acreage treated, and number, type, and size of new sites added to inventory.
  - v. Amounts and type of each larval control agent used.
  - vi. Composite of mosquito species trapped both for light traps and gravid traps district-wide and for each trap.
  - vii. Annual ULV miles and GPS assisted maps indicating the location of each ULV event, date, amount, and type of material used; start time; end time; and miles.
  - viii. Amount and type of adulticide product used during the year.
  - ix. Total annual calls received and type of call by month.
  - x. Time and cost breakdown by program element (e.g., larval surveillance and control, adult surveillance and control, education, etc.).
- d. All GIS information provided to Boulder County needs to use the Boulder County standard projection, Colorado State Plane North (US HARN) . Datum is NAD83.

#### 9. Public Education and Outreach

- a. Attend BC Mosquito Control Citizen’s Advisory Board meetings as well as City Council or Advisory Board meetings or any other public outreach efforts when requested.
- b. Notify residents on the Notification/Shutoff List when spraying within 2 blocks of their property or within the effective ULV spray drift distance (300-500 feet depending on wind speed and direction).
- c. Notification to BCPH, the City of Longmont and Town of Superior Project Managers must be given at least 48 hours prior to adulticide application
- d. Provide the location of “areas to be sprayed” to local newspapers to be printed the day of if not before spraying occurs or other approved means of notification.
- e. Maintain a website listing weekly spray schedules/areas within BCMCD, the City of Longmont and Town of Superior that provides the weekly spray events at least two calendar days prior to spraying.
- f. **Provide education/outreach for residents to control nuisance mosquitoes around their homes through the use of a website or during personal interaction.**
- g. **Provide weekly notification of spraying events to the public when adult control will be initiated. Public notification must occur a minimum of 24 hours before spraying takes place and as set my the municipal scopes for Longmont and Superior . Any rescheduled spray events must also have another public notice. Should a City-wide spraying be required a minimum of 48 hour notification will be required prior to spraying.**

#### 10. NPDES Requirements

- a. **The contractor shall comply with all requirements outlined under the Clean Water Act and the CDPHE NPDES permit issued for discharges of pesticides applied as part of this contract.**
- b. **The contractor will work with BCPH, Superior, and Longmont to draft and update all plans and reports including but not limited to the Certification of Compliance and the Pesticide Discharge Management Plan.**
- c. **The contractor shall develop pesticide spill response procedures including training for all employees who may need to implement the procedures.**
- d. **The contractor must follow all procedures for identifying, responding to, and reporting any adverse incidents that may occur. The contractor must also keep records of Adverse Incidents as required by the Clean Water Act and the CDPHE NPDES permit.**

- e. **The contractor needs to provide all data for completion of the annual Certificate of Compliance (e.g., Name of each pesticide product used, EPA Registration number and Quantity of pesticide applied (as packaged or as formulated)) in the annual report.**

### SECTION III – SUBMITTAL SECTION

1. The overall goal of this RFP is to award a contract from each participating agency (Boulder County, City of Longmont & Town of Superior) to one single contractor. If that goal cannot be achieved, the participating agencies reserve the right to award all or portions of this RFP to one or more contractors.
2. Contractors are encouraged to provide proposals for all three agencies and to submit the information requested in Sections III A, III B, III C & III D with their proposals.
3. The following sections should be submitted together, submitted as separate sections and labeled as follows:

Section III A – General Submittal Information

Section III B – Boulder County Submittal Section

Section III C – City of Longmont Submittal Section

Section III D – Town of Superior Submittal Section

Section IV A – Submittal Compliance List

Section IV B – Signature Page

### A. GENERAL INFORMATION

Please respond to the following in the order listed below. This information should be general to all 3 participating agencies.

1. Name, address and contact information for your Company
2. Please submit a completed Contractors Qualification Form, Attachment A, included in this solicitation
3. Describe the firm's special area(s) of expertise/strengths, if any.
4. Describe any project approaches or ideas that you would apply to the project and that you would feel would enhance the quality of your services

5. Describe how the team will handle quality control, specifically how applications would be monitored, resolved and assured, plans checked and cross-referenced and bid documents ensured to be complete, accurate and coordinated.
6. Describe how your company will continue to identify additional sites, throughout the contract cycle, where larval mosquito control efforts should be considered.
7. Please provide information on any additional value added services your company can provide to the participating agencies.

## **B. BOULDER COUNTY SUBMITTAL SECTION**

The following information should be provided specific to the information regarding Boulder County and the Boulder County Mosquito Control District supplied in this RFP.

1. Please submit your company's All Inclusive Annual Price for services to be performed. Please submit separate costs for years 1, 2, 3 and 4.
2. Please submit a detailed budget of the proposal to include the following annual cost breakdown:
  - a. Costs for labor (field and office) and broken out for larval control and adult surveillance and control
  - b. Costs for larval products
  - c. Costs for adult control/per linear mile
  - d. Costs for other materials and expenses
  - e. Equipment costs
  - f. Overhead and indirect costs
  - g. Profit
3. Provide the names and resumes of the key personnel that will be performing the proposed services, including the primary project manager.
4. Please submit any value added services your company may offer in addition to the services outlined in this RFP.
5. List the number of people that you can commit to working on this project and the amount of time each is expected to spend on the project.
6. List the names of the subcontractors you expect to use, the services to be provided by the subcontractors and the amount of time that each is expected to spend on the project. Also, include the names and resumes of the key subcontractor personnel who will be working on the project.

## **C. CITY OF LONGMONT SUBMITTAL SECTION**

The following information should be provided specific to the information regarding City of Longmont, the City's Municipal Service Area and unincorporated portions of Weld County as supplied in this RFP.

1. Please submit your company's All Inclusive Annual Price for services within the City's Municipal Service Area to be performed. Please submit separate costs for years 1, 2, 3 and 4.
2. Please submit a detailed budget of the proposal to include the following annual cost breakdown:
  - a. Costs for labor (field and office) and broken out for larval control and adult surveillance and control
  - b. Costs for larval products
  - c. Costs for adult control/per linear mile (Add on service for Longmont contract; Included in Superior and BC bid).
  - d. Costs for other materials and expenses
  - e. Equipment costs

- f. Overhead and indirect costs
  - g. Profit
3. Provide the names and resumes of the key personnel that will be performing the proposed services, including the primary project manager.
  4. Please submit any value added services your company may offer in addition to the services outlined in this RFP.
  5. List the number of people that you can commit to working on this project and the amount of time each is expected to spend on the project.
  6. List the names of the subcontractors you expect to use, the services to be provided by the subcontractors and the amount of time that each is expected to spend on the project. Also, include the names and resumes of the key subcontractor personnel who will be working on the project.

#### **D. TOWN OF SUPERIOR SUBMITTAL SECTION**

The following information should be provided specific to the information regarding the Town of Superior and the Town of Superior's Area Description supplied in this RFP.

1. Please submit your company's All Inclusive Annual Price for services to be performed. Please submit separate costs for years 1, 2, 3 and 4.
2. Please submit a detailed budget of the proposal to include the following annual cost breakdown:
  - h. Costs for labor (field and office) and broken out for larval control and adult surveillance and control
  - i. Costs for larval products
  - j. Costs for adult control/per linear mile
  - k. Costs for other materials and expenses
  - l. Equipment costs
  - m. Overhead and indirect costs
  - n. Profit
3. Provide the names and resumes of the key personnel that will be performing the proposed services, including the primary project manager.
4. Please submit any value added services your company may offer in addition to the services outlined in this RFP.
5. List the number of people that you can commit to working on this project and the amount of time each is expected to spend on the project.
6. List the names of the subcontractors you expect to use, the services to be provided by the subcontractors and the amount of time that each is expected to spend on the project. Also, include the names and resumes of the key subcontractor personnel who will be working on the project.



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Boulder, CO 80302  
[purchasing@bouldercounty.org](mailto:purchasing@bouldercounty.org)

## Insurance and W-9 Requirements

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**INSURANCE REQUIREMENTS** – Please note that the limits below are the minimum insurance limits.

**General Liability:** \$1,000,000 each occurrence  
\$2,000,000 general aggregate  
\$2,000,000 products completed operations aggregate  
3 years products/completed operations  
This coverage should be provided on an Occurrence Form, ISO CG001 or equivalent.

**BCPH and Boulder County as Additional Insureds:** BCPH and Boulder County shall be named as additional insureds on the Certificate of Insurance for General Liability, Umbrella/Excess Liability, and Pollution Liability, as designated in the Contract. Additional insureds shall be endorsed to the policy.

**THE ADDITIONAL INSURED WORDING ON THE CERTIFICATE OF INSURANCE SHOULD BE AS FOLLOWS:** *“Boulder County Public Health, State of Colorado, a political subdivision of the State; and County of Boulder, State of Colorado, a body corporate and politic, are named as Additional Insureds.”*

**Automobile Liability:** \$1,000,000 each accident  
\*Including hired & non-owned autos  
Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of the Contract.

**Worker’s Compensation & Employer’s Liability:** \$100,000 Each Accident  
\$500,000 Disease-Policy Limit  
\$100,000 Disease  
Each Employee Workers’ Compensation must be maintained with the statutory limits.

**Pollution Liability:** \$1,000,000 per loss  
\$1,000,000 aggregate  
Coverage maintained or extended discovery period for 3 years

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.

**NOTE:**

\*In regard 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.

The above insurance amounts are the minimum required for this project. Boulder County and/or Boulder County Public Health (“BCPH”) reserves the right to amend insurance coverages in the awarded bidder’s contract. **Proof of current insurance must be provided with your RFP submittal 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 or sole proprietorships), you may request one in your RFP submittal along with an explanation for your request.

New insurance certificates will be requested if the contract process is longer than 30 days from contract award or they expire during the term of the contract award.

### **W-9 REQUIREMENT**

Provide a signed and dated copy of your company’s W-9 Form with your proposal. The individual and/or business name and address on the W-9 Form must match the remit address.





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> XYZ Agency 1111 Your Street Ourtown, CO 99999	<b>CONTACT NAME:</b> _____ <b>PHONE (AC No Ext):</b> _____ <b>FAX (AC No):</b> _____ <b>E-MAIL:</b> _____ <b>ADDRESS:</b> _____																				
	<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A:</td> <td>Carrier</td> <td></td> </tr> <tr> <td>INSURER B:</td> <td></td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Carrier		INSURER B:			INSURER C:			INSURER D:			INSURER E:			INSURER F:	
INSURER(S) AFFORDING COVERAGE		NAIC #																			
INSURER A:	Carrier																				
INSURER B:																					
INSURER C:																					
INSURER D:																					
INSURER E:																					
INSURER F:																					
<b>INSURED</b> XYZ Vendor 1 Vendor Street Happy Town, CO 99999 *This name should match the name on the contract.																					

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ACORD (MED)	INSUR (W/O)	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
X	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER: _____		X	GL123456	*These Dates Must Be Current		EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ 2,000,000
X	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		X	GL123456			COMBINED SINGLE LIMIT (Per pol) \$ 1,000,000 BODILY INJURY (Per person) \$ _____ BODILY INJURY (Per accident) \$ _____ PROPERTY DAMAGE (Per accident) \$ _____
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTIONS \$ _____						EACH OCCURRENCE \$ _____ AGGREGATE \$ _____
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROP OR PARTNER/EXECUTIVE OFFICER MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WC123456			<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Boulder County Public Health, State of Colorado, a political subdivision of the State, and Boulder County, State of Colorado, a body corporate and politic, are named as additional insureds with respect to General Liability.

PLEASE REFER TO THE BOULDER COUNTY PUBLIC HEALTH CONTRACT INSURANCE REQUIREMENTS FOR CONTRACT SPECIFIC INSURANCE REQUIREMENTS.

<b>CERTIFICATE HOLDER</b> Boulder County Public Health Attn: Contracts 3450 Broadway Boulder CO 80304 Email: HealthContracts@bouldercounty.org	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE Licensed Agent Signature
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**Boulder County Purchasing**  
**1325 Pearl Street**  
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[purchasing@bouldercounty.org](mailto:purchasing@bouldercounty.org)

## RFP Submittal Checklist

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Please pay special attention to the items listed below, as this information is REQUIRED IN FULL, as part of your RFP proposal. Failure to provide any of the information or documents listed below; 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 request for proposal (RFP) may be cause for rejection of your proposal.

**YOU MUST COMPLETE AND INCLUDE THIS CHECKLIST WITH YOUR PROPOSAL PACKAGE!**

Please check each box to indicate your compliance in providing the following RFP requirements:

INCLUDED	ITEM
	Names and addresses of your partners and subcontractors for this RFP, if applicable.
	Detailed project schedule that includes the all-inclusive, total cost of your bid.
	Information regarding the relevant experience of all key personnel.
	A copy of any contract you would require to be executed as part of your RFP award, if selected; otherwise, Boulder County Public Health’s contract format will be used.
	Three references for similar projects you have completed within the last three years, as well as relevant contact information for those projects.
	Applicable certificate(s) of insurance.
	Signed and dated W-9 form.
	Signed RFP submittal signature page.
	Sustainability Questionnaire
	Addendum acknowledgement(s), if applicable.



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## RFP Evaluation Criteria

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The RFP proposals received will be reviewed by a selection committee, which may request additional information from RFP bidders or request interviews with one or more of the bidders. Final evaluation and selection can be based on, but not limited to, any or all of the following:

- Staff Qualifications
- Experience providing mosquito IPM services
- References
- Cost proposal

<b>Description</b>	<b>Points</b>
Staff Qualifications	20
Experience providing mosquito IPM services	30
References	10
Cost proposal	20
<b>Total Possible</b>	<b>80</b>



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## RFP SUSTAINABILITY QUESTIONNAIRE

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Company Name: \_\_\_\_\_ Date: \_\_\_\_\_

This questionnaire is applicable to firms that provide services as well as those that provide goods. Please answer the questions to the best of your ability.

1. What sustainability certifications does your business have? Please check the items that apply:

- B-Corp
- Green Business Bureau
- Fair Trade USA
- Green C Certification
- None
- Other - describe any other certifications your company has related to sustainability.

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2. Does your company have a sustainability vision/commitment/values statement or policy? Please check the items that apply:

- Our sustainability statement/policy describes our company's sustainability initiatives.
- We have formed an oversight committee to ensure the success of our sustainability policy.
- Our sustainability statement/policy describes how our company explores opportunities to work with communities, governments and non-governmental and professional organizations to help articulate, teach and advance the principles of sustainability.
- We are currently in the process of developing a sustainability statement/policy consistent with a commitment to promote environmental, economic, and social sustainability.
- None
- Other - Provide (or supply a link) your company's sustainability statement/policy.

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3. What policies are in place to monitor and manage your supply chain regarding sustainability issues? Please select all that apply:

- We apply sustainability criteria when making purchasing decisions.
- We partner with suppliers who share in our sustainability commitment and/or work with them to reduce the impact to the environment of our resource needs as well as improve worker conditions.
- We purchase “green” (i.e. recyclable, reusable, non-toxic, compostable, fair trade and made from 100% post-consumer recycled materials) supplies, products, and materials.
- We specify locally manufactured products in procuring goods.
- We specify products that use the Electronic Products Environmental Assessment Tool (EPEAT) standards in procuring goods.
- None.
- Other – describe other ways your company monitors and manages your supply chain concerning environmental issues.

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4. Does your company promote sustainable transportation in its operations? Please select all that apply:

- We own, rent, or lease electric fleet vehicles.
- We own, rent, or lease hybrid or natural gas fueled fleet vehicles.
- We encourage carpooling, public transportation, and using other alternative modes of transportation.
- We subsidize public transportation for employees.
- We have an established Green Transportation Plan (must describe below; no additional points awarded for providing this description).
- We are developing a Green Transportation Plan (must describe below; no additional points awarded for providing this description).
- We offer flexible hours, telecommuting, or a compressed work week.
- We utilize teleconference, video conference, WebEx or GoTo Meetings (or other similar conferencing services).

- None
- Other – describe other ways your company promotes sustainable transportation. If applicable, use this space to describe your company’s Green Transportation Plan (whether existing or in development).

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5. What does your company do to minimize the environmental impacts associated with shipping? Please check the items that apply:

- We have established company policies and procedures that minimize the need for shipping in the first place (must describe below; no additional points awarded for providing this description).
- We combine deliveries with customer visits.
- We consolidate deliveries.
- We use bike couriers for local delivery.
- We utilize electronic communications and electronic transfer of documents, such as e-mail, fax and Portable Document Format (PDF).
- We specify products that can be purchased locally within a 500-mile radius of the delivery location in procuring goods.
- We are currently evaluating what the company can do to minimize the environmental impacts associated with shipping (must describe below; no additional points awarded for providing this description).
- Our packaging/shipping materials are reusable.
- Our packaging/shipping materials are made from 100% post-consumer recycled materials.
- N/A
- Other – describe what your company does to minimize the environmental costs associated with shipping. If applicable, use this space to provide required description(s).

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6. Has your company ever been cited for non-compliance of any law, regulation, ordinance, code, rule, standard, or policy regarding an environmental or safety issue? Please check the item that applies:

No, my company HAS NOT been cited for non-compliance regarding an environmental or safety issue.

Yes, my company HAS been cited for non-compliance of an environmental or safety issue.

N/A State the reason, date and outcome of the citation:

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7. What programs do you have, either in place or currently being planned, to promote resource efficiency? Examples include energy or waste audit programs. Please check the items that apply:

We have an established zero waste program.

We utilize a facilities energy management system.

We have adopted a climate action plan.

We have a water conservation program.

We have formed a sustainability committee to identify sustainable solutions for our company.

We are a member of various sustainability organizations.

We are recognized by peers and environmental organizations for providing leadership in Sustainability.

None

Other - what other programs do you have in place or planned for promoting resource Efficiency?

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8. If your business's proposal involves the provision of a product, does the manufacturer of the product, whether your business or an outside entity, have a sustainability policy statement? Please check the item that applies:

No, the manufacturer of the product that I am proposing DOES NOT have a sustainability policy statement.

Yes, the manufacturer of the product that I am proposing HAS a sustainability policy statement.

Not applicable.

Provide Sustainability Policy Statement:

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9. If your business’s proposal involves the provision of a product, has the manufacturer of the product, whether your business or an outside entity, ever been cited for non-compliance of any law, regulation, ordinance, code, rule, standard, or policy regarding an environmental or safety issue? Please check the item that applies:

- No, the manufacturer of the product that I am proposing HAS NOT been cited for noncompliance regarding an environmental or safety issue.
- Yes, the manufacturer of the product that I am proposing HAS been cited for noncompliance regarding an environmental or safety issue.
- Not applicable.

Provide reason, date and outcome of the citation:

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10. If your business’s bid/proposal involves the provision of a product, has an environmental life-cycle analysis of the product that you are proposing been conducted by a certified testing organization, such as Green Seal, Energy Star, and Cradle to Cradle? Please check the item that applies.

- No, an environmental life-cycle analysis of the product that I am bidding/proposing HAS NOT been conducted by a certified testing organization, such as Green Seal.
- Yes, an environmental life-cycle analysis of the product that I am bidding/proposing HAS been conducted by a certified testing organization, such as Green Seal.
- Not applicable.

Provide certification:

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 1325 Pearl Street  
 Boulder, CO 80302  
[purchasing@bouldercounty.org](mailto:purchasing@bouldercounty.org)

## RFP Signature Page

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CONTACT INFORMATION	RESPONSE
Company Name, including DBA ("Doing Business As")	
Type of Organization (e.g. corporation, partnership, etc.)	
Name/Title of Person Authorized to Contract with Boulder County Public Health ("Contact Person")	NAME:
	TITLE:
Contact Person Email Address	
Phone Numbers	CONTACT PERSON:
	COMPANY:
Company Address	
Company Website	

**By signing below I am certifying that:**

- ✓ I am authorized to submit this bid on my company's behalf.
- ✓ I am not currently an employee of Boulder County or Boulder County Public Health ("BCPH").
- ✓ None of my employees or agents is currently employees of Boulder County or BCPH.
- ✓ I am not related to any BCPH or Boulder County employee or Boulder County elected official.
- ✓ *Sole Proprietorships Only:* I am not a Colorado 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 provide a statement of explanation.

**Please complete and send back with your  
proposal**

**Contractor Qualification Statement**

*Name of Project*  
*Mosquito Control Services*

*RFP #5656-12*

#### Instructions/Terms

1. This Contractor Qualification Statement (“CQS”) is required for proposals submitted for the *Name of project & ~~RFP-project~~ #*. This CQS shall be submitted to the County with your Proposal.
2. This CQS shall be completed by a director, officer or manager of the submitting firm who has sufficient knowledge to fully address all matters and respond to all inquiries herein.
3. The firm submitting this CQS (“Firm” or the “Contractor”) shall be fully responsible for and bound by all information, data, certifications and disclosures included in this statement and any attachments hereto.
4. The Contractor understands that the information and data provided in connection with this CQS, and any other relevant information obtained from any other sources regarding the Firm, shall be reviewed to determine whether it qualifies as a “responsible contractor” and whether its offer represents the best value to the county.
5. The Contractor understands that its failure to meet responsibility and qualification standards may render it ineligible to perform work on this project (hereinafter “Contract Work.”)
6. It is the Contractor’s responsibility to carefully review and complete this document. The failure to submit information or documents required by this CQS, or the submission of any false statement, misrepresentation, or omission regarding a material fact concerning any aspect of this CQS, may render the Firm ineligible for contract.
7. The Contractor hereby agrees that if it is awarded the contract, this CQS, all terms and conditions specified herein, and all information, data, certifications and disclosures included in this statement or its attachments will be incorporated into the contract.
8. In the event a contract is awarded to the Firm and it is later determined that the Firm failed to disclose requested information, or made a false statement, misrepresentation, or omission regarding a material fact concerning any aspect of this CQS, the Firm may be considered in default and the County may terminate the contract immediately and/or withhold full or partial payment as it deems appropriate.
9. Where additional space is needed to provide requested information, the Firm should provide such information in separate, numbered attachments affixed to this CQS.
10. Label attachments to this CQS according to subject matter and include a table of contents listing the names and numbers of all attachments.

**Part I: Basic Qualifications**

**Section 1: Firm Background/Resources**

1. Name of Firm \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*\* Indicate whether the Firm is a corporation, joint venture, limited liability company, partnership, sole proprietorship or other type of business entity. If corporation, provide names of officers and state of incorporation; if joint venture, provide names of joint ventures; if limited liability co., provide names of members; if partnership, provide names of partners; if sole proprietorship or other, provide names of owners.*

2. Address/Contact Information: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*\*Provide mailing address of Firm, website, e-mail, telephone number and fax number. If address is a branch office, also provide principal home office address.*

3. Years in Business: \_\_\_\_\_

4. Related Firms/Changes in Company Name: \_\_\_\_\_  
\_\_\_\_\_

*\*Identify any parent companies, subsidiaries, sister companies or holding companies to which the firm is related. If additional space is needed, provide information in an attachment. If the Firm has previously operated under another name within the past five years, identify other names used.*

5. Identify all jurisdictions in which the Firm is licensed, registered or otherwise qualified to do business: \_\_\_\_\_  
\_\_\_\_\_

*\*Use attachment if necessary, provide applicable license, certificate, registration numbers for each jurisdiction.*

6. Recent ~~Service-Construction~~ Volume: Provide annual ~~serviceconstruction~~ volume in dollars performed by Firm in the past three years:

Year \_\_\_\_\_  
Year \_\_\_\_\_  
Year \_\_\_\_\_

7. Percentage of Work Self-Performed: Identify the percentage of work the Firm typically performs with its own work force: \_\_\_\_\_

8. Classifications of Work Self-Performed: Identify the types of work typically performed by the Firm with its own work force:

\_\_\_\_\_

9. Firm Management: Provide organizational chart depicting Firm's management, if available.

*\*Resumes of management team for project must be submitted in Section 3 of the Firm's Technical Proposal.*

10. Craft Labor Resources: Indicate Firm's sources for obtaining craft labor:

Direct Hire: \_\_\_\_\_  
Trade Unions: \_\_\_\_\_  
Temporary Agencies: \_\_\_\_\_  
Other: \_\_\_\_\_

*\*Copies of labor agreements, temporary agency contracts and related documents or verification of same, must be submitted in Section 4 of the Firm's Technical Proposal.*

11. Industry References: Provide in an attachment three references from [municipalities or other government agencies](#) ~~architects or engineers~~ and three references from subcontractors [and or other organizations](#) that the Firm has worked with in the last five (5) years. Include, at a minimum, the following information: 1) company name, 2) contact name, 3) phone number, 4) fax number, 5) email address, 6) brief description of project scope and value, 7) status of project. We reserve the right to contact the references provided in your proposal as well as other references without prior notification to you.

12. Financial Statements: For the two most recent years available, provide in an attachment a certified financial statement, balance sheet and income statement, certified by a licensed certified public accountant and any available Dunn and Bradstreet reports.

13. What is the bidder's DOT number? \_\_\_\_\_

14. List your major equipment AVAILABLE FOR THIS PROJECT (a separate page may be used): \_\_\_\_\_

\_\_\_\_\_

## **Section 2: Required Disclosures**

The Contractor submitting this CQS shall answer the following questions with regard to the past five (5) years. If any question is answered in the affirmative, the Firm shall submit an

attachment, providing details concerning the matter in question, including applicable dates, locations, names of projects/project owners and circumstances.

1. Has the Firm been debarred, suspended or otherwise prohibited from doing business with any federal, state or local government agency, or private enterprise?

Yes \_\_\_ No \_\_\_

2. Has the Firm been denied prequalification, declared non-responsible, or otherwise declared ineligible to submit bids or proposals for work by any federal, state or local government agency, or private enterprise?

Yes \_\_\_ No \_\_\_

3. Has the Firm defaulted, been terminated for cause, or otherwise failed to complete any project that it was awarded?

Yes \_\_\_ No \_\_\_

4. Has the Firm been assessed or required to pay liquidated damages in connection with work performed on any project?

Yes \_\_\_ No \_\_\_

5. Has the Firm had any business or professional license, registration, certificate or certification suspended or revoked?

Yes \_\_\_ No \_\_\_

6. Have any liens been filed against the Firm as a result of its failure to pay subcontractors, suppliers, or workers?

Yes \_\_\_ No \_\_\_

7. Has the Firm been denied bonding or insurance coverage, or been discontinued by a surety or insurance company?

Yes \_\_\_ No \_\_\_

8. Has the Firm been found in violation of any laws, including but not limited to contracting or antitrust laws, tax or licensing laws, labor or employment laws, environmental, health or safety laws?

Yes \_\_\_ No \_\_\_

*\*With respect to workplace safety laws, this statement is limited to willful federal or state safety law violations.*

9. Has the Firm or its owners, officers, directors or managers been the subject of any criminal indictment or criminal investigation concerning any aspect of the Firm's business?

Yes \_\_\_ No \_\_\_

10. Has the Firm been the subject to any bankruptcy proceeding?

Yes \_\_\_ No \_\_\_

**Part II: Past Performance Review**

**Section 1: Project Listings & Past Performance Data**

1. The Contractor shall submit a complete list of all projects, public and private, it has performed in the last five years in an attachment labeled "Past Projects." Highlight any projects that are similar in size, scope and complexity to the Contract Work.
2. List projects in reverse chronological order, beginning with most recent. For each project listed, the Contractor shall provide the following information.
  - a. The name, location and project number of the project.
  - b. The names, addresses and phone numbers of at least two owner representatives familiar with the Contractor's performance on the project (may include owners, project managers, architects, engineers).
  - c. The original bid/proposal price and the final contract price.
  - d. The original date for schedule completion and actual completion date.
  - e. Any performance ratings given to the Contractor (whether descriptive, e.g., good, satisfactory, or numerical, e.g., 80 out of 100, or other).
3. The Contractor shall submit a complete list of all open or on-going projects, public and private, in an attachment labeled "Current Projects." List projects in reverse chronological order, beginning with the most recent. For each project listed, provide the following information.
  - a. The name, location and project number of the project and percentage of work complete to date.
  - b. The names, addresses and phone numbers of at least two owner representatives familiar with the Contractor's performance on the project (may include owners, project managers, architects, engineers).
  - c. The original bid/proposal price and the estimated final contract price.
  - d. The original date for schedule completion and estimated completion date.
  - e. Any performance ratings given to the Contractor (whether descriptive, e.g., good, satisfactory, or numerical, e.g., 80 out of 100, or other).

**Section 2: Performance Evaluation Reports**

1. The Contractor shall submit in an attachment, copies of all performance evaluation reports in its possession or control for all past and current projects, public and private for the past five years.
2. For purposes of this Section the term performance evaluation reports should be interpreted to mean any documents within the Contractor's control or possession that were prepared to evaluate, rate or score in any way the contractor's performance on projects.

**Section 3: Contractor Safety Record**

1. Provide the Contractor's Workers Compensation Experience Modification Rating for the past three years, beginning with the most recent year available:

Year 1: [e.g. 2001: 1.0 ]

Year 2: [e.g. 2000: 1.1 ]

Year 3: \_\_\_\_\_

2. Provide the Contractor's Lost Time Incidence Rate for the most recent year:  
\_\_\_\_\_
3. Provide the Contractor's Recorded Incidence Rate for the most recent year:  
\_\_\_\_\_
4. Identify in an attachment any citations issued by federal or state safety agencies for serious violations issued in the past 5 years. Provide a listing of the citation number, a brief description of the violation and the amount of penalty, if any, for each violation.

**Section 4: Pending Legal Matters**

1. Claims, Judgments, Lawsuits: Are there any pending claims, judgments, lawsuits or alternative dispute proceedings involving the Firm that involve potential damages of \$10,000 or more?

\_\_\_ Yes    \_\_\_ No    If yes, provide details in an attachment.

2. Complaints, Charges, Investigations: Is the Firm currently the subject of any complaint, investigation or other legal action for alleged violations of law pending before any court or governmental agency?

\_\_\_ Yes    \_\_\_ No    If yes, provide details in an attachment.

**Part III: Required Representations**



In submitting this CQS, the Firm makes the following representations, which it understands are required as a condition of performing the Contract Work and receiving payment for same.

1. The Firm will possess all applicable professional and business licenses required for performing work in Boulder County.
2. The Firm satisfies all bonding and insurance requirements as stipulated in the solicitation for this project.

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3. The Firm and all subcontractors that are employed or that may be employed in execution of the Contract Work shall be in full compliance with Boulder County's requirements for workers' compensation insurance.
4. If awarded the Contract Work, the Firm represents that it will not exceed its current bonding limitations when the Contract Work is combined with the total aggregate amount of all unfinished work for which the Contractor is responsible.
5. The Firm represents that it has no conflicts of interests with Boulder County if awarded the Contract Work and that any potential conflicts of interest that may arise in the future will be disclosed immediately to Boulder County.
6. The Firm represents the price offered and other information submitted in connection with its proposal for the Contract Work were arrived at independently without consultation, communication or agreement with any other offeror or competitor.
7. The Firm will ensure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex or national origin.

The undersigned hereby represents that all statements, representations, information and documents provided in or with this Contractor Qualification Statement and attachments hereto are complete, accurate and truthful.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Position/Title

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Firm Name

# SAMPLE CONTRACT

**IMPORTANT: The following SAMPLE CONTRACT is provided for your reference and is subject to change. Therefore, DO NOT complete or return this contract with your proposal.**

DETAILS SUMMARY	
<b>Document Type</b>	
OFS Number-Version	
<b>BCPH Contact Information</b>	
Boulder County Legal Entity	Boulder County Public Health
Department	Public Health
Division/Program	
Agency Mailing Address	<b>3450 Broadway, Boulder, CO 80504</b>
Program Contact	
Invoice Contact	HealthAP@bouldercounty.org
Notices and Insurance Certificates Contact	ATTN: Health Contracts healthcontracts@bouldercounty.org
<b>Contractor Contact Information</b>	
Contractor Name	
Contractor Mailing Address	
Contact 1- Name, title	
Contact 1- email	
Contact 2	
<b>Contract Term</b>	
Start Date	
Expiration Date	
Final End Date	
<b>Contract Amount</b>	
Contract Amount	
Fixed Price or Not-to-Exceed?	
<b>Brief Description of Work</b>	
<b>Contract Documents</b>	
a. Formal Procurement (RFP/Bid/SOQ) No. Bid Variable (the "Bid Documents") b. Contractor's proposal in response to the Bid Documents (the "Proposal") c. Project Details, including project-specific terms and a Scope of Work, attached as Exhibit A (the "Scope of Work") d. Fee Schedule, attached as Exhibit B (the "Fee Schedule") e. Business Associate Agreement, attached as Exhibit C (the "BAA")	
<b>Purchasing Details – BCPH Internal Use Only</b>	
Bid Number	
Award Date	
If no Bid No., bid process used	
Purchasing Notes <i>(optional)</i>	
<b>Contract Notes</b>	
<i>Additional information not included above</i>	

THIS CONTRACT ("Contract") is entered into by and between Boulder County Public Health ("BCPH"), a political subdivision of the State, acting by and through the Boulder County Board of Health and [Supplier] ("Contractor"). BCPH 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 BCPH 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.
3. Term of Contract: The **Contract Term** begins on the **Start Date** and expires on the **Expiration Date**, unless terminated sooner. All the Work must be performed during the **Contract Term**.
4. Payment for Work Performed: In consideration of the Work performed by Contractor, and subject to conditions contained in this Contract, BCPH 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 BCPH upon request. Contractor must submit any final invoices to BCPH 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 Public Health" 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 BCPH; BCPH 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. BCPH may recoup any damages incurred because of Contractor's failure to submit invoices pursuant to the terms of this paragraph. BCPH'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. BCPH, 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. BCPH granting extra time to complete the Work will not entitle Contractor to additional compensation from BCPH. 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 BCPH that complies with the **Insurance Requirements** of this Contract, if any, prior to any extended **Contract Term**.

8. Schedule of Work: BCPH 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 BCPH and interference with BCPH 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 BCPH and Boulder County, its elected and appointed officials, 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. BCPH and Boulder 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. BCPH 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 BCPH, 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 BCPH 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 BCPH 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, BCPH 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, BCPH 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. BCPH 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, BCPH 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: BCPH 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, BCPH 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: BCPH may require that Contractor suspend performance of all or any portion of the Work pending necessary corrective action specified by BCPH 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 BCPH.

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

c. Deny Payment: BCPH 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 BCPH in its sole discretion. Upon BCPH request, Contractor will promptly refund any amounts prepaid by BCPH with respect to such non-compliant Work.

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

17. Binding Arbitration Prohibited: BCPH 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 BCPH 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 BCPH 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 BCPH to terminate the contract for breach. If this Contract is so terminated, Contractor shall be liable for actual and consequential damages to BCPH.

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 BCPH. If Contractor subcontracts any of its obligations under this Contract, Contractor will remain liable to BCPH 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 20<sup>th</sup> 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:** BCPH 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 BCPH'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 BCPH if Contractor is served with a pleading or other document in connection with any such action.
34. **Tax Exemption:** BCPH is exempt from payment of Federal, State, and local government taxes. Contractor shall collect no tax from BCPH, and BCPH shall not be liable to pay any taxes imposed on Contractor. BCPH shall provide its tax exemption status information to Contractor upon request.



35. Delegation of Authority: The Parties acknowledge that the Boulder County Board of Health has delegated authority to the Public Health Director and their designees to act on behalf of BCPH 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 BCPH. 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 BCPH all right, title and interest in and to any Work Product.

37. Publicity Releases: Contractor will not refer to this Contract or BCPH 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 BCPH 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 BCPH, 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 BCPH. BCPH may set reasonable conditions on any disclosure authorized by BCPH 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: BCPH 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 BCPH's commitment to protecting our air, water, soil, and climate for current and future generations. BCPH 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: BCPH AND BOULDER 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. BCPH'S AND BOULDER

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 BCPH AND/OR BOULDER 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 BCPH 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 BCPH. Contractor will forward Certificates of Insurance directly to BCPH's "**Notices and Insurance Certificates**" **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 BCPH, 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.

Coverage should be provided on an Occurrence form, ISO CG0001 or equivalent. The policy shall be endorsed to include Additional Insured Owners, Lessees or Contractors endorsements CG 2038 (or equivalent), Designated Construction Project(s) General Aggregate Endorsement CG2503 (or equivalent) and Additional Insured Completed Operations for Owners, Lessees or Contractors CG 2037 (or equivalent). Minimum limits required of \$1,000,000 Each Occurrence, \$2,000,000 General Aggregate and \$2,000,000 Products/Completed Operations Aggregate. BCPH requires the Products/Completed Operations coverage to be provided 3 years after completion of construction. An endorsement must be included with the certificate.

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. **Umbrella / Excess Insurance**

Umbrella/Excess Liability insurance in the amount \$2,000,000.00, following form.

v. **Professional Liability (Errors and Omissions)**

Professional liability coverage with minimum limits of \$1,000,000 Per Loss and \$1,000,000 Aggregate. Professional Liability provisions indemnifying for loss and expense resulting from errors, omission, mistakes or malpractice is acceptable and may be written on a claims-made basis. The contractor warrants that any retroactive date

under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

vi. **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. BCPH and Boulder County shall be named as an additional insured for ongoing operations and completed operations.

vii. **Third Party Commercial Crime Insurance / Third Party Fidelity Bond**

The Crime limit shall be \$1,000,000 Per Loss and include an endorsement for "Employee Theft of Client Property". In order to provide coverage to County during the course of this contract, Commercial Crime policies must be endorsed to cover Third Party Fidelity. Third party fidelity covers the vendor's employees when engaged in work for a client. In addition, the County will be listed as loss payee on the commercial crime coverage. This third-party coverage can also be provided by obtaining a third-party fidelity bond.

viii. **Privacy / Cyber Liability Insurance**

As a provider of a service which *may* require the knowledge and retention of personal identifiable information including but not limited to, names, dates of birth, social security numbers, usernames, and passwords, and/or HIPAA sensitive personal information of clients served, the following minimum insurance limits are required:

Contractors with 10 or fewer County clients:	\$50,000
Contractors with 11 – 15 County clients:	\$500,000
Contractors with more than 25 County clients:	\$1,000,000

ix. **Sexual Abuse and Molestation Coverage**

As a provider of a service which has contact with individuals that are part of a sensitive population and are in a position of trust the following minimum insurance limits are required:

Contractors with 5 or fewer BCPH clients:	\$100,000
Contractors with 6-10 BCPH clients:	\$250,000
Contractors with 11-15 BCPH clients:	\$500,000
Contractors with 16 or more BCPH clients:	\$1,000,000

If the number of clients increases during the contract period, the required coverage limit will increase to correspond accordingly.

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

**THE ADDITIONAL INSURED WORDING SHOULD BE AS FOLLOWS**: *Boulder County Public Health, State of Colorado, a political subdivision of the State; and County of Boulder, State of Colorado, a body corporate and politic, are named as Additional Insureds.*

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 BCPH 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 BCPH of 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 BCPH: BCPH is not required to maintain or procure any insurance coverage beyond the coverage maintained by BCPH or Boulder County in its standard course of business. Any insurance obligations placed on BCPH 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 BCPH or Boulder 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 BCPH and Boulder County, its organizations, officers, agents, employees, and volunteers.

43. No Suspension or Debarment: Contractor certifies that neither it nor its Principals (as defined at 49 C.F.R. §29.105) or any of its subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any Federal or State of Colorado department or agency. If Contractor, or any of its subcontractors, employees, or authorized agents, is excluded from participation, or becomes otherwise ineligible to participate in any such program during the term of the Contract, Contractor will provide written notice to the County within three (3) days after such event.

45. Payable Costs in the Event of Termination: As set forth herein, BCPH reserves the right to terminate this Contract at any time for either breach or convenience. In the event that BCPH 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.

**[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.

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

# SAMPLE BUSINESS ASSOCIATE AGREEMENT (“BAA”)

**IMPORTANT: The following SAMPLE CONTRACT is provided for your reference and is subject to change. Therefore, DO NOT complete or return this contract with your proposal.**

This Business Associate Agreement (the “Agreement”), effective as of the DATE (the “Effective Date”), is made by and between the Parties named in Section 1 for the good, valuable, and mutual consideration described herein, the sufficiency and receipt of which both Parties acknowledge.

## 1. THE PARTIES

The Parties to this Agreement are:

- 1.A Boulder County Public Health (“BCPH”), a local public health agency organized under a local board of health in accordance with Colorado Revised Statutes (“C.R.S.”) §25-1-501 *et seq.*  
Boulder County Public Health  
ATTN: Contracts  
3450 Broadway  
Boulder CO 80304  
Email: [healthcontracts@bouldercounty.org](mailto:healthcontracts@bouldercounty.org)

BCPH is a “Covered Entity,” as defined by “The HIPAA Rules,” and is referred to in this Agreement as “Covered Entity.”

AND

- 1.B (“Contractor” or “Business Associate”)  
Address  
Address

Contractor is a “Business Associate,” as defined by The HIPAA Rules, and is referred to in this Agreement as “Business Associate.”

Covered Entity and Business Associate are sometime referred to in this Business Associate Agreement individually as a “Party” and collectively as the “Parties.”

## 2. HIPAA AND THE HIPAA RULES

### 2.A HIPAA

The Parties must comply with United States statutory law known as the Health Insurance Portability and Accountability Act of 1996, as amended, and any amendments and modifications to the law that become effective during the term of this Agreement.<sup>1</sup> The statutory law is referred to in this Agreement as “HIPAA.”

### 2.B THE HIPAA RULES

The Parties must comply with federal administrative law consisting of regulations authorized by HIPAA called the Privacy Rule, Security Rule, Breach Notification Rule, and Enforcement Rule and any amendments, additions, and modifications to the regulations that become effective during the term of this Agreement.<sup>2</sup> The regulations are referred to in this Agreement as “The HIPAA Rules.”

## 3. THIS AGREEMENT

<sup>1</sup> United States statutes that, as of the Effective Date, consist of Sections 1171-1180 of the Social Security Act (Administrative Simplification), Sections 262 and 264 of Public Law 104-191 (Health Insurance Portability and Accountability Act of 1996), Section 105 of Public Law 110-233 (Genetic Information Nondiscrimination Act of 2008), Sections 13400-13424 of Public Law 111-5 (Health Information Technology for Economic and Clinical Health Act or “HITECH Act”) and Section 1104 of Public Law 111-148 (Patient Protection and Affordable Care Act).

<sup>2</sup> 45 CFR Parts 160 and Subparts A, C, D and E of Part 164.

This Agreement is a Business Associate Agreement (“BAA” or “Agreement”) between the Parties in compliance with The HIPAA Rules to accomplish the following purposes:

- 3.A To enable Covered Entity to obtain satisfactory assurances from Business Associate that Business Associate will appropriately safeguard all protected health information (“PHI”), including electronic protected health information (“EPHI”), that Covered Entity discloses to Business Associate and that the Business Associate creates, receives, maintains, transmits, or destroys on behalf of Covered Entity.
- 3.B To document the satisfactory assurances described Subsection 3.A in writing.
- 3.C To establish the permitted and required uses and disclosures of PHI, including EPHI, by Business Associate.
- 3.D To confirm and document the exchange and receipt of mutual promises made by the Parties that during the term of this Agreement, each Party will perform its obligations in compliance with HIPAA and The HIPAA Rules and establish and document the performance required of each Party by this Agreement.

#### **4. DEFINED TERMS USED IN THIS AGREEMENT**

The following terms are defined in The HIPAA Rules. Any change to HIPAA or The HIPAA Rules modifying a defined term or the citation of a defined term in this Agreement shall be deemed incorporated into this Agreement on the effective date of such change.

- 4.A “Access of Individuals to Protected Health Information” shall mean the procedures described in 45 CFR §164.524 of The HIPAA Rules and is referred to in this Agreement as “access of an individual to PHI.”
- 4.B “Accounting of Disclosures of Protected Health Information” shall mean the procedures described in 45 CFR §164.528 of The HIPAA Rules and is referred to in this Agreement as “accounting of disclosures of PHI.”
- 4.C “Amendment of Protected Health Information” shall mean the procedure described in 45 CFR §164.526 of The HIPAA Rules and is referred to in this Agreement as “amendment of PHI.”
- 4.D “Availability” shall have the same meaning as the term “availability,” as defined in 45 CFR §164.304 of The HIPAA Rules.
- 4.E “Breach” shall mean the acquisition, access, use, or disclosure of protected health information in a manner not permitted under the Privacy Rule that compromises the security or privacy of protected health information, as defined in 45 CFR §164.402 of The HIPAA Rules.
- 4.F “Breach Notification Rule” shall mean the regulations set forth in The HIPAA Rules at 45 CFR §164.400-414.
- 4.G “Business Associate” shall have the same meaning as the term “business associate,” as defined in 45 CFR §160.103 of The HIPAA Rules. Business Associate identified in this Agreement as a Party shall be a “business associate,” as defined by the HIPAA Rules.
- 4.H “Business Associate Agreement” shall mean a written contract as required by The HIPAA Rules and described at 45 CFR §164.308(b), 164.314(a), 164.502(e), and 164.504(e). This Agreement is a “Business Associate Contract (or Agreement),” as defined by The HIPAA Rules.
- 4.I “Confidentiality” shall have the same meaning as the term “confidentiality,” as defined in 45 CFR §164.304 of The HIPAA Rules.
- 4.J “Covered Entity” shall have the same meaning as the term “covered entity,” as defined in 45 CFR §160.103 of The HIPAA Rules. Covered Entity identified in this Agreement as a Party is a “covered entity,” as defined by The HIPAA Rules.
- 4.K “Data Aggregation” shall have the same meaning as the term “data aggregation,” as defined in 45 CFR §164.501 of The HIPAA Rules.
- 4.L “Date of Discovery” shall mean the first day on which a breach is known or, by exercising reasonable diligence, would have been known to any person, other than the person committing the breach, who is a workforce member or agent of the Covered Entity or Business Associate, as defined by 45 CFR §164.404(a)(2) and 45 CFR §164.410(a)(2) of The HIPAA Rules.

- 4.M "Designated Record Set" shall have the same meaning as the term "designated record set," as defined in 45 CFR §164.501 of The HIPAA Rules.
- 4.N "Disclosure" shall have the same meaning as the term "disclosure," as defined in 45 CFR §160.103 of The HIPAA Rules, and the term "disclose" shall mean to make a disclosure.
- 4.O "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information," as defined in 45 CFR §160.103 of The HIPAA Rules. Electronic protected health information is referred to in this Agreement as "EPHI." All EPHI is also "protected health information" (PHI); see definition below in Subsection 4.W.
- 4.P "Enforcement Rule" shall mean the regulations set forth in The HIPAA Rules at 45 CFR Part 160, Subparts C, D, and E.
- 4.Q "Individual" shall have the same meaning as the term "individual," as defined in 45 CFR §160.103 of The HIPAA Rules.
- 4.R "Integrity" shall have the same meaning as the term "integrity," as defined in 45 CFR §164.304 of The HIPAA Rules.
- 4.S "Marketing" shall have the same meaning as the term "marketing," as defined in 45 CFR §164.501 of The HIPAA Rules.
- 4.T "Minimum Necessary" shall have the same meaning as "minimum necessary," as defined in 45 CFR §164.502(b) and 45 CFR §164.514(d) of The HIPAA Rules.
- 4.U "Organized Health Care Arrangement" shall have the same meaning as "organized health care arrangement," as defined in 45 CFR §160.103.501 of The HIPAA Rules.
- 4.V "Privacy Rules" shall mean the regulations set forth in The HIPAA Rules at 45 CFR Part 160 and Subparts A and E of Part 164.
- 4.W "Protected Health Information" shall have the same meaning as the term "protected health information," as defined in 45 CFR §160.103 of The HIPAA Rules. Protected health information is referred to in this Agreement as "PHI."
- 4.X "Reasonable Diligence" shall have the same meaning as the term "reasonable diligence," as defined in 45 CFR §160.401 of The HIPAA Rules.
- 4.Y "Remuneration" shall have the same meaning as "financial remuneration," as defined in Section (3) of the definition of "marketing" in 45 CFR §164.501 of The HIPAA Rules, including direct or indirect remuneration for the sale of protected health information in accordance with 45 CFR §164.502(a)(5)(ii)(B)(1) of The HIPAA Rules.
- 4.Z "Required by Law" shall have the same meaning as the term "required by law," as defined in 45 CFR §164.103 of The HIPAA Rules.
- 4.AA "Restriction" shall mean a restriction of uses and disclosures of protected health information in accordance with 45 CFR §164.522(a), a restriction to accommodate an Individual's request for confidential communications in accordance with 45 CFR §164.522(b) or a restriction of unencrypted electronic transmission of an Individual's PHI to the Individual in accordance with The HIPAA Rules explained at 78 FR 5634, Jan. 25, 2013, and 79 FR 7302, Feb. 6, 2014.
- 4.BB "Sale of Protected Health Information" shall have the same meaning as the term "sale of protected health information," as defined in 45 CFR §164.502(a)(5)(ii)(b) of The HIPAA Rules. Sale of protected health information is sometimes referred to in this Agreement as "sale of PHI."
- 4.CC "Secretary" shall mean the Secretary of U.S. Department of Health and Human Services (HHS) or any other officer or employee of HHS to whom the authority involved has been delegated, as defined in 45 CFR §160.103 of The HIPAA Rules.
- 4.DD "Security Incident" shall have the same meaning as the term "security incident," as defined in 45 CFR §164.304 of The HIPAA Rules.
- 4.EE "Security Rule" shall mean the regulations set forth in The HIPAA Rules at 45 CFR Part 160 and Subparts A and C of Part 164.
- 4.FF "State Law" shall have the same meaning as the term "state law," as defined in 45 CFR §164.202 of The HIPAA Rules.



- 4.GG “Subcontractor” shall mean a Business Associate that creates, receives, maintains, transmits, or destroys PHI on behalf of a Business Associate, as defined in 45 CFR §160.103 of The HIPAA Rules and is referred to in this Agreement as “subcontractor Business Associate.”
- 4.HH “Unsecured Protected Health Information” shall have the same meaning as the term “unsecured protected health information,” as defined in 45 CFR §164.402 of The HIPAA Rules and means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary in guidance issued under HIPAA (Section 13402(h)(2) of Public Law 111-5). Unsecured protected health information is referred to in this Agreement as “unsecured PHI.”
- 4.II “Use” shall have the same meaning as the term “use,” as defined in 45 CFR §160.103 of The HIPAA Rules.

## **5. THE SPECIFIC PROTECTED HEALTH INFORMATION (PHI) AND ELECTRONIC PROTECTED HEALTH INFORMATION (E PHI) THAT ARE THE SUBJECT OF THIS AGREEMENT**

In this Agreement, the defined terms protected health information (PHI) and electronic protected health information (E PHI) refer exclusively and only to:

- 5.A PHI and E PHI that Business Associate creates, receives, maintains, transmits, or destroys on behalf of Covered Entity to perform a function or activity regulated by The HIPAA Rules.
- 5.B PHI and E PHI disclosed to Business Associate by or on behalf of Covered Entity so that Business Associate may provide legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for Covered Entity.
- 5.C PHI and E PHI that a subcontractor Business Associate creates, receives, maintains, transmits, or destroys on behalf of Business Associate related to a function or activity described in Subsection 5.A or provision of a service described in Subsection 5.B.

## **6. UNDERLYING BUSINESS AGREEMENT**

Covered Entity and Business Associate may enter into or already have a business relationship established by one or more written or oral contracts or agreements made before, on, or after the Effective Date involving use, disclosure, creation, receipt, maintenance, transmission, or destruction of PHI and/or E PHI described in Section 5 that are referred to in this Agreement collectively as the “underlying Business Agreement.”

### **6.A THE UNDERLYING BUSINESS AGREEMENT – HIPAA AND THE HIPAA RULES**

The underlying Business Agreement requires the Business Associate to perform a function or activity or provide a service involving PHI and/or E PHI described in Section 5 that is subject to compliance with HIPAA and The HIPAA Rules. Accordingly, in order to perform their respective obligations established by the underlying Business Agreement, Covered Entity and Business Associate must enter into a Business Associate Agreement (BAA).

### **6.B EFFECT OF THIS AGREEMENT – CONSIDERATION**

This Agreement is a BAA. The Parties agree that the terms, conditions, promises, and performance described in this Agreement are required by HIPAA and The HIPAA Rules to perform their respective obligations established by the underlying Business Agreement. Accordingly, the mutual promises and obligations of the Parties set forth in this Agreement are good, valuable, sufficient, and mutual consideration given, received, and accepted by each Party for this Agreement and elements of the good, valuable, sufficient, and mutual consideration given, received, and accepted by each Party for the underlying Business Agreement that permit the Parties to continue their established business relationship or establish a new business relationship.

### **6.C THIS AGREEMENT INCORPORATED IN UNDERLYING BUSINESS AGREEMENT**

The Parties agree that this Agreement is incorporated by reference in the underlying Business Agreement, and by execution of this Agreement, do hereby amend the underlying Business Agreement to include this Agreement. This Agreement supersedes and renders null and void any provision in the underlying Business Agreement, whether made before or after the

effective date, that conflicts with HIPAA or The HIPAA Rules. Any provisions in the underlying Business Agreement, whether made before or after the Effective Date, regarding Business Associate's limitation or exclusion of liability or damages shall not apply to Business Associate's liability for breach of this Agreement or limit remedies available to Covered Entity under this Agreement.

## **7. OBLIGATIONS OF BUSINESS ASSOCIATE UNDER THIS AGREEMENT**

- 7.A Business Associate shall not use or further disclose PHI other than as permitted or required by this Agreement, the underlying Business Agreement, or as required by law.
- 7.B Business Associate shall appropriately safeguard all PHI, including EPHI, that Covered Entity discloses to Business Associate and that Business Associate creates, receives, maintains, transmits, or destroys on behalf of Covered Entity.
- 7.C Business Associate warrants that, as of the Effective Date, it is compliant with the applicable requirements of the HIPAA Security Rule and will remain compliant with the Security Rule at all times during the term of the Agreement, and, if necessary, comply with the Security Rule and The HIPAA Rules that are applicable to fulfill any obligations that survive the Agreement's termination in accordance with Section 12 and Subsection 10.C of this Agreement.
- 7.D Business Associate shall enter into a written Business Associate Agreement with any subcontractor Business Associate to which it discloses PHI, including EPHI, or that creates, receives, maintains, transmits, or destroys EPHI on its behalf, by which Business Associate shall obtain satisfactory assurances that the subcontractor Business Associate agrees to comply with the same restrictions and conditions that apply to Business Associate with respect to all PHI including EPHI; comply with applicable requirements of the Security Rule; and appropriately safeguard all such PHI, including EPHI.
- 7.E Business Associate shall not engage the services of a subcontractor Business Associate; enter into a Business Associate Agreement with a subcontractor Business Associate described in Subsection 7.D; disclose PHI, including EPHI; or permit a subcontractor Business Associate to create, receive, maintain, or transmit PHI and EPHI on its behalf unless the subcontractor Business Associate is, at all relevant times, subject to the laws of the United States, including the Secretary's Enforcement of HIPAA and The HIPAA Rules and civil enforcement by Business Associate of the Business Associate Agreement with a subcontractor Business Associate.
- 7.F If Business Associate knows of a pattern of activity or practice of a subcontractor Business Associate that constitutes a material breach or violation of the subcontractor Business Associate's obligations under the Business Associate Agreement described in Subsection 7.D, Business Associate shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the Business Associate Agreement with the subcontractor Business Associate.
- 7.G Business Associate shall not disclose PHI for marketing for which it receives remuneration unless the individual has executed a valid authorization stating remuneration is involved in accordance with 45 C.F.R. §164.508(a)(3) of the HIPAA Rules and shall not disclose PHI which is a sale of PHI unless the individual has executed a valid authorization stating remuneration is involved in accordance with 45 C.F.R. §164.508(a)(4) of The HIPAA Rules.
- 7.H Business Associate, when using, disclosing, or requesting PHI, shall make reasonable efforts to limit the PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.
- 7.I Business Associate shall comply with applicable requirements of the Breach Notification Rule and shall notify Covered Entity of any breach of unsecured PHI it discovers not later than five (5) calendar days after Business Associate's date of discovery of the breach of unsecured PHI.
- 7.J Business Associate shall report to Covered Entity any use or disclosure of information not provided for by this Agreement or the underlying Business Agreement of which it becomes aware not later than five (5) calendar days after it becomes aware of such use or disclosure.

- 7.K Business Associate shall report any security incident of which it becomes aware to Covered Entity not later than thirty (30) calendar days after it becomes aware of such security incident. The Parties agree that this Subsection 7.K constitutes ongoing notice by Business Associate to Covered Entity of “unsuccessful” security incidents that do not represent substantial risks to PHI, such as pings and other broadcast attacks on Business Associate’s firewall, port scans, unsuccessful log-on attempts, denial of service, and any combination of the above and no additional notice to Covered Entity shall be required provided that no such unsuccessful security incident results in unauthorized acquisition, access, use, disclosure, modification, or destruction of EPHI or interference with Business Associate's information system operations related to EPHI.
- 7.L If Business Associate maintains PHI of an individual in a designated record set, Business Associate shall make the PHI available to Covered Entity within five (5) calendar days after receiving a request for the PHI from Covered Entity, as provided for in Subsection 9.B, in order for Covered Entity to satisfy Covered Entity’s obligations regarding access of an individual to PHI in accordance with 45 CFR §164.524 of The HIPAA Rules.
- 7.M If Business Associate maintains PHI of an individual in a designated record set, Business Associate shall make the PHI available to Covered Entity within five (5) calendar days after receiving notice from Covered Entity, as provided in Subsection 9.C that the PHI is subject to an individual's request for amendment in accordance with 45 CFR §164.526 of The HIPAA Rules. Covered Entity shall be solely responsible for determining the appropriate response to a request for amendment and Business Associate shall incorporate any such amendments in the individual's designated record set maintained by Business Associate.
- 7.N Business Associate will maintain and make available to Covered Entity the information required to provide an accounting of disclosures of PHI in accordance with 45 CFR §164.528 of The HIPAA Rules within five (5) calendar days of receipt of notice requesting such information from Covered Entity, as provided for in Subsection 9.D.
- 7.O Business Associate, to the extent it is required to carry out an obligation of Covered Entity under the Privacy Rule, shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of the obligation.
- 7.P Business Associate, if required by the underlying Business Agreement to make uses or disclosures of PHI subject to restrictions, shall comply with each such restriction immediately upon receipt of notification of the restriction from Covered Entity in accordance with Subsection 9.E and shall comply with the restriction during the term of this Agreement or until Covered Entity notifies Business Associate that the restriction has been terminated.
- 7.Q Business Associate will disclose PHI to the Secretary in accordance with 45 CFR §164.502(a)(4)(i) of The HIPAA Rules when required by the Secretary under the Enforcement Rule to investigate or determine Business Associate’s compliance with The HIPAA Rules.
- 7.R Business Associate will make its internal practices, books, and records relating to the use and disclosure of PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary in accordance with 45 CFR §164.504(e)(2)(ii)(I) of The HIPAA Rules for purposes of determining Covered Entity’s compliance with The Privacy Rule.

## **8. PERMITTED USES AND DISCLOSURES OF PHI BY BUSINESS ASSOCIATE**

- 8.A Business Associate may use or disclose PHI for its proper management and administration or carry out its legal responsibilities if the disclosure is required by law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person and that person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

- 8.B Business Associate may provide data aggregation services if performance of such services is provided for in the underlying Business Agreement.

## 9. OBLIGATIONS OF COVERED ENTITY

- 9.A Covered Entity shall make reasonable efforts to limit any use, disclosure, or request of PHI made to Business Associate to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.
- 9.B Covered Entity shall notify Business Associate in a timely manner in accordance with 45 CFR §164.524 and 45 CFR § 164.502(a)(4)(ii) of The HIPAA Rules, so that Business Associate may make the PHI available to Covered Entity as necessary to satisfy Covered Entity's obligations regarding a request for access of individuals to PHI, as provided in Subsection 7.L.
- 9.C Covered Entity shall notify Business Associate in a timely manner in accordance with 45 CFR §164.526 of The HIPAA Rules, as necessary, so Business Associate may make available PHI for amendment of PHI and incorporate any amendment of PHI in a designated record set, as provided in Subsection 7.M.
- 9.D Covered Entity shall notify Business Associate in a timely manner in accordance with 45 CFR §164.528 of The HIPAA Rules, as necessary, to enable Business Associate to fulfill any obligation regarding an accounting of disclosures of PHI, as provided in Subsection 7.N
- 9.E Covered Entity shall notify Business Associate of any restriction of the use or disclosure of an individual's PHI that is applicable to Business Associate's performance of its obligations required by the underlying Business Agreement when and if such restriction becomes effective during the term of this Agreement and shall notify Business Associate when and if such restriction is terminated.

## 10. TERM AND TERMINATION

### 10.A TERM

The Term of this Agreement shall commence on the Effective Date and shall continue in full force and effect for a period of five (5) years or until either Party terminates this Agreement pursuant to a provision of this Section 10 or until the Parties otherwise mutually agree in writing to terminate this Agreement. Any termination is subject to the provisions of Subsection 10.C and Section 12 concerning survival of certain obligations and provisions of this Agreement.

### 10.B TERMINATION

The Parties may terminate this Agreement by mutual consent in writing executed by the Parties and on terms that are agreeable to the Parties provided the Agreement is no longer required under HIPAA or The HIPAA Rules.

10.B.1 If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under this Agreement, Covered Entity shall take reasonable steps to cure the breach or end the violation, as applicable. If such steps are unsuccessful, Covered Entity may terminate this Agreement and the underlying Business Agreement (if any) with Business Associate by providing notice in accordance with Section 13.

10.B.2 Either Party, upon learning or having reasonable cause to believe that the other Party has committed a material breach or violation of this Agreement, shall give written notice to the other Party describing the material breach or violation and granting the other Party a period of thirty (30) days to cure the material breach or violation or submit proof that it has not committed such material breach or violation. If such material breach or violation was committed and is not cured within thirty (30) days, this Agreement and the underlying Business Agreement (if any) shall be terminated by written notice to the Party that committed the material breach or violation, provided, however, that if substantial cure is in progress, the Parties may extend the period to

cure the material breach or violation by mutual agreement in writing by providing notice in accordance with Section 13.

10.B.3 Covered Entity may terminate this Agreement and the underlying Business Agreement (if any) immediately if Business Associate is determined to have violated HIPAA or The HIPAA Rules in any administrative, judicial, or other legal proceeding, regardless of whether the violation involves this Agreement or the underlying Business Agreement by giving written notice to Business Associate.

10.B.4 If either Party believes in good faith that any provision of this Agreement fails to comply with modifications or administrative or judicial interpretations of HIPAA or The HIPAA Rules, such Party shall give written notice to the other Party stating its specific concerns. For a period of thirty (30) days following provision of notice, the Parties shall address in good faith such concerns and amend this Agreement, if necessary. If, after such thirty-day period, a Party believes in good faith that the Agreement fails to comply with HIPAA or The HIPAA Rules, that Party has the right to terminate this Agreement and the underlying Business Agreement (if any) by written notice to the other Party.

#### 10.C EFFECT OF TERMINATION

When this Agreement is terminated or expires, if feasible, Business Associate shall return to Covered Entity or destroy all PHI (including EPHI) received from, or created, or received by Business Associate on behalf of, Covered Entity that Business Associate still maintains in any form and retain no copies of such PHI or, if such return or destruction is not feasible, extend the protections of this Agreement to PHI and EPHI and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible. When it becomes feasible, Business Associate shall return to Covered Entity or, if agreed to by Covered Entity, destroy PHI and EPHI retained by Business Associate. Business Associate's obligations under this Agreement regarding PHI and EPHI that is not returned or destroyed at termination or expiration of this Agreement shall remain in full force and effect and survive termination of this Agreement in accordance with Section 12 and Subsection 7.C.

### 11. SEVERABILITY CLAUSE

If an Arbitrator or Court of competent jurisdiction shall declare any provision of this Agreement to be invalid, illegal, or unenforceable, that provision shall be severed from this Agreement, and all the remaining provisions of this Agreement shall continue in full force and effect. The invalidity, illegality, or unenforceability of any term of this Agreement shall not affect the validity, legality, or enforceability of the remaining terms of this Agreement. However, if permitted by applicable law, any invalid, illegal, or unenforceable provision may be considered in determining the intent of the Parties with respect to other provisions of this Agreement.

### 12. SURVIVAL OF COVENANTS

Any provision in this Agreement that is specifically stated to survive the termination of this Agreement and any provision which, by its terms, cannot be performed prior to the termination or expiration of this Agreement or which, by its terms, continues beyond the term of this Agreement shall be deemed to survive the termination of this Agreement and shall be enforceable by the Parties, including but not limited to Business Associate's obligation to extend all protections described in this Agreement to PHI and EPHI that is not returned or destroyed upon termination in accordance with Subsection 10.C.

### 13. NOTICE

All notices or other communication required or permitted under this Agreement shall be provided under this Contract must be in writing and sent by certified U.S. Mail (return receipt requested), electronic mail, hand delivery, or national overnight delivery service (e.g. Federal Express, UPS, etc.) to the other Party's Contact at the address specified in Section 1. 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.

#### **14. ASSIGNABILITY**

No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party, and such consent shall not be withheld unreasonably.

#### **15. ENTIRE BUSINESS ASSOCIATE AGREEMENT – AMENDMENT MUST BE IN WRITING**

This is the entire Business Associate Agreement between the Parties. This Agreement shall not be altered, amended, or modified except in writing executed by the Parties.

15.A Amendments to the underlying Business Agreement or the making of an underlying Business Agreement between the Parties after the effective date shall not be construed as an amendment of this Agreement.

15.B The Parties agree to take such action as is necessary to amend this Agreement to the extent necessary to allow either Party to comply with HIPAA and The HIPAA Rules during the term of this Agreement.

15.C Regardless of whether this Agreement is amended in writing to conform to an amendment of HIPAA or The HIPAA Rules, it shall be construed to comply with HIPAA, The HIPAA Rules, and applicable state law in accordance with Subsections 20.A and 20.B.

#### **16. WAIVER**

Failure of either Party at any time to require strict performance of any provision of this Agreement shall not be considered to be an implied waiver of any breach, or of any succeeding breach, of such provision or an implied waiver of any right of the Party to take any action or obtain any relief permitted under this Agreement. A waiver of any right, duty, or obligation established by this Agreement must be an express written waiver executed by the Party making the waiver.

#### **17. FORCE MAJEURE – SECURITY RULE EXCEPTION**

##### **17.A FORCE MAJEURE**

If either Party is delayed or prevented from fulfilling its obligations under this Agreement by Force Majeure, the Party shall not be liable under this Agreement for the delay or failure. Force Majeure means any cause beyond the reasonable control of a Party, including but not limited to acts of God, civil or military disruption, terrorism, fire, strike, flood, riot, war, or inability, due to the aforementioned causes, to obtain necessary labor, materials, or facilities.

##### **17.B HIPAA SECURITY RULE EXCEPTION TO FORCE MAJEURE**

The provisions of Subsection 17.A concerning Force Majeure shall not relieve Business Associate of its responsibility under the Security Rule to implement security measures sufficient to reduce risks and vulnerabilities to a reasonable and appropriate level to ensure the confidentiality, integrity, and availability of all EPHI Business Associate creates, receives, maintains, transmits, or destroys; protect against any reasonably anticipated threats or hazards to the security or Integrity of such information and protect against any reasonably anticipated uses or disclosures of such information that are not permitted or required under Privacy Rule.

#### **18. RELATIONSHIP BETWEEN THE PARTIES**

The Parties to this Agreement are independent contractors.

18.A This Agreement does not create a joint venture, partnership, merger, and employer-employee relationship or organized health care arrangement between the Parties, nor does it make either Party an agent of the other.

18.B No provision of this Agreement is intended to create, nor may be deemed to create, any relationship between the Parties other than that of independent parties contracting with each other for the purpose of complying with HIPAA and The HIPAA Rules.

18.C Nothing in this Agreement is intended to confer on Covered Entity the authority or right to control the other Party's conduct in the course of performing its obligations under this Agreement.

## **19. EXECUTION AND COUNTERPARTS, COUNTERPARTS, AND FACSIMILE DELIVERY**

The Parties may execute this Agreement in any number of counterparts, and each counterpart shall, for all purposes, be deemed an original instrument. All such counterparts together shall constitute but one and the same Agreement. The Parties may sign and deliver this Agreement by facsimile or electronic transmission and may execute this Agreement in compliance with applicable e-signature law. At the request of either Party, the Parties shall also provide signed counterparts to each other.

## **20. MISCELLANEOUS**

### **20.A COMPLIANCE WITH HIPAA AND THE HIPAA RULES**

Any ambiguity in this Agreement shall be construed and resolved to permit the Parties to comply with HIPAA and The HIPAA Rules, as may be amended or modified during the term of this Agreement.

### **20.B STATE LAW**

In accordance with 45 CFR §160.203 of The HIPAA Rules, the Parties shall comply with applicable State Law, as may be amended or modified during the term of this Agreement, that is not preempted by The HIPAA Rules.

### **20.C GOVERNING LAW**

This Agreement and the rights and obligations of the Parties shall be governed and construed by HIPAA, The HIPAA Rules, and the law of the State of Colorado without regard to applicable conflict of laws principles.

### **20.D VENUE**

Any dispute relating to this Agreement shall be resolved by alternative dispute resolution or in a state or federal court located in the State of Colorado and Business Associate consents to such venue.

### **20.E SUCCESSORS AND ASSIGNS**

This Agreement is binding upon all successors and assigns of the Parties.

### **20.F NO THIRD PARTY BENEFICIARY**

Nothing in this Agreement, whether expressed or implied, shall be considered or construed to confer any rights, remedies, obligations, or liabilities or to impose any obligation whatsoever on any person other than the Parties and the respective successors or assigns of the Parties.

### **20.G CAPTIONS**

Each Section and Subsection in this Agreement identified by a caption is for convenience only. No caption is substantive or may be used to construe the meaning of any Section, Subsection, or provision of this Agreement.

### **20.H EQUITABLE RELIEF**

The Parties recognize that a breach of this Agreement by one Party may result in irreparable or immediate harm to the other Party. Accordingly, either Party shall have the right to seek equitable relief to enjoin, restrain, redress, mitigate, or prevent irreparable harm in a court of competent jurisdiction to enforce the terms of this Agreement while reserving its rights to pursue all other available remedies from the other Party under this Agreement or the underlying Business Agreement. In the event a Party seeks equitable relief from a court of competent jurisdiction under this Section, the prevailing Party shall be entitled to receive its costs from the other Party including actual attorneys' fees that are reasonably incurred.

## **IN WITNESS WHEREOF:**

The Parties hereby execute this Business Associate Agreement and confirm it is in full force and effect as of the effective date written above.

**BOULDER COUNTY PUBLIC HEALTH:**

**CONTRACTOR:**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

SAMPLE



[To complete this form, press f11 to move from field to field and follow the prompts. Now press delete to delete this prompt, and press f11 to proceed]

**CITY OF LONGMONT, COLORADO SERVICES CONTRACT**  
PROPOSAL # [Type proposal number, press f11 to proceed]

THIS CONTRACT, made at the City of Longmont, Colorado, by and between the City of Longmont, Colorado (City), a municipal corporation, and [Type name of contractor, press f11 to proceed] (Contractor), a [Type state of incorporation, e.g. Delaware press f11 to proceed] corporation, whose address is [Type address of contractor, press f11 to proceed].

1 RECITALS:

- 1.1 The City desires to use the services of the Contractor for the purposes of providing [Type description of services to be provided, press f11 to proceed].
- 1.2 The Contractor has agreed to provide the services outlined in the Contractor's Proposal, upon the terms and conditions set forth in this Contract. The Contractor will perform no service under this Contract until direction from an authorized City employee is issued and received by Contractor.
- 2 STATION OF WORK: The Contractor shall provide and furnish at its own proper cost and expense all materials, machinery, equipment, tools, superintendence, labor, insurance and other accessories and services necessary to provide services in strict accordance with the conditions and prices stated in the Contract and other documents; the Contractor shall do everything required by the Contract.
- 3 TIME OF COMMENCEMENT AND SUBSTANTIVE COMPLETION: The services to be provided under this Contract shall commence within [Type number of days, press f11 to proceed] calendar days from [enter date, then press f11 to proceed], and shall continue through [Type date, press f11 to proceed], with the option of [enter number of years, then press f11 to proceed] additional renewals, on an annual basis, upon agreement of both parties.
- 4 PRICE: The City will pay the Contractor for the performance of this Contract, a total of [Type dollar amount, press f11 to proceed] **DOLLARS** for the total quantities of Work performed as stipulated in the Contractor's Proposal.
- 5 FINANCIAL OBLIGATIONS OF CITY: This Contract does not create a multiple fiscal year direct or indirect debt or other financial obligation. Each request for service shall incur a concurrent debt for that request only. All financial obligations of the City under this Contract are contingent upon appropriation, budgeting, and availability of specific funds to discharge such obligations.
- 6 CONTRACT DEFINED: This Contract incorporates, herein by reference, the terms and conditions of the following documents. If there is a conflict among the documents, their terms and conditions shall prevail in the following order:
  - 6.1 Change Orders
  - 6.2 Services Contract
  - 6.3 Request for Proposals
  - 6.4 Contractor's Proposal
  - 6.5 Certificate of Insurance naming the City of Longmont as additional insured
  - 6.6 Workers' Compensation Certificate

- 7 SERVICE OF NOTICES: All required notices shall be deemed to have been validly given if delivered in person or by first class mail to the City at the following address:

CITY OF LONGMONT  
Purchasing & Contracts Division  
350 Kimbark Street  
Longmont, CO 80501

- 8 COMPLIANCE WITH THE LAW: This Contract shall be governed and construed in accordance with the laws of the State of Colorado. Venue and jurisdiction for any court action filed regarding this Contract shall be in either Boulder County Colorado or the United States District Court for Colorado. The Contractor will perform all obligations under this Contract in strict compliance with all federal, state, and municipal laws, rules, statutes, charter provisions, ordinances, and regulations, especially sections of the Occupational Safety and Health Administration (OSHA) regulations, latest revised addition, which provide for job safety and health protection for workers, applicable to the performance of the Contractor under this Contract. The City assumes no duty to insure that the Contractor follows the safety regulations issued by OSHA.

- 9 INSURANCE: The Contractor shall not begin any work until the Contractor proves to the City's Purchasing and Contracts Division that it has obtained, at Contractor's own expense, all required insurance as specified below. Liability insurance must be of the occurrence form. Deviations from the requirements listed below must be submitted to and approved by the City's Risk Manager.

9.1 COMMERCIAL GENERAL AND AUTOMOBILE LIABILITY insurance must cover bodily injury, property damage and personal injury with limits of no less than \$1,000,000 per occurrence. The Contractor shall cause the City to be named as an "Additional Insured".

9.2 [if Professional Liability is not necessary, delete section and renumber the remaining sections under insurance]PROFESSIONAL LIABILITY coverage at not less than \$1,000,000.

9.3 WORKERS' COMPENSATION coverage must be provided, as statutorily required for persons performing work under this Contract. Contractor must provide City with proof of Employer's Liability coverage with limits of at least \$500,000. Contractor shall require any subcontractor hired by the Contractor to carry Workers' Compensation and Employer's Liability coverage.

9.4 CERTIFICATE OF INSURANCE: As evidence of the insurance coverages required by this Contract, prior to the effective date of this Contract, the Contractor and their subcontractors, shall furnish a certificate of insurance to:

CITY OF LONGMONT  
Purchasing and Contracts Division  
350 Kimbark Street  
Longmont, CO 80501

9.5 The Certificate shall include the City of Longmont, its officers, agents and employees as "Additional Insureds" on all General Liability and Automobile Liability policies. Insurance coverages shall be obtained from insurance companies authorized to do business in the State of Colorado. If the Contractor or their subcontractors are qualified self-insureds under the laws of the State of Colorado appropriate declarations of self-insurance may be substituted.

9.6 CONTINUATION OF COVERAGE: The Contractor shall not cancel, materially change or fail to renew insurance coverages. The Contractor shall notify the Purchasing and Contracts Division of any material reduction or exhaustion of aggregate limits. Any insurance bearing on adequacy of performance (warranty or guarantee) shall continue after completion of the contract for the full guaranteed period. If any policy lapses or is canceled before final payment by the City to the Contractor and if the Contractor fails immediately to procure other insurance as specified, the City may deem such failure to be a breach of this Contract.

- 9.7 RESPONSIBILITY FOR PAYMENT OF DAMAGES: Nothing contained in these insurance requirements shall limit the Contractor's responsibility for damages resulting from Contractor's operations under this contract.
- 10 INDEMNITY: The Contractor hereby releases and agrees to indemnify, defend and save harmless the City and its agents from and against all claims, actions, causes of action, demands, judgments, costs, expenses and all damages of every kind and nature, incurred by and on behalf of any person or corporation whatsoever, predicated upon injury to or death of any person or loss of or damage to property of whatever ownership, including the parties to this Contract and their employees, and arising out of or connected with, in any manner, directly or indirectly, the Contractor's operations.
- 11 STATUS OF CONTRACTOR: The Contractor shall perform all work under this Contract as an independent contractor and not as an agent or employee of the City. The Contractor will not be supervised by any employee or official of the City nor will the Contractor exercise supervision over any employee or official of the City. The Contractor shall not represent that the Contractor is an employee or agent of the City in any capacity. The Contractor shall supply all personnel, buildings, equipment and materials at Contractor's sole expense. **The Contractor is not entitled to City Workers' Compensation benefits and is obligated to pay federal and state income tax on money earned pursuant to this Contract.** This Contract is not exclusive; the Contractor may contract with other parties.
- 12 PROVISIONS CONSTRUED AS TO FAIR MEANING: The provisions of this Contract shall be construed as to their fair meaning, not for or against any party based upon any attributes to such party of the source of the language in question.
- 13 HEADINGS FOR CONVENIENCE: All headings, captions and titles are for convenience and reference only and of no meaning in the interpretation or effect of this Contract.
- 14 NO IMPLIED REPRESENTATIONS: No representations, agreements, covenants, warranties, or certifications, express or implied, shall exist as between the parties, except as specifically set forth in this Contract.
- 15 NO THIRD PARTY BENEFICIARIES: None of the terms or conditions in this Contract shall give or allow any claim, benefit, or right of action by any third person not a party hereto. Any person other than the City or the Contractor receiving services or benefits under this Contract shall be only an incidental beneficiary.
- 16 WAIVER: No waiver of any breach or default under this Contract shall be a waiver of any other or subsequent breach or default.
- 17 TERMINATION: Either party may terminate this Contract by giving the other party thirty days written notice of such termination. The Contractor will then be paid for satisfactory work up to the date of termination. The City may terminate this Contract without cause; the Contractor may terminate this Contract only for cause.
- 18 TRANSFERENCE AND AMENDMENTS: The Contractor may not transfer this Contract to a third party nor in any way amend this Contract without prior written consent of the City.
- 19 GRATUITIES:
- 19.1 It is unlawful and unethical for any person to offer, give or agree to give any City employee, City official or former City employee, or for any City employee, City official or former City employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore.**

**19.2 It is unlawful and unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor of any person associated therewith, as an inducement for the award of a subcontract or order.**

- 20 RESERVATION OF RIGHT TO BAR PERSONS FROM THE WORK AND SITE: The City reserves the right to bar any person, including employees of the Contractor and Subcontractors, from the City's Work site. This shall not be treated as a request for the employee's termination but a request that the employee not be assigned to work on the City Work site. No increase in contract time or price is authorized.
- 21 UNLAWFUL EMPLOYEES, CONTRACTORS AND SUBCONTRACTORS: Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor shall not knowingly contract with a subcontractor that (a) knowingly employs or contracts with an illegal alien to perform work under this Contract or (b) fails to certify to the Contractor that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Contract.
- 22 VERIFICATION REGARDING ILLEGAL ALIENS: Contractor has confirmed the employment eligibility of all employees newly hired for employment to perform work under this Contract through participation in either the E-verify program administered jointly by the United States Department of Homeland Security and the Social Security Administration or the employment verification program of the Colorado Department of Labor & Employment.
- 23 LIMITATION REGARDING E-VERIFY PROGRAM: Contractor shall not use either E-verify or Colorado Department of Labor & Employment program procedures to undertake pre-employment screening of job applicants while performing this Contract.
- 24 DUTY TO TERMINATE A SUBCONTRACT; EXCEPTIONS: If Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Contractor shall, unless the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien:
  - 24.1 notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
  - 24.2 terminate the subcontract with the subcontractor if, within three days of receiving notice that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien, the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- 25 DUTY TO COMPLY WITH STATE INVESTIGATION: Contractor shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation pursuant to C.R.S. 8-17.5-102 (5).
- 26 DAMAGES FOR BREACH OF CONTRACT: In addition to any other legal or equitable remedy the City may be entitled to for a breach of this Contract, if the City terminates this Contract, in whole or in part, due to Contractor's breach of any provision of this Contract, Contractor shall be liable for actual and consequential damages to the City.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, [enter current year, then press f11 to proceed].

**CONTRACTOR**

By: \_\_\_\_\_

Title: \_\_\_\_\_

State of \_\_\_\_\_ ) ss:

County of \_\_\_\_\_

The foregoing instrument was acknowledged before me by \_\_\_\_\_,  
(Name of party signing)

as \_\_\_\_\_ of \_\_\_\_\_  
(Title of party signing) (Name of corporation)

a \_\_\_\_\_ corporation, on behalf of the corporation, this  
(State of incorporation)

\_\_\_\_\_ day of \_\_\_\_\_, [enter current year, then press f11 to proceed].

Witness my hand and official Seal.

My Commission expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public



## AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019 (the "Effective Date"), by and between the Town of Superior, 124 East Coal Creek Drive, Superior, Colorado 80027, a Colorado municipal corporation (the "Town"), and \_\_\_\_\_, an independent contractor with a principal place of business at \_\_\_\_\_, Colorado \_\_\_\_\_ ("Contractor") (each individually a "Party" and collectively the "Parties").

WHEREAS, the Town requires professional services; and

WHEREAS, Contractor has held itself out to the Town as having the requisite expertise and experience to perform the required professional services.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **I. SCOPE OF SERVICES**

A. Contractor shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Services set forth in **Exhibit A**, attached hereto and incorporated herein by this reference.

B. A change in the Scope of Services shall not be effective unless authorized as an amendment to this Agreement. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

### **II. TERM AND TERMINATION**

A. This Agreement shall commence on the Effective Date, and shall continue until Contractor completes the Scope of Services to the satisfaction of the Town, or until terminated as provided herein.

B. Either Party may terminate this Agreement upon 30 days advance written notice. The Town shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity.

### **III. COMPENSATION**

In consideration for the completion of the Scope of Services by Contractor, the Town shall pay Contractor \$24,615. This amount shall include all fees, costs and expenses incurred by Contractor, and no additional amounts shall be paid by the Town for such fees, costs and

expenses. Contractor shall not be paid until the Scope of Services is completed to the satisfaction of the Town.

#### **IV. PROFESSIONAL RESPONSIBILITY**

A. Contractor 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. The work performed by Contractor 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. The work and services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

B. The Town's review, approval or acceptance of, or payment for any services 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. Because the Town has hired Contractor for its professional expertise, Contractor agrees not to employ subcontractors to perform any work under the Scope of Services.

#### **V. OWNERSHIP**

Any materials, items, and work specified in the Scope of Services, and any and all related documentation and materials provided or developed by Contractor shall be exclusively owned by the Town. Contractor expressly acknowledges and agrees that all work performed under the Scope of Services constitutes a "work made for hire." To the extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change such work without providing notice to or receiving consent from Contractor.

#### **VI. INDEPENDENT CONTRACTOR**

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

#### **VII. INSURANCE**

A. Contractor 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 Contractor pursuant to this Agreement. At a minimum, Contractor shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.



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, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision, and shall include the Town and the Town's officers, employees, and contractors as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

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

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers, its employees or its contractors shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Contractor shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

## **VIII. INDEMNIFICATION**

A. Contractor agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor, or which arise out of a worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor. Contractor's liability under this indemnification provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor.

B. If Contractor is providing architectural, engineering, surveying or other design services under this Agreement, the extent of Contractor's obligation to indemnify and hold harmless the Town may be determined only after Contractor's liability or fault has been determined by adjudication, alternative dispute resolution or otherwise resolved by mutual agreement between the Parties, as provided by C.R.S. § 13-50.5-102(8)(c).

## **IX. ILLEGAL ALIENS**

A. Certification. By entering into this Agreement, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that Contractor 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. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement, or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

C. Verification.

1. If Contractor has employees, Contractor 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. Contractor 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 Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien who is performing work under this Agreement, Contractor shall: notify the subcontractor and the Town within 3 days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien 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 illegal alien who is performing work under this Agreement; except that Contractor 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 an illegal alien who is performing work under this Agreement.

D. Duty to Comply with Investigations. Contractor 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 Contractor is complying with the terms of this Agreement.

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

**X. MISCELLANEOUS**

A. Governing Law and 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 Boulder County, Colorado.

B. 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 obligation of this Agreement.

C. Integration. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

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

E. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address set forth on the first page of this Agreement.

F. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

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.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.



**EXHIBIT A  
SCOPE OF SERVICES**

Contractor's Duties

During the term of this Agreement, Contractor shall perform the following duties, as directed by the Town:

- Contractor shall conduct Mosquito Control within the Town, following an Integrated Pest Management (IPM) methodology consisting of an environmentally sensitive program of pest management that utilizes a combination of cultural, biological, and chemical measures that emphasize the least-toxic approach to control established and potential nuisance/disease-vector pest populations, and which is also within economically feasible considerations, with a strong emphasis on minimizing the use of chemical adulticide control.

Contractor's Deliverables

In performance of the duties described above, Contractor shall deliver the following items to the Town, during the timeframes established by the Town:

- A. Contractor shall establish and maintain a Mosquito Control Call Line. Contractor shall provide a call line for residents. The call line must allow residents to:
  - i. Opt their property out of any adulticiding (spraying) via a “Shut-Off List.”
  - ii. Request that they be notified when spraying is going to occur in or around their neighborhood.
  - iii. Report mosquito annoyance areas.
  - iv. Report sites that are harboring larval mosquitoes
  - v. Request information on how to control/prevent mosquitoes on their property and mosquito borne disease, such as West Nile Virus, Western Equine Encephalitis, St. Louis Encephalitis, and other mosquito borne diseases.
  - vi. Request safety/health information about mosquito control including, control products used.
  - vii. Documentation must be maintained of each call to include name, address, type of complaint, response, and resolution.
- B. Complaint Response
  - i. Contractor is required to respond appropriately to all complaints and refer all service-related complaints to the Town within 24 hours.
  - ii. Contractor must also verify the validity of nuisance complaints by on-site inspection that can include: adult mosquito trapping (floater traps), landing counts, or larval dipping in breeding sites.
  - iii. Contractor must resolve all valid complaints to the satisfaction of the Town.

- iv. Contractor must provide education to complainant to promote self-management of mosquito problem.
  - v. Contractor must submit a weekly report of all complaints and response to the Town. Report must contain any complaints that could not be resolved and explain reasons why.
- C. Adult Mosquito Trapping. Contractor must conduct adult mosquito trapping during the mosquito season (approximately May-September). Trapping of adult mosquitoes, at minimum, must include:
- i. Weekly trapping at 3 traps for the Town.
  - ii. An appropriate number of floater traps shall be available for use in areas that are not covered by 1 of the predetermined trap locations. Floater traps will be used to determine adult mosquito numbers in areas where complaints regarding high numbers of mosquitoes have been received and to determine whether spraying for adult mosquito control is justified. Floater traps can be used when a permanent trap site is over 1 mile from the complaint area (see Adult Mosquito Control, below).
  - iii. The use of both CDC light traps and gravid traps (where applicable) at each site.
  - iv. Genus, speciation, and counts of adult mosquitoes within 24 hours of trapping. Counts using statistically valid sampling methods may be used in large sample sizes (minimum of 300 mosquitoes/trap).
  - v. Ensure that speciated mosquitoes are made available for submission to the State lab for disease testing (when applicable) within 24 hours of trap retrieval.
  - vi. The maintenance of trapping data and reporting individual trap results to the Town within 24 hours of trap collection.
  - vii. No subcontracting of adult mosquito trapping will be permitted.
- D. Larval Mosquito Control. The larval control component of this program is the most significant area of focus of services provided. The Town has 72 larval sites that are historically monitored as mosquito-breeding sites. Larval control efforts are conducted from March through September (dependent on weather and presence of larvae). The contractor shall:
- i. Maintain a larval site inventory database with site locations (latitude & longitude), site size, and habitat type. This database must be kept updated on a weekly basis and made available to the Town.
  - ii. Maintain a larval site treatment database that includes date inspected/treated; method, amount, and product used for control; and genus and species of mosquito observed.
  - iii. The contractor should seek to identify potential new sites in areas with high mosquito activity to ensure all larval surveillance sites are addressed.
  - iv. Categorize sites into weekly, monthly and seasonal/annual inspection frequency.
  - v. Re-inspect and treat when applicable, on a 5-day interval, all sites treated the previous inspection during peak mosquito production, June 21–August 14. Sites that are not producing at inspection may be placed on a 7-day interval during this time for all sites designated for weekly monitoring.

- vi. Conduct larval control efforts that must include:
    1. A prescription-based larval control that incorporates habitat type and species history of the site.
    2. Biological treatment of larvae with appropriate product or physical control to reduce standing water.
    3. Working with property owners to reduce standing water through water management and source reduction treatment, including clearing clogged ditches, hand digging of channels, and working with property owner to mitigate these sites.
    4. Stormwater catch basins inspection and treatment, where applicable.
    5. Water management and source reduction treatment including clearing clogged ditches, hand digging of channels and working with property owners to mitigate these sites.
    6. No subcontracting of larval control efforts will be permitted.
  - vii. Contractor must report any possible breeding sites that are not being remediated and the reason why to the Town. When access to a property for an inspection, site visit, or larval treatment cannot be gained, the contractor must notify the Town of these areas. Additionally, contractor must work with the Town to identify new problem areas for future control efforts and to suggest new approaches and technologies to find, identify and eliminate mosquito breeding areas.
- E. Adult Mosquito Control. In keeping with an IPM approach to mosquito control, the contractor must focus on minimizing the use of chemicals. A prescription-based adulticiding program must be used. Contractor may only utilize pesticides approved by the Town. No subcontracting for adult mosquito control is permitted.
- i. The use of chemical pesticides to control adult mosquitoes shall be limited to:
    1. A pyrethroid-based formulation or other product with similar/less toxicity, as approved by Town.
    2. Backpack and truck-mounted Ultra Low Volume (ULV) dispersal. Truck-mounted ULV must have integrated variable flow to adjust pesticide rate with speed of vehicle and integrated GPS to document spray routes including vehicle speed, vehicle heading, time, spray on/off, spray shutoffs, and total spray time. All ULV equipment shall be calibrated as needed, but not less than once annually.
    3. Adulticide should be used only when nuisance and vector mosquitoes cannot be controlled by any other means (e.g. water management, vegetation control, biological controls, larvacide, etc.) and when 100 adult mosquitos per trap per night or greater are captured in areas routinely trapped by standard CDC or gravid mosquito trap.
  - ii. Frequency and levels of adulticiding may be reduced or redirected at the discretion of the Town.

- F. Reporting Requirements. All data developed under this contract becomes the sole property of the Town. Contractor must provide all data to the Town in a common, easy to use and manipulate, electronic/digital format.
- i. Contractor is required to submit weekly reports. At minimum, the weekly report must include:
    1. The number, size, and location of breeding sites inspected and/or treated.
    2. Weekly adult mosquito trapping data to include total numbers and numbers of mosquitoes per Genus species (Aedes, spp., Culex spp., Culiseta spp., & Coquillettidia spp.) per site.
    3. Weekly GIS layers and reports maps indicating where adulticide application occurred, shutoff areas, # ULV miles, type and amount of product applied.
    4. Summary of weekly calls by type and date. Must also include any complaints that were not resolved and explain why.
    5. Any breeding sites or properties that were not inspected and the reason why.
    6. Reports should begin when activities related to that report begin and may cease when activities cease.
  - ii. Contractor is required to submit monthly reports of control efforts during the months of April-September by the 15th of the following month. Monthly reports shall include, at a minimum:
    1. Number, date, location, and size of sites inspected.
    2. Number, type and size of new sites added to inventory.
    3. % of the sites that were wet.
    4. % of the sites breeding mosquitoes.
    5. A summary of the number, size, and location of breeding sites treated.
    6. Amount and type of larval control product used.
    7. A summary of weekly adult mosquito trapping data.
    8. A summary of weekly calls by type and date.
  - iii. Contractor is required to submit an annual report to the Town by October 14th of the current contract year. At minimum, the annual report must include:
    1. An overview of the control efforts for that year.
    2. Location, type, and size of larval production sites.
    3. Genus and species of mosquitoes observed at each site.
    4. Number of larval sites inspected; number of sites treated; acreage treated, and number, type, and size of new sites added to inventory.
    5. Amounts and type of each larval control agent used.
    6. Composite of mosquito species trapped both for light traps and gravid traps Town-wide and for each trap.
    7. Annual ULV miles and GPS assisted maps indicating the location of each ULV event, date, amount, and type of material used; start time; end time; and miles.
    8. Amount and type of adulticide product used during the year.



9. Total annual calls received and type of call by month.
  10. Time and cost breakdown by program element (e.g., larval surveillance and control, adult surveillance and control, education, etc.).
- iv. Public Education and Outreach
1. Attend Advisory Committee or Town Board meetings or any other public outreach efforts when requested.
  2. Notify residents on the Notification/Shutoff List when spraying within 2 blocks of their property or within the effective ULV spray drift distance (300-500 feet depending on wind speed and direction).
  3. Notification to the Town staff must be given at least 48 hours prior to adulticide application.
  4. Provide the location of “areas to be sprayed” to local newspapers to be printed the day of if not before spraying occurs or other approved means of notification.
  5. Maintain a website listing weekly spray schedules/areas within the Town that provides the weekly spray events at least two calendar days prior to spraying.
  6. Provide education/outreach for residents to control nuisance mosquitoes around their homes through the use of a website or during personal interaction.
  7. Provide weekly notification of spraying events to the public when adult control will be initiated. Public notification must occur a minimum of 48 hours before spraying takes place. Any rescheduled spray events must also have another public notice. Should a Town-wide spraying be required a minimum of 48 hour notification will be required prior to spraying.
- v. NPDES Requirements
1. The contractor shall comply with all requirements outlined under the Clean Water Act and the CDPHE NPDES permit issued for discharges of pesticides applied as part of this contract.
  2. The contractor will work with the Town to draft and update all plans and reports including but not limited to the Certification of Compliance and the Pesticide Discharge Management Plan.
  3. The contractor shall develop pesticide spill response procedures including training for all employees who may need to implement the procedures.
  4. The contractor must follow all procedures for identifying, responding to, and reporting any adverse incidents that may occur. The contractor must also keep records of Adverse Incidents as required by the Clean Water Act and the CDPHE NPDES permit .

**NO EMPLOYEE AFFIDAVIT**

*[To be completed only if Contractor has no employees]*

**1. Check and complete one:**

I, \_\_\_\_\_, am a sole proprietor doing business as \_\_\_\_\_. I do not currently employ any individuals. Should I employ any employees during the term of my Agreement with the Town of Superior (the "Town"), I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

OR

I, \_\_\_\_\_, am the sole owner/member/shareholder of \_\_\_\_\_, a \_\_\_\_\_ [specify type of entity – *i.e.*, corporation, limited liability company], that does not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the Town, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

**2. Check one.**

I am a United States citizen or legal permanent resident.

*The Town must verify this statement by reviewing one of the following items:*

- *A valid Colorado driver's license or a Colorado identification card;*
- *A United States military card or a military dependent's identification card;*
- *A United States Coast Guard Merchant Mariner card;*
- *A Native American tribal document;*
- *In the case of a resident of another state, the driver's license or state-issued identification card from the state of residence, if that state requires the applicant to prove lawful presence prior to the issuance of the identification card; or*
- *Any other documents or combination of documents listed in the Town's "Acceptable Documents for Lawful Presence Verification" chart that prove both Contractor's citizenship/lawful presence and identity.*

OR

I am otherwise lawfully present in the United States pursuant to federal law.

*Contractor must verify this statement through the federal Systematic Alien Verification of Entitlement ("SAVE") program, and provide such verification to the Town.*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**DEPARTMENT PROGRAM AFFIDAVIT**

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

I, \_\_\_\_\_, as a public contractor under contract with the Town of Superior (the "Town"), hereby affirm that:

1. I have 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. I have 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. I have 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 \_\_\_\_\_, 2020, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

My commission expires:

(S E A L)

\_\_\_\_\_  
Notary Public

## **City of Longmont Comprehensive Program**

### **SITE MONITORING/ SURVEILLANCE/ LARVACIDING**

In 2021, the City is anticipating 12 trapping /monitoring sites to provide geographic coverage for the City. Additionally, the City of Longmont anticipates a five (5) day larvaciding / Surveillance Cycle. The goal of the increased larvaciding program is to reduce the amount of spraying needed to control adult mosquitos. During peak times of the year, the hottest days of summer, certain species can develop from an egg to an adult in less than a week, beginning on June 15<sup>th</sup> thru the end of the season (dependent upon trap counts and vector index...no specific end date).

### **ADULTICIDE/SPOT SPRAYING**

Spot spraying occurs when mosquito counts exceeded 150 and the presence of WNV+ mosquitos in any of the 3 surrounding counties (Boulder, Larimer and Weld).

- The City provides 48 hour notice for spot spraying throughout the season.
- Notification of weekly spot spraying is required in the approved vendor's website as well as notification to the City, and provided via the eAlert email system (City) and social network (City and Contractor) on Tuesday morning. With anticipated spraying on Thursday evenings, weather permitting.
- Staff also posted the weekly Vector Index on the City's website to indicate severity over time.
- See approximate Neighborhood Spray Maps, locations may change on an annual basis due to production

### **ENHANCED AREA SPRAYING**

- Staff implemented a spraying effort (Enhanced Area Spraying) which was intended to be implemented prior to the City implementing the Citywide West Nile Virus Vector Emergency Spraying. Similar to the citywide spraying, the Enhanced Area Spraying would be based on a recommendation from Boulder County Public Health, which is based upon the Vector Index (VI) calculation. The program is targeted at specific breeding areas that are known to be high producers based upon the surveillance and monitoring data (trap counts and presence of WNV+ mosquitos). The enhanced areas, areas larger than the typical Neighborhood Spray, spot spraying areas, will be sprayed back to back with the intent to "knock down" all adult mosquitoes in that production zone. The Vector Index will continue to be monitored. Should the VI drop to an acceptable level, no further action will be required. Should the VI continue to rise and the Boulder County Public

Health and the State of Colorado recommend a citywide spraying, the City will evaluate if it should move to the next step of a citywide spraying

- Also during this phase the City and contractor will **not** honored shut-off requests.

#### **CITY-WIDE WEST NILE VIRUS VECTOR EMERGENCY SPRAYING –**

- Citywide spraying will be considered only if a recommendation had been received from Boulder County Public Health and will be based upon the Vector Index calculation and if Enhanced Spot Spraying was not successful in reducing the Vector Index.
  - For citywide spraying, the City will provided a 48 hour notification before implementation.
  - Due to the nature of the emergency during a citywide spraying event, the City and contractor would **not** have honored any shut-off requests.
- ❖ Bid should include an all-inclusive option, including larvaciding, neighborhood spot spraying as well as any emergency spraying

#### Historical Schedule:

Sunday - Trapping on Sunday Evening at 12 locations

Monday - Counts and notification to the City of Longmont

Tuesday – Notification on Web sites (City and Contactor)

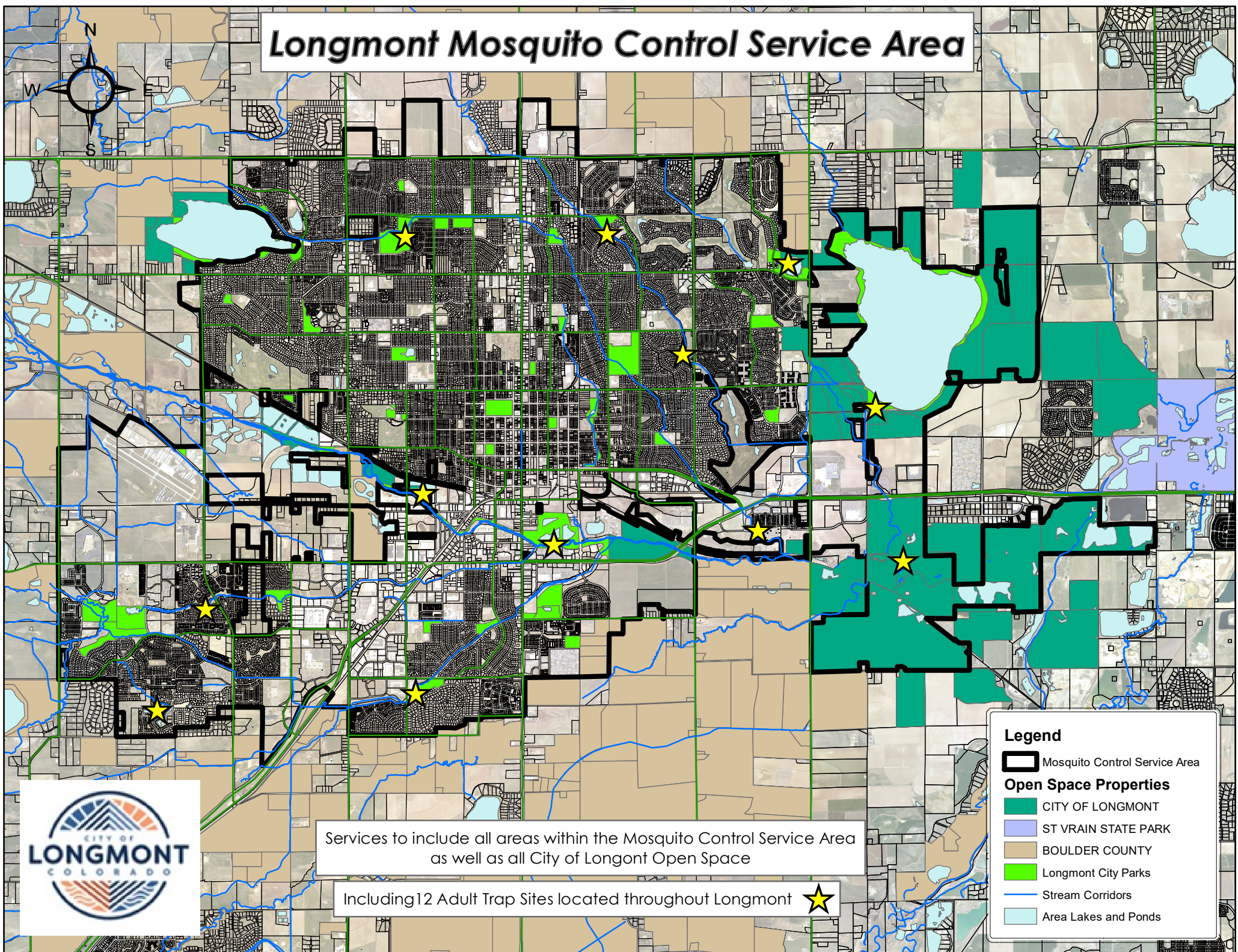
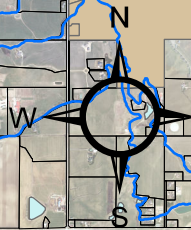
Thursday – Evening Spot / Neighborhood Spraying – weather dependent

Friday – Spot / Neighborhood Spraying if poor weather on Thursday Evening

#### Service Area:

The entire Service Area for the City of Longmont includes all annexed property as well as Open Space properties that are reflected on the attached map entitled... “Longmont Mosquito Control Service Area”.

# Longmont Mosquito Control Service Area

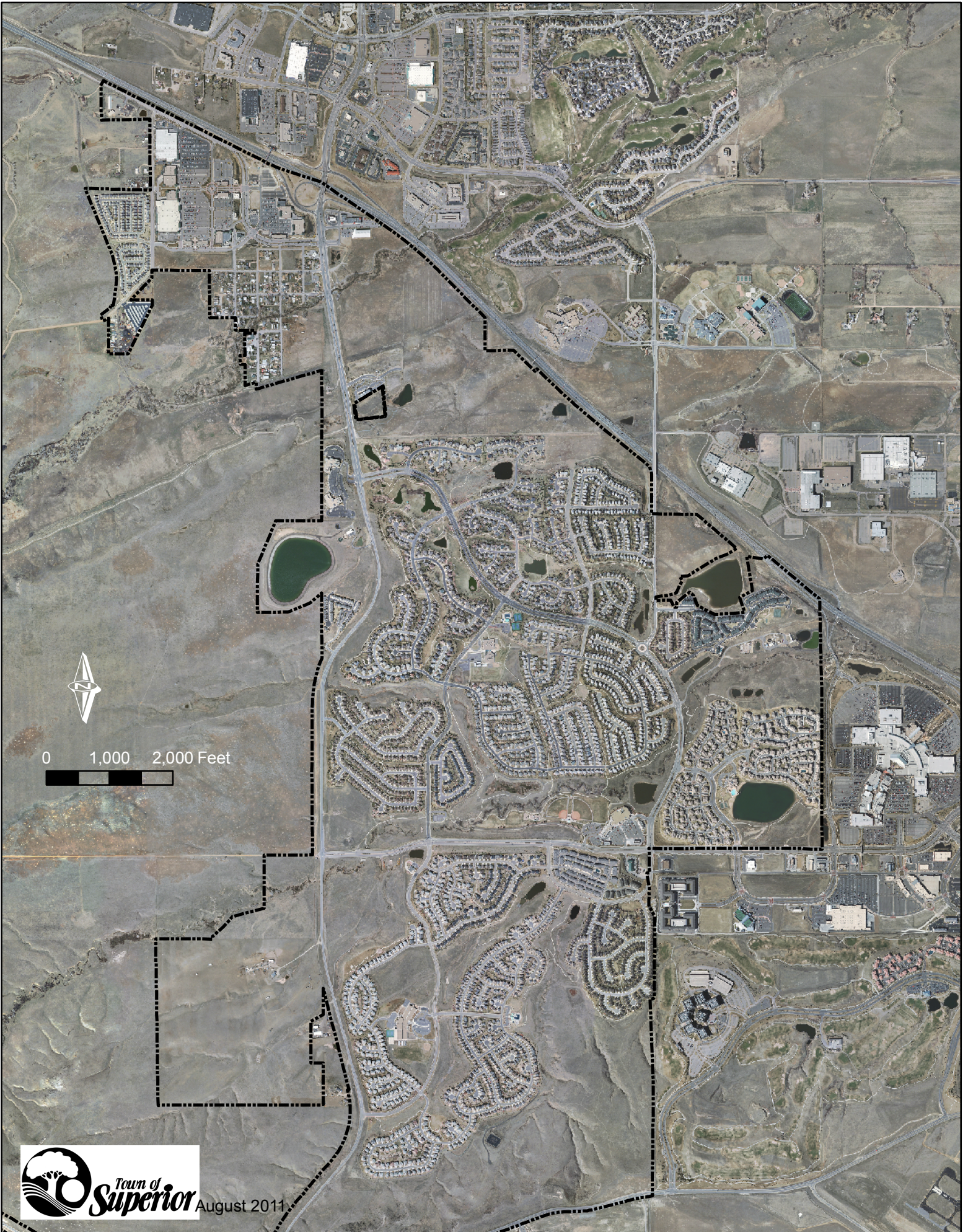


Services to include all areas within the Mosquito Control Service Area as well as all City of Longmont Open Space

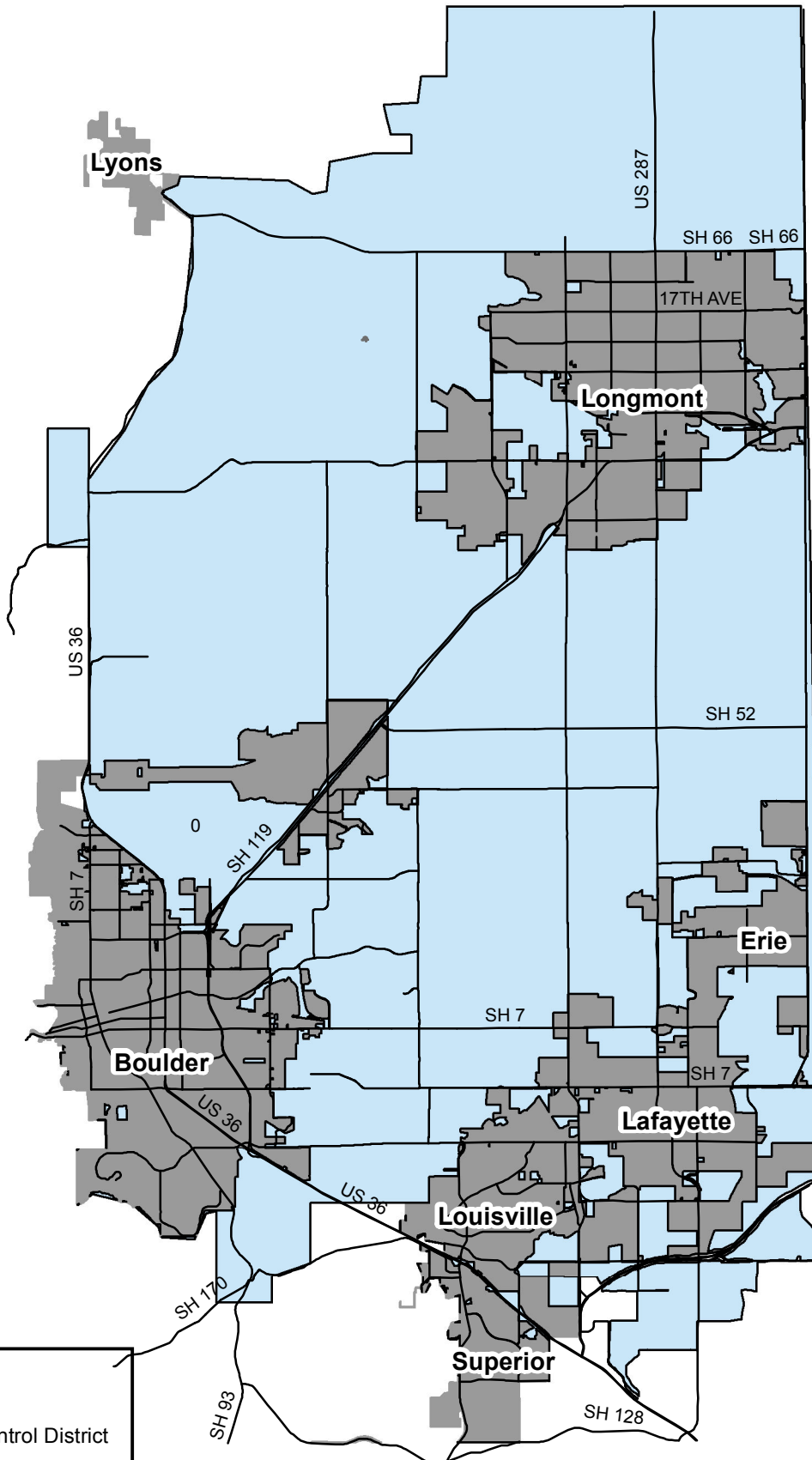
Including 12 Adult Trap Sites located throughout Longmont ★

## Legend

- Mosquito Control Service Area
- Open Space Properties**
- CITY OF LONGMONT
- ST VRAIN STATE PARK
- BOULDER COUNTY
- Longmont City Parks
- Stream Corridors
- Area Lakes and Ponds



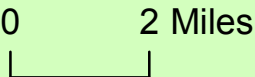
0 1,000 2,000 Feet



**Legend**

Mosquito Control District

**Boulder County  
Mosquito Control  
District**

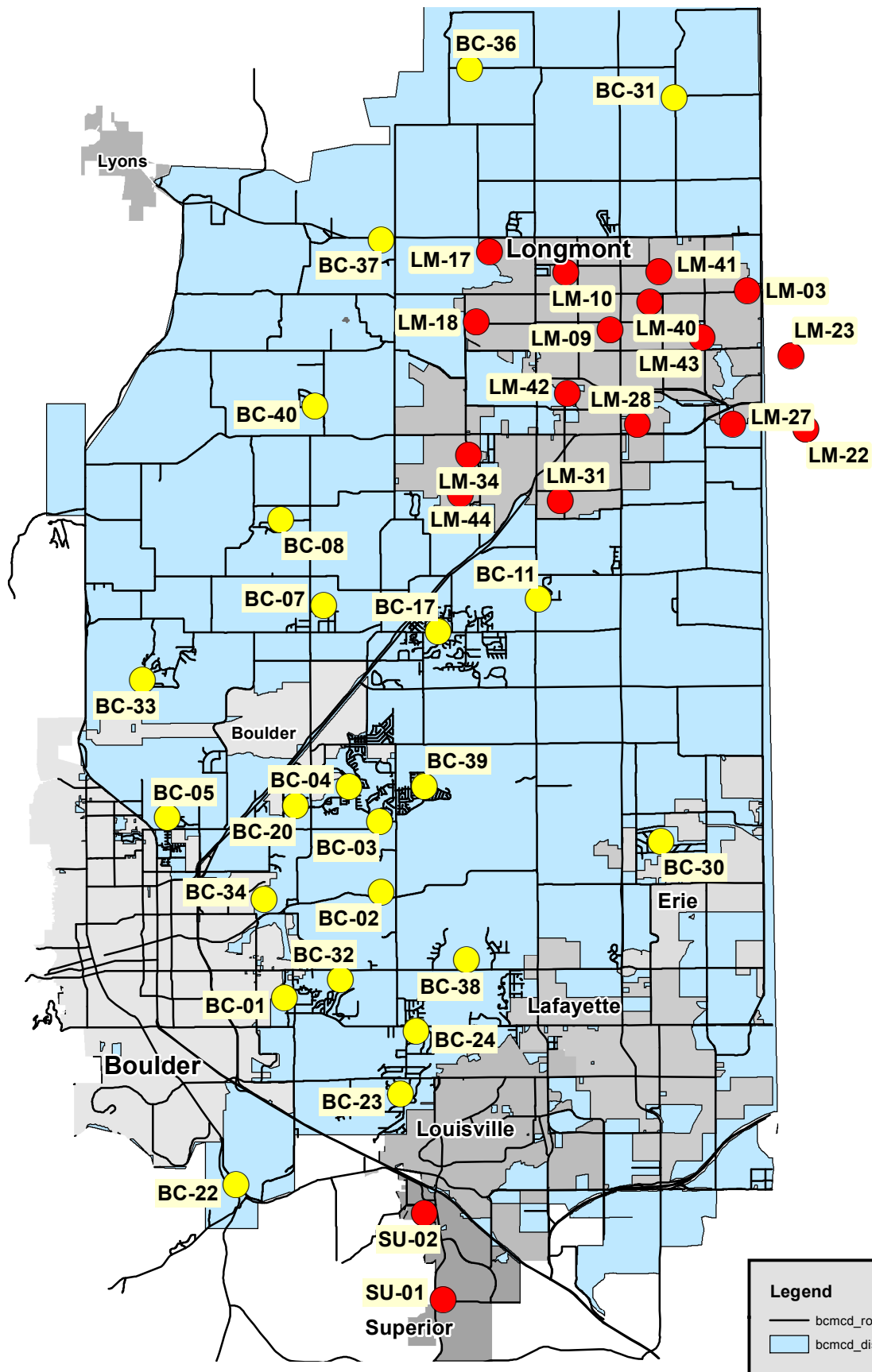


**DISCLAIMER:**  
 This map is for illustrative purposes only, and is not suitable for parcel specific decision making. The areas depicted here are approximate. More site specific studies may be required to draw accurate conclusions.

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Boulder County Public Health  
 3450 Broadway  
 Boulder, CO 80304  
 Map prepared 8/1/2011  
 by MDC





# Trap Locations



0 1 Miles



**DISCLAIMER:**  
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 Boulder County Public Health  
 3450 Broadway  
 Boulder, CO 80304  
 Map prepared 03.09.2016  
 by MDC

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