

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

## REQUEST FOR INFORMATION (RFI) COVER PAGE

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**RFI Number:** 7329-22

**RFI Title:** Fruit & Veg Longmont

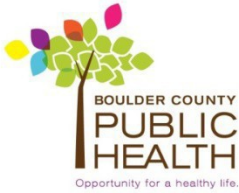
**Due Date for RFI Questions:** March 16, 2022 – 2:00 p.m.

**RFI Submittal Due Date:** March 30, 2022 – 2:00 p.m.

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

**Documents Included in This Package:**

- RFI Bid Proposal Instructions
- RFI Terms and Conditions
- RFI Specifications
- Insurance and W-9 Requirements
- RFI Submittal Checklist
- RFI Evaluation Criteria
- RFI Signature Page
- Agreement to RFI Specifications
- Sample Contract



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## RFI Bid Proposal Instructions

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### 1. PURPOSE/BACKGROUND.

Boulder County Public Health (BCPH) is seeking grocery, market and farm retail locations in the City of Longmont to expand a fruit and vegetable voucher program that was launched at the Longmont Farmers Market in 2021. BCPH will work with community partners to distribute the fruit/vegetable vouchers to under-resourced City of Longmont residents. BCPH anticipates distributing at least \$140,000 in fruit and vegetable vouchers. Grocery and market retailers will accept the fruit/vegetable vouchers distributed by community partners and BCPH will reimburse retailers for vouchers redeemed at their location on a monthly basis.

### 2. WRITTEN INQUIRIES.

If you have any questions regarding this RFI, 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., March 16, 2022. 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 March 23, 2022.

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

### 3. SUBMITTAL INSTRUCTIONS.

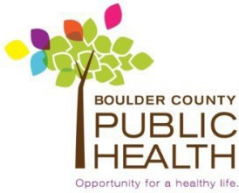
#### A. Submittal Requirements: In order for RFI submittals to be accepted for consideration by Boulder County:

1. All bids must be submitted using one of the two methods outlined below in "Submission Instructions."
2. All bids must be received, and time/date recorded by authorized Boulder County staff before the established RFI due date and time.
3. **NO LATE SUBMITTALS WILL BE ACCEPTED.** If your RFI bid is received after the established RFI due date and time for any reason, your proposal will automatically be rejected and returned to you – there are NO EXCEPTIONS. Boulder County does not accept responsibility under any circumstance for delayed or failed RFI submittals.
4. You must include all required documents with your RFI bid, including but not limited to:
  - RFI Submittal Checklist (included in RFI package)
  - RFI Signature Page (included in RFI package)
  - Certificates of insurance, if applicable
  - W-9
5. It is the sole responsibility of RFI bidders to ensure that your RFI 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 RFI 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 RFI submittals must be received by Boulder County for time and date recording on or before 2:00 p.m., MST, on March 30, 2022, by the following method:

1. **Electronic, via Email:**
  - 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) RFI inquiries; and 2) RFI submission.
- d. You must include RFI #7329-22 in your email subject line.
- e. Please use the delivery receipt option to verify receipt of your email.



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## RFI Terms and Conditions

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1. Request for Proposal (“RFI”) 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 RFI.
3. The RFI contract/purchase order will be awarded to the responsible bidder whose submittal, conforming to the RFI, 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 RFI 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 RFI 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 RFI submittals will not be accepted or considered. It shall be the responsibility of RFI 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 RFI.
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 RFI documents shall be made by Addendum. Interpretations, corrections, and changes of the RFI 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 “Request for Proposals” and any resulting contract are subject to the provisions of the Colorado 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 or resulting contract will be clearly stated in the proposal and contract itself. Confidential/proprietary information must be readily identified, marked and separated/packaged from the rest of the proposal. Co-mingling of confidential/proprietary and other information is NOT acceptable. Proposals that do not properly identify confidential/proprietary information may be released in their entirety. Pricing totals contained in a proposal are not considered confidential.

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

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.

11. 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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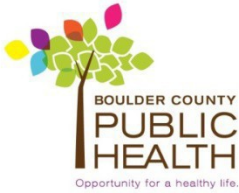
## RFI Specifications

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Boulder County Public Health (BCPH) is seeking grocery stores, farmers markets and farms in the City of Longmont to expand a fruit and vegetable voucher program that was implemented at the Longmont Farmers Market in 2021. BCPH will work with community partners to distribute the fruit/vegetable vouchers to under-resourced City of Longmont residents. BCPH anticipates distributing at least \$140,000 in fruit and vegetable vouchers. Grocery and market retailers will accept the fruit/vegetable vouchers distributed by community partners and BCPH will reimburse retailers for vouchers redeemed at their location on a monthly basis. BCPH is seeking grocery retailers, farmers markets and farm stands who can provide the following:

- Small, locally owned grocery store, farmers market or farm stand located in the City of Longmont
- Retailer is open to discussions about procuring local produce
- Meet with BCPH at the outset of the project to discuss program planning and development, implementation, logistics, and program deliverables
- Accept fruit/vegetable vouchers as payment for fresh fruits and vegetables at grocery or market retail locations in the City of Longmont
- Actively work to create a welcoming environment for shoppers using fruit/vegetable vouchers including friendly and knowledgeable cashier staff and signage as needed
- Keep redeemed fruit/vegetable vouchers and return to BCPH on a monthly basis
- Complete monthly invoices including the Dollar amount of fruit/vegetable vouchers redeemed
- Train front line staff on proper voucher redemption with an emphasis on cashier staff
- Not raise prices of produce or any staple products above competitive market value during the program
- Monitor voucher redemption and inform BCPH of issues that arise for program improvements

Grocery retailers, farmers markets and farmers will communicate and remain responsive with BCPH through phone, email or in-person meetings to discuss and improve the voucher redemption process.



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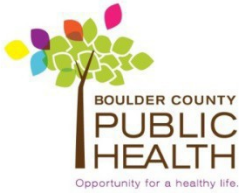
## RFI Submittal Checklist

Please pay special attention to the items listed below, as this information is REQUIRED IN FULL, as part of your RFI 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 (RFI) 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 RFI requirements:

INCLUDED	ITEM
<input type="checkbox"/>	Names and addresses of your partners and subcontractors for this RFI, if applicable.
<input type="checkbox"/>	Detailed project schedule that includes the all-inclusive, total cost of your bid.
<input type="checkbox"/>	Information regarding the relevant experience of all key personnel.
<input type="checkbox"/>	A copy of any contract you would require to be executed as part of your RFI award, if selected; otherwise, Boulder County Public Health’s contract format will be used.
<input type="checkbox"/>	Signed Agreement to RFI Specifications
<input type="checkbox"/>	Applicable certificate(s) of insurance.
<input type="checkbox"/>	Signed and dated W-9 form.
<input type="checkbox"/>	Signed RFI submittal signature page.
<input type="checkbox"/>	Addendum acknowledgement(s), if applicable.
<input type="checkbox"/>	



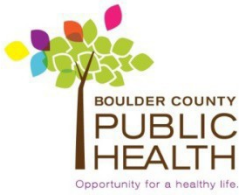
## RFI Evaluation Criteria

The RFI proposals received will be reviewed by a selection committee, which may request additional information from RFI 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:

- Small, locally owned grocery store, farmers market or farm stand located in the City of Longmont
- Retailer is open to discussions about procuring local produce
- Meet with BCPH at the outset of the project to discuss program planning and development, implementation, logistics, and program deliverables
- Accept fruit/vegetable vouchers as payment for fresh fruits and vegetables at grocery or market retail locations in the City of Longmont
- Actively work to create a welcoming environment for shoppers using fruit/vegetable vouchers including friendly and knowledgeable cashier staff and signage as needed
- Keep redeemed fruit/vegetable vouchers and return to BCPH on a monthly basis
- Complete monthly invoices including the Dollar amount of fruit/vegetable vouchers redeemed
- Train front line staff on proper voucher redemption with an emphasis on cashier staff
- Not raise prices of produce or any staple products above competitive market value during the program
- Monitor voucher redemption and inform BCPH of issues that arise for program improvements

Description	Points
Small, locally owned grocery store, farmers market or farm stand located in the City of Longmont	10
Retailer is open to discussions about procuring local produce	10
Meet with BCPH at the outset of the project to discuss program planning and development,	10
Accept fruit/vegetable vouchers as payment for fresh fruits and vegetables at grocery or market	10
Actively work to create a welcoming environment for shoppers using fruit/vegetable vouchers	10
Keep redeemed fruit/vegetable vouchers and return to BCPH on a monthly basis	10
Complete monthly invoices including the Dollar amount of fruit/vegetable vouchers redeemed	10
Train front line staff on proper voucher redemption with an emphasis on cashier staff	10
Not raise prices of produce or any staple products above competitive market value during the program	10
Monitor voucher redemption and inform BCPH of issues that arise for program improvements	10
<b>Total Possible</b>	<b>100</b>





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## RFI Signature Page

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	

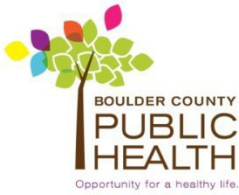
**By signing below, I am certifying that:**

- ✓ 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.



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## Agreement to RFI Specifications

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- We are a small, locally owned grocery store, farmers market or farm stand located in the City of Longmont
- We are open to discussions about procuring local produce
- We agree to meet with BCPH at the outset of the project to discuss program planning and development, implementation, logistics, and program deliverables
- We agree to accept fruit/vegetable vouchers as payment for fresh fruits and vegetables at our grocery or market retail location in the City of Longmont
- We agree to actively work to create a welcoming environment for shoppers using fruit/vegetable vouchers including friendly and knowledgeable cashier staff and signage as needed
- We agree to keep redeemed fruit/vegetable vouchers and return them to the BCPH on a monthly basis
- We agree to complete monthly invoices including the Dollar amount of fruit/vegetable vouchers redeemed
- We agree to train all front-line staff on proper voucher redemption with an emphasis on cashier staff
- We agree to not raise prices of produce or any staple products above competitive market value during the program
- We agree to monitor voucher redemption and inform BCPH of issues that arise for program improvements

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Signature of Person Authorized to Reply on Company's Behalf

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Date

# 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>	Choose an item.
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 – Name, email	
<b>Invoice Contact</b>	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, email	
Contact 2- Name, title, email	
<b>Contract Term</b>	
Start Date	
Expiration Date	
Final End Date	
<b>Contract Amount</b>	
Contract Amount	
Fixed Price or Not-to-Exceed?	Choose an item.
<b>Brief Description of Work</b>	
<b>Contract Documents</b>	
a. Formal Procurement (RFI/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")	
<b>Purchasing Details – BCPH Internal Use Only</b>	
Grant funded?	Yes or No
Bid Number	
Award Date	
If no Bid No., bid process used	Choose an item.
Purchasing Notes <i>(optional)</i>	
COVID-19	Yes or No
Project No.	
<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"), State of Colorado, 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 an invoice to BCPH by the fifteenth (15th) day of the month for completion of any Work performed in the prior calendar month. 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**. 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 (Additional Time only): 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 by sending a written notice of extension to Contractor. An extension of time to complete the Work does not entitle Contractor to additional compensation from BCPH.
7. Extension of Contract Term (Additional Time and 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 may 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 officials and appointed department heads, and its employees, agents and representatives (the "indemnified parties"), from any and all liability, claims, demands, actions, damages, losses, judgments, costs or expenses, including attorneys' fees, which may be made or brought or which may result against any of the indemnified parties as a result or on account of the actions or omissions of Contractor, its employees, agents or representatives, or other persons acting under Contractor's

direction or control. This indemnification obligation will extend to claims based on Contractor's unauthorized use or disclosure of confidential information and intellectual property infringement. 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 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, Boulder County, State, and Federal government representatives all information and reports that may be required for any purpose authorized by law. Contractor will permit access to such representatives to Contractor's facilities, books, records, accounts, and any other relevant sources of information. Where information required by a representative is in the exclusive possession of a person or entity other than Contractor, Contractor must so certify to 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. None of Contractor, its agents, personnel or subcontractors are employees 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**

a. **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 breaching Party does not cure the breach, at its sole expense, as reasonably determined by the non-breaching Party in its sole discretion, 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.

b. **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.

c. **Convenience:** In addition to any other right to terminate under this Section 13, BCPH may terminate this Contract, in whole or in part, for any or no reason, upon seven (7) days' advance written notice to Contractor.

14. **Contractor Obligations upon Termination or Expiration:** By the **Expiration Date** or effective date of termination, if earlier, Contractor must (1) remove from BCPH property all of its personnel, equipment, supplies, trash and any hazards created by Contractor, (2) protect any serviceable materials belonging to BCPH, and (3) take any other action necessary to leave a safe and healthful worksite. Any items remaining on BCPH property after the Expiration Date or the effective date of termination, if earlier, will be deemed abandoned by Contractor.

15. **Payable Costs in Event of Early Termination:** If BCPH terminates this Contract before the **Expiration Date**, Contractor's payments (and any damages associated with any lawsuit brought by Contractor) are limited to only (1) payment for Work satisfactorily executed and fully and finally completed, as determined by BCPH in its sole discretion, prior to delivery of the notice to terminate, and (2) the reasonable and actual costs Contractor incurred in connection with performing the Work prior to delivery of the notice to

terminate. Contractor explicitly waives all claims it may have against BCPH for any other compensation, such as anticipatory profits or any other consequential, special, incidental, punitive or indirect damages.

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 (in addition to any other remedies provided by law or in this Contract), 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 full and final 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 fully and finally 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 may 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 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.):** *The phrase "unauthorized worker" as used in this provision shall have the same and intended meaning as "illegal alien" as such phrase is used in 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 unauthorized worker 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 unauthorized worker 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 unauthorized worker 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 unauthorized worker, 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 unauthorized worker; and (b) terminate the subcontract if, within three (3) days of receiving notice hereunder, subcontractor does not stop employing or contracting with the unauthorized worker; 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 unauthorized worker. 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 the 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. § 24-72-200.1, 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 is solely responsible for ensuring that its performance under this Contract and the Work itself will comply with all Federal, State, and local laws, regulations, ordinances and codes. BCPH's approval of the Work or any aspect of Contractor's performance, such as plans, designs, or other Contractor-drafted documents, shall not be interpreted to mean that Contractor has satisfied its obligations under this Section.

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 Department Head (e.g. Public Health Director) that leads the beneficiary **Department** 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 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 BCPH. 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. Legal Interpretation. Each Party recognizes that this Contract is legally binding and acknowledges that it has had the opportunity to consult with legal counsel of its choice about this Contract. The rule of construction providing that any ambiguities are resolved against the drafting Party will not apply in interpreting the terms of this Contract.

43. No Suspension or Debarment: Contractor certifies, and warrants for the Contract Term, that neither it nor its principals nor any of its subcontractors are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any Federal or State department or agency. Contractor shall comply, and shall require its subcontractors to comply, with subpart C of 2 C.F.R. §180.

44. Insurance: **Reserved**

[Signature Page to Follow]

March 4, 2022



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

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

SAMPLE