

**CITY OF LONGMONT, COLORADO SERVICES
CONTRACT St Vrain and Left Hand Watershed Fire
Recovery AGREEMENT**

THIS CONTRACT, made at the City of Longmont, Colorado, by and between the **City of Longmont, Colorado** (City), a municipal corporation, and **Lefthand Watershed Oversight Group** (Contractor), also known as “**LWOG**,” a Colorado nonprofit corporation, whose mailing address is PO Box 1074, Niwot, CO 80544.

1 RECITALS:

1.1 The City desires to use the services of the Contractor to manage the Calwood Fire Recovery Efforts to include, but not be limited to, projects that result in restoration of the burned areas, watershed quality improvement projects, citizen and area landowner education and engagement concerning the fire recovery efforts, coordination with those landowners within the burn area, reduction of sediment transport downstream of the fire, including through Longmont, and coordination with Boulder County and the US Forest Service on various aspects of the fire recovery efforts.

1.2 The Contractor has agreed to provide the services outlined in the attached scope of work for the City of Longmont, upon the terms and conditions set forth in this Contract.

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 upon date of last signature of this agreement, and shall continue through December 31, 2023, upon agreement.

4 **PRICE:** The City will pay the Contractor for the performance of this Contract, a total of **ONE HUNDRED THIRTY FOUR THOUSAND FOUR DOLLARS (\$134,004.00)** for the Work performed between contract execution and December 2023 as stipulated in the Contractor's Scope of Work. Of the contract amount of \$134,004.00, Longmont shall directly spend \$8,500.00 to transport wood from the Button Rock Forestry Stewardship project to Heil Ranch for fire recovery efforts and shall reimburse Left Hand Watershed Center directly the remainder of the contract funding, in the amount of \$125,504.00.

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 Services Contract
- 6.2 City's Scope of Work
- 6.3 Certificate of Insurance naming the City of Longmont as additional insured
- 6.4 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 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.

9.3 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

9.4 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.

9.5 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.

9.6 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 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.

22 LIVABLE WAGE REQUIRED: For new contracts for provision of services issued after October 1, 2020, Contractor must pay at least a minimum livable wage of \$17.42 per hour or \$36,233.60 annually, not including fringe benefits, to full time employees of the Contractor for work performed and billed under this Contract. The City may annually adjust the required livable wage to account for inflation. This requirement will not apply to contracts that are exempt from the Purchasing Code (L.M.C. §4.12) or when using non-City funds.

Contractor certifies that it will comply with this wage requirement. The minimum livable wage requirement shall be binding upon the assignees and successors in interest of this Contract.

The City reserves the right to audit Contractor's records to ensure compliance with this provision. If the City finds that the Contractor has violated this provision, the City shall notify the Contractor in writing. The Contractor will have thirty (30) days to come into compliance including the payment of any back wages required. If the Contractor remains out of compliance after thirty (30) days, the City may terminate the Contract and pursue available remedies for breach of contract.

EXECUTED this _____ day of _____, 2021.

CONTRACTOR: LEFTHAND WATERSHED OVERSIGHT GROUP

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 _____, 2021.

Witness my hand and official Seal.

My Commission expires _____.

Notary Public

THE CITY OF LONGMONT,
a municipal corporation

MAYOR

ATTEST:

CITY CLERK

DATE

APPROVED AS TO FORM:

ASSISTANT CITY ATTORNEY

DATE

PROOFREAD

DATE

APPROVED AS TO FORM AND SUBSTANCE:

ORIGINATING DEPARTMENT

DATE

CA File: 21-001421

2021 Fire Recovery Scope of Work for the City of Longmont

INTRODUCTION AND BACKGROUND

A wildfire ignited on October 17th 2020, and resulted in the largest fire in Boulder County’s history. Representatives from Boulder County, United States Forest Service, City of Longmont, St. Vrain and Left Hand Water Conservancy District, Left Hand Water District, Cal-Wood, Left Hand Watershed Center, Colorado Forest Restoration Institute, Colorado Water Conservation Board and others quickly mobilized to begin planning short and long-term recovery needs. This “Fire Recovery Team” worked to prioritize locations for aerial mulching, sediment catchment, and adaptive management. Boulder County led the process to acquire Emergency Watershed Protection (EWP) Program funds for aerial mulching within high severity burn locations on private and county-owned lands. Left Hand Watershed Center (the Watershed Center) leveraged the recently formed [St. Vrain Forest Health Partnership](#) to help with communication and inter-agency coordination immediately following the fire. Further, the Watershed Center began working with recovery team partners to identify and prioritize unmet needs relating to fire recovery outside of the EWP funded work. Through this process, the Watershed Center identified the potential funding partners and tasks included in this scope.

Current and Proposed Fire Recovery Funding Partners

Proposed funders for the Calwood and Lefthand fire recovery include Natural Resource Conservation Service Emergency Watershed Protection Program (Confirmed), Boulder County (Confirmed), and the Community Foundation Boulder County (Received), City of Longmont (this contract), St. Vrain and Left Hand Water Conservancy District (Received) and Colorado Water Conservation Board (Confirmed).

OBJECTIVES

The objectives of this project are to:

- Complete urgent restoration activities to protect soil and reduce the risk of erosion in high severity burn areas in advance of the monsoon season.
- Implement an adaptive management process in order to respond with additional restoration action as needed and ensure project goals are met long-term.
- Continue inter-agency and landowner coordination and employ a landscape scale approach to recovery.

TASKS

TASK 1A – Aerial Mulching & Sediment Basins

Boulder County will hire contractors to complete aerial mulching tasks and install sediment catchment basins on high severity burn locations within the Calwood burn footprint.

TASK 1B – Gap Area Restoration

Left Hand Watershed Center will hire contractors to complete restoration activities within gap areas in the high severity burn locations on Lefthand and Calwood that are not covered within the aerial mulching task above. Subtasks include:

- 5 Acres of Fire Break restoration (Balarat & Lefthand private properties)
- 5 Acres of Hazard Tree removal (Lefthand private properties & Cal-Wood)
- Installation of 40 sediment check dams across (Lefthand private properties & Cal-Wood).
- 15 acres of seeding and hand mulching (Lefthand private properties & Cal-Wood).
- Hosting three volunteer community stewardship events as part of the above tasks.

TASK 2 and 3 – Adaptive Management

The Watershed Center (and partners) will develop and implement an adaptive management process to assess conditions, and respond with management actions as needed. Subtasks include:

- Setting up 12 new long-term monitoring plots within the burned area, covering a minimum of four watershed health indicators. (Data collection in years 2 and 3 are already covered under a recently awarded CWCB grant which will be contracted after July 2021)
- Convening stakeholders and experts to coordinate research and data collection across public and private lands, and determine follow up management actions.
- Implementing follow up actions including: Tree planting (2000 trees), seeding (20 acres), mulching (20 acres), weeding (20 acres), sediment control structures (20 check dams), additional data collection, and additional project scoping and planning.

TASK 4 – Stakeholder and Community Coordination

The Watershed Center will coordinate with private landowners to get feedback on the restoration process and goals, obtain access agreements, and keep landowners informed throughout the project. Additionally, the Watershed Center will coordinate and participate in inter-agency recovery team meetings, support community meetings related to post-fire flood preparedness, and complete community outreach tasks related to post-fire recovery process.

TASK 5 – Post Fire Recovery Efforts

It is possible that additional work on the various burn areas will be required after the completion of the previously listed scope to prevent future impacts from the burn scare areas. If a portion of the overall compiled funding remains after completion of the initial scope is completed, then any portion of those funds may be expended with that overall compiled funding to complete those efforts as well.

DELIVERABLES

1. As built documentation of aerial mulching locations, and gap area restoration locations (tasks 1A and 1B)
2. Data collection summary, within the annual State of Watershed Report expected May 2022. (Tasks 2 & 3)
3. As-built documentation of follow up actions including seeding, mulching, tree planting, sediment control structure installation. Report out of additional data collection and project scoping. (Tasks 2 &3)
4. Quarterly memo summarizing activities including stakeholder meetings, landowner coordination, data collection and follow up restoration. (all tasks)

BUDGET

Boulder County (Confirmed)	City of Longmont	SVLHW CD (Received)	NRCS EWP (Received)	CWCB (Received)	Community Foundation (Received)	Total
\$ 1,327,000	\$ 134,004	\$ 134,004	\$ 3,981,000	\$ 550,000	\$264,180	\$6,332,688

TIMELINE: Work will commence upon contract execution and will continue through December 2023.