

2022 AGREEMENT FOR ECONOMIC DEVELOPMENT SERVICES

THIS AGREEMENT is made and entered into by and between the City of Longmont, Colorado (“City”), a municipal corporation, and the Boulder SBDC Foundation, a Colorado nonprofit corporation, d.b.a. Boulder Small Business Development Center (“SBDC” or “Contractor”), effective as of the 1st day of January, 2022.

WHEREAS SBDC focuses on three areas of support for the small business: training (short and long-term), counseling, and access to valuable resources. The SBDC helps small businesses analyze marketing and growth issues, set reasonable short and long-term goals, obtain financing, and prosper in competitive markets; and

WHEREAS the stimulation of economic growth is recognized to serve both the public interest and municipal purposes of the City by enhancing the tax base and creating employment opportunities; and

WHEREAS it is deemed advisable for the City to contract for the provision of SBDC Services including free one-on-one business counseling, practical business workshops, and connection to business resources – both tools and professionals.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed as follows:

1. **SERVICES AND DUTIES.** SBDC agrees to provide the business services, programs and regular reporting requirements as outlined in Exhibit A: Scope of Services. Contractor shall not endorse or campaign for anyone running for City of Longmont elected positions.

2. **COMPENSATION.** SBDC agrees to provide the services described in Exhibit A: Scope of Services. The City will provide \$64,500.00 to compensate SBDC for the services to be provided under this Agreement. The City shall pay said \$64,500.00 in twelve equal monthly installments of \$5,375.00 each, to be made no later than the 10th of each month during the term of this Agreement.

3. **TERM.** This Agreement shall begin January 1, 2022 and end December 31, 2022. This Agreement may only be modified or extended by written agreement of the parties.

4. **REPORTING REQUIREMENTS.** Contractor further agrees to submit a Final Report to Assistant City Manager, Joni Marsh. The Final Report will contain complete and accurate statements of services rendered and will be signed by Contractor. The Final Report must be submitted no later than February 15, 2023. Contractor shall also submit quarterly activity reports to City Council with copies provided to the Assistant City Manager. Besides any other remedies available under law, the City may decline to consider further contracts with Contractor if the Contractor does not submit its Final Report on time. Contractor shall present quarterly reports to City Council at a regularly scheduled session.

5. RELIABILITY OF REPORTS. Contractor represents that all information Contractor has provided or will provide to the City is true and correct, and that the City can rely on such information in modifying, making payments, or taking any other action concerning this Contract. Any false or misleading material information or omission provided or caused by Contractor is just cause for the City to terminate this Contract and to pursue any other available remedies against the Contractor.

6. NON-PROFIT STATUS. SBDC, during the term hereof, agrees to remain a nonprofit corporation dedicated to the rendition of the services described in this Agreement, and no part of the income or assets of SBDC shall be distributed to, or inure to the benefit of, any individual or for any other private purpose.

7. AUDIT. The City reserves the right to conduct an audit of all records related to this Agreement should the City have concerns about the Contractor's performance of the services listed in Exhibit A.

8. STATUS OF CONTRACTOR. SBDC shall perform all services under this Agreement as an independent contractor and not as an agent or employee of the City. It is mutually agreed and understood that nothing contained in this Agreement is intended or shall be construed as in any way establishing the relationship of co-partners or joint venture between the parties hereto, or as construing SBDC, including its agents and employees, as an agent of the City. SBDC shall remain an independent and separate entity. SBDC shall not be supervised by any employee or official of the City, nor will SBDC exercise supervision over any employee or official of the City. SBDC shall not represent that SBDC is an employee or agent of the City in any capacity. **SBDC is not entitled to City workers' compensation benefits and is obligated to pay federal and state income tax on money earned pursuant to this Agreement, if applicable.**

9. NO THIRD PARTY BENEFICIARIES. None of the terms or conditions in this Agreement 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 SBDC receiving services or benefits under this Agreement shall be only an incidental beneficiary.

10. DAMAGES FOR BREACH OF CONTRACT. In addition to any other legal or equitable remedy to which the City may be entitled for a breach of this Agreement, if the City terminates this Agreement, in whole or in part due to Contractor's breach of any provision of this Agreement, Contractor shall be liable for actual and consequential damages to the City.

11. INSURANCE. The Contractor is solely responsible for providing any insurance including liability, casualty, and workers' compensation for the Contractor's use. Contractor shall provide during the time of this Agreement a general liability policy with limits no less than \$1,000,000 per occurrence and a workers' compensation insurance policy covering all employees and complying with State law. Before the effective date of this Agreement, the Contractor shall present to the City's Risk Manager a certificate showing it has in effect the required policies. Any variance to these insurance provisions must be approved in writing by the City's Risk Manager and will become incorporated as an addendum to this Agreement.

Contractor shall not cancel, materially change, or fail to renew insurance coverages. Contractor shall notify the City of Longmont, Risk Manager's Office, 350 Kimbark St., Longmont, CO 80501, of any material reduction or exhaustion of aggregate limits. In the event any policy is canceled or has a material reduction of aggregate limits before final payment by City to Contractor, Contractor shall immediately procure other insurance sufficient to maintain the insurance requirements of this Agreement. 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 Agreement.

Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from Contractor's operation under this Agreement.

12. **CERTIFICATE OF INSURANCE.** As evidence of the insurance coverages required by this Agreement, prior to the effective date of this Agreement, Contractor shall furnish a certificate of insurance to:

City of Longmont
Attn: Doug Spight, Risk Manager's Office
350 Kimbark St.
Longmont, CO 80501

The liability certificate will name the City, its officers, agents, and employees as Additional Insureds and must require thirty (30) days' notice to the Additional Insureds before non-renewal or cancellation. Insurance coverages required under this Agreement shall be obtained from insurance companies authorized to do business in the State of Colorado. If the Contractor is self-insured under the laws of the State of Colorado, Contractor shall provide appropriate declarations of coverage.

13. **INDEMNITY.** The Contractor shall fully indemnify and hold the City harmless from all claims, actions, suits, liability, losses, costs, expenses, and/or damages of any kind whatsoever, which may occur to or be suffered by any person (including, but not limited to the Contractor, its agents, employees, contractors, tenants, invitees, licensees, successors or assigns) arising out of or in connection with its use and occupation of any City facilities and/or any activities undertaken pursuant this Agreement. Upon commencement of any such suit or action against the City, the Contractor shall provide prompt notice to the City, and shall defend the same at its own cost and expense. If a judgment shall be rendered against the City in such an action or suit, Contractor shall fully satisfy the judgment within ninety (90) days after the same has been conclusively determined.

14. **GOVERNING LAW AND VENUE.** This Agreement shall be governed and construed in accordance with the laws of the State of Colorado and any action arising out of this Contract shall be brought in the 20th Judicial District, Boulder County District Court.

15. **COMPLIANCE WITH ORDINANCES AND REGULATIONS.** The Contractor shall perform all obligations under this Agreement in strict compliance with all federal, state, and

City laws, rules, statutes, charter provisions, ordinances, and regulations applicable to the performance of the Contractor's services under this Agreement, and specifically, shall not discriminate against any person on the basis of age, ancestry, color, creed, sex, race, religion, national origin, disability, sexual orientation, gender status, or as otherwise prohibited by law.

16. **TERMINATION.** This Agreement may be terminated at the sole discretion of the City for any violation by the Contractor of any of the terms and conditions of this Agreement, including the reduction or discontinuance of the services listed in Exhibit A.

17. **PROVISIONS CONSTRUED AS TO FAIR MEANING.** The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any party based upon any attribution to such party as the source of the language in question.

18. **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 Agreement.

19. **FINANCIAL OBLIGATIONS OF CITY.** All financial obligations of the City under this Agreement are contingent upon appropriation, budgeting, and availability of specific funds to discharge such obligations. Nothing in this Agreement shall be deemed a pledge of the City's credit or a payment guarantee by the City to the Contractor. If appropriated funds are not available, both parties shall be relieved of their obligations hereunder.

20. **WAIVER.** No waiver of any breach or default under this Agreement shall be a waiver of any other or subsequent breach or default.

21. **SEVERABILITY.** Invalidation of any specific provisions of this Agreement shall not affect the validity of any other provision of this Agreement.

22. **AUTHORITY.** The parties warrant that they have taken all actions necessary or required by their own procedures, bylaws, or applicable law to authorize their respective signatories to sign this Agreement for them and to bind them to its terms.

Executed this _____ day of _____, 20__.

CITY OF LONGMONT

BOULDER SMALL BUSINESS
DEVELOPMENT CENTER

MAYOR

DIRECTOR

APPROVED AS TO CONTENT:

ASSISTANT CITY MANAGER

DATE

APPROVED AS TO FORM:

SENIOR ASSISTANT CITY ATTORNEY

DATE

PROOFREAD

DATE

APPROVED AS TO INSURANCE PROVISIONS:

RISK MANAGER

DATE

CA File: 21-001487

State of Colorado)
) ss.
County of Boulder)

I attest that the foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____ as the Mayor of the City of Longmont.

Witness my hand and official seal.

CITY CLERK
Notary Public, State of Colorado
My commission expires: _____.

State of _____)
) ss:
County of _____)

The foregoing instrument was acknowledged before me by _____ as _____ of the Boulder SBDC Foundation on behalf of the corporation, this _____ day of _____, 20__.

Witness my hand and official Seal.

Notary Public
My Commission expires _____.

EXHIBIT A: SCOPE OF SERVICES

1. **GOAL:** Longmont businesses will achieve profitability and grow through information and resources regarding business planning, marketing, access to capital and accounting provided by SBDC.
2. To achieve this goal, SBDC will provide business services and programs on behalf of the City to established and emerging businesses that are located, or are considering locating, within the territorial limits of the City.
 - 2.1. **TACTICS:**
 - 2.1.1. **Presence in Longmont** - The SBDC Director will commit an average of eight hours per month to the SBDC satellite office located in Longmont. The Director will devote part of that time to developing the program and will devote the remainder to consulting, by appointment, with small businesses, including initial and follow-up contacts with clients.
 - 2.1.2. **One-on-one Consultation** - Small businesses will contact the SBDC for assistance through the SBDC website, by email, by phone, or at an event. The consultation topics may consist of, but are not limited to, start-up issues; development of a business plan for start-up, growth, and financing; development of marketing strategies and action plans; development and understanding of financial projections; and development of management skills. The SBDC will provide 400 hours for one-on-one consulting services.
 - 2.1.3. **Practical Workshops** - The SBDC agrees to develop and conduct six business plan essentials classes focusing on business planning, including identifying and reaching your market, financial statements, and other business plan elements. All classes will be taught by qualified and experienced professionals, such as attorneys, accountants, marketing consultants, and seasoned business consultants. Because the classes are sponsored by the City of Longmont, the classes are offered free of charge to Longmont businesses.
 - 2.1.4. **Leading Edge Entrepreneurship Series** – The SBDC agrees to conduct the multi-session series focusing on business planning, startup and growth topics. All classes will be facilitated and presented by qualified and experienced professionals. Because the series is sponsored by the City of Longmont, 15 City of Longmont businesses may participate at the reduced cost of \$125 for the first attendee from each business (materials provided) and \$125 for each additional attendee from each business (no materials provided).
 - 2.1.5. **Connection to Business Resources** - The SBDC has built a local network of professional service providers, entrepreneurs, and government business

contacts that further assist our small businesses, especially when the scope of the request is outside the SBDC mission or resource constraints. Especially important is a network of commercial banks and other financing sources such as micro lending institutions. While the SBDC Director and other counselors may explain to business owners the range of typical lender requirements, there is no replacement for a one-on-one meeting with actual lenders. In addition, useful tools such as templates and web-based resources will be developed to provide tangible support to businesses, including the continued development of a minority business listing for Boulder County with the City being a supporting sponsor.

2.2. METRICS:

- 2.2.1. Number of hours spent annually by director in Longmont consulting, developing program, etc. (96 hours required)
- 2.2.2. Number of hours of one-on-one consultations annually (400 required)
- 2.2.3. Number of business' workshops conducted in Longmont annually (6 required)
- 2.2.4. Number of businesses referred to other business resources (50 required annually)
- 2.2.5. Track and report year over year dollar amount of sales increases reported by small business clients since working with the SBDC. Cumulative target for City of Longmont clients in 2022: \$750,000 in increased sales.
- 2.2.6. Track and report year over year capital formulated (financing for business which typically fuels growth). Following SBA guidelines, this metric may include self-funding, loans, grants, equity funding and alternative sources. Cumulative capital formation goal for 2022: \$750,000 for City of Longmont SBDC clients.

2.3. REPORTING:

- 2.3.1. SBDC agrees to provide the City Manager's Office and the City Council of the City the following no later than March 15, 2023: annual activity reports, SBDC's periodic newsletters (as published) and an annual evaluation specifically related to services to be performed by SBDC. The annual evaluation shall include an analysis of the impact that SBDC has had on the economic health of the City as measured by number of clients counseled, number of client hours, number of jobs created/retained, and capital generated.

2.4. FINANCIAL RECORDS:

- 2.4.1. SBDC agrees to establish and maintain books of account and records reflecting all of SBDC's revenues, expenditures, and services to be

performed by SBDC under this Agreement. SBDC agrees to provide the City Council of the City with an annual financial review based on an internal analysis conducted by the Small Business Administration and the state SBDC network. The review shall be provided to the City Manager's Office no later than March 15, 2023. The City may require an independent audit of SBDC at any time to be performed at the expense of the City, and SBDC agrees to assist and cooperate in any such audit.