1 7 S C 0 9 _ _ _ _

STATE OF SOUTH DAKOTA
RECIPIENT CONTRACT
BETWEEN

Brookings County Attn: Misty Moser 826 32nd Avenue Suite 103 Brookings, SD 57006	South Dakota Department of Health Division of Health Systems Dev. Regulation 600 East Capitol Avenue Pierre, SD 57501 (605)773-3361
Referred to as "Recipient"	Referred to as "State"

State and Recipient hereby enter into a contract for Provider Services. This is an agreement for an award of non-federal financial assistance to a recipient.

I. RECIPIENT INFORMATION:

A. The Recipient's City, State and Zip + 4 for primary place of performance is Brookings, SD 57006-1546
The Recipient's DUNS/unique entity identifier number is 04-4095757
The Recipient's Fiscal year begins January 1st and ends December 31st

B. This agreement is made for the purpose of enhancing mosquito control efforts.

Amount provided by State is	$4, 315.00
Amount matched by Recipient is	$0.00
Total Contract Amount	$4, 315.00

Dollars provided by State consist of the following:
Non-Federal State dollars $4, 315.00

II. RECIPIENT ATTESTATION:

Pursuant to state law, Recipient attests to the following:

A. A conflict of interest policy is enforced within Recipient's organization;

B. The Internal Revenue Service Form 990 has been filed, if applicable, in compliance with federal law, and is displayed immediately after filing on the Recipients's website;

C. An effective internal control system is employed by the Recipient's organization; and

D. If applicable, the Recipient is in compliance with the federal Single Audit Act, in compliance with § 4-11-2.1, and audits are displayed on the Recipient's website.

III. PERIOD OF PERFORMANCE:

A. The term of this Contract shall begin July 1, 2016 and end June 30, 2017.

IV. RECIPIENT

A. Recipient is not a full or part-time employee of State or any agency of the state of South Dakota.

B. Recipient, as an independent contractor, is solely responsible for the withholding and payment of applicable income and Social Security taxes due and owing from money received under this contract.

C. Recipient will not use equipment, supplies or facilities owned by the state of South Dakota.

D. Recipient agrees to:

1. Utilize funds for the sole purpose of enhancing their mosquito control efforts. Funds may not be used to supplant existing funding or planned expenditures.

2. Mosquito control chemicals and/or equipment purchased under this grant agreement becomes the sole property and responsibility of the Grantee.

3. Where possible, the Grantee agrees to provide State with relevant electronic data obtained during the conduct of control efforts. Report trapping and surveillance data via the SDSU Web-based mosquito population graphing program at: http://www.sdstate.edu/mosqcount/

F. INSURANCE: Recipient agrees, at its sole cost and expense, to maintain the following insurance:

1. Commercial General Liability Insurance:
Recipient shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than $1,000,000 each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this contract or be no less than two times the occurrence limit.

2. Professional Liability Insurance:
Grantee shall procure and maintain professional liability insurance with a limit of not less than one million dollars.

3. Business Automobile Liability Insurance:
Recipient shall maintain business automobile liability insurance or equivalent form with a limit of not less than $1,000,000 each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

4. Worker's Compensation Insurance:
Recipient shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

5. Certificates of Insurance:
Before beginning work under this Contract, Recipient shall furnish State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Contract. In the event of a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, Consultant agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Recipient shall furnish copies of insurance policies if requested by State.

G. Recipient agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as a result of performing services hereunder. This section does not require Recipient to be responsible for or defend against claims or damages arising solely from acts or omissions of the State, its officers, agents or employees.

H. This contract does not require Recipient to engage in a function or activity involving the use or disclosure of State's Protected Health Information (PHI), as defined in the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR § 160.103.

V. STATE

A. State will award Recipient a financial assistance award of $4, 315.00 upon receipt of signed agreement and W-9 form.

VI. OTHER PROVISIONS

A. CHOICE OF LAW AND FORUM. The terms and conditions of this contract are subject to and will be construed under the laws of the State of South Dakota. The parties further agree that any dispute arising from the terms and conditions of this contract, which cannot be resolved by mutual agreement, will be tried in the Sixth Judicial Circuit Court, Hughes County, South Dakota.

B. INTEGRATION. This contract is a complete version of the entire agreement between the parties with respect to the subject matter within this contract and supersedes all prior or contemporaneous written or oral understandings, agreements and communications between them with respect to such subject matter. This contract may be modified or amended only by a writing signed by both parties.

C. TERMINATION: This contract may be terminated by either party hereto upon thirty (30) days written notice, and may be terminated by State for cause at any time, with or without notice.

D. NOTICE: Any notice or other communication required under this contract shall be in writing and sent to the address set forth above. Notices shall be given by and to the State Contact Person on behalf of State, and by and to the Recipient Contact Person on behalf of Recipient, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

E. ASSURANCES: The Consultant agrees to abide by all applicable provisions of the following assurances: Lobbying Activity, Byrd Anti Lobbing Amendment (31 USC 1352), Drug-Free Workplace, Executive Order 11246 Equal Employment Opportunity, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, Drug Abuse Office and Treatment Act of 1972, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, Pro-Children Act of 1994, Hatch Act, Health Insurance Portability and Accountability Act (HIPAA) of 1996, Clean Air Act, Federal Water Pollution Control Act, Charitable Choice Provisions and Regulations, Equal Treatment for Faith-Based Religions at Title 28 Code of Federal Regulations Part 38, the Violence Against Women Reauthorization Act of 2013, American Recovery and Reinvestment Act of 2009, and Section 106 (g) of the Trafficking Victims Protection Act of 2002, as amended (22 U.S.C. 7104) as applicable.

F. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION: Recipient agrees that neither Recipient, nor any of Recipient's principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions by any Federal department or agency. Recipient will provide immediate written notice to the Department of Health, Division of Administration (600 East Capitol Avenue, Pierre, SD 57501 (605) 773-3361), if Recipient, or any of Recipient's principals, becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions involving Federal funding. Recipient further agrees that if this contract involves federal funds or federally mandated compliance, then Recipient is in compliance with all applicable regulations pursuant to Executive Order 12549, including Debarment and Suspension and Participants' Responsibilities, 29 C.F.R. § 98.510 (1990).

G. FUNDING TERMINATION: This contract depends upon the continued availability of appropriated funds and expenditure authority from Congress, the Legislature or the Executive Branch for this purpose. This contract will be terminated for cause by State if Congress, the Legislature or Executive Branch fails to appropriate funds, terminates funding or does not grant expenditure authority. Funding termination is not a default by State nor does it give rise to a claim against State.

H. NONASSIGNMENT/SUBCONTRACTING: Recipient shall not assign this contract, or any portion thereof, without the prior written consent of State. Recipient's assignment or attempted assignment of this contract, or any portion thereof, without State's prior written consent constitutes a material breach of contract. The Recipient may not use subcontractors to perform the services described herein without the express prior written consent of State. Recipient will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage in a manner consistent with this Agreement. Recipient will cause its subcontractors, agents, and employees to comply with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

I. FEDERAL AND STATE LAWS: Recipient agrees that it will comply with all federal and state laws, rules and regulations as they may apply to the provision of services pursuant to this contract, including the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. §§ 12101-12213, and any amendment thereto, Section 306 of the Clean Air Act, and Section 508 of the Clean Water Act. Both parties further agree to provide services covered by this contract without regard to race, color, national origin, sex, age or disability as prohibited by state or federal law.

J. OWNERSHIP: All reports, recommendations, documents, drawings, plans, specifications, technical data and information, copyrights, patents, licenses, or other products produced as a result of the services rendered under this contract, excluding medical records kept in the normal course of Recipient's business, will become the sole property of State. State hereby grants Recipient the unrestricted right to retain copies of and use these materials and the information contained therein in the normal course of Recipient's business for any lawful purpose. Either the originals, or reproducible copies satisfactory to State, of all technical data, evaluations, reports and other work product of Recipient shall be delivered to State upon completion or termination of services under this contract.

K. REPORTING OF PERSONAL INJURIES AND/OR PROPERTY DAMAGE: Recipient agrees to report promptly to State any event encountered in the course of performance of this contract which results in injury to the person or property of third parties, or which may otherwise subject Recipient or State to liability. Reporting to State under this section does not satisfy Recipient's obligation to report any event to law enforcement or other entities as required by law.

L. SEVERABILITY: In the event that any term or provision of this contract shall violate any applicable law, such provision does not invalidate any other provision hereof.

M. AUDIT REQUIREMENTS:
(EXPENDING $750,000 OR MORE)
A nonprofit subrecipient, (as well as profit hospitals) (Recipient), expending $750,000 or more in one year in Federal awards, must have an annual audit made in accordance with 2 CFR Chapter I, Chapter II, Part 200, et al. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

All audits must be conducted by an auditor approved by the Auditor General to perform the audit. Approval may be obtained by forwarding a copy of the audit engagement letter to the Department of Legislative Audit, 427 South Chapelle, c/o 500 East Capitol, Pierre, SD 57501-5070. On continuing engagements, the Auditor General's approval should be obtained annually. The auditor must follow the Auditor General's guidelines when conducting the audit. The draft audit report must be submitted to the Auditor General for approval prior to issuing the final report. The auditor must file the requested copies of the final audit report with the Auditor General. Audits shall be completed and filed with granting agencies by the end of the ninth month following the end of the fiscal year being audited or 30 days after receipt of the auditor's report, whichever is earlier. If it appears that a required audit cannot be completed by the end of the ninth month following your fiscal year, you must request an extension from the federal agency for which the majority of federal expenditures relates.

Failure to complete audit(s) as required will result in the disallowance of audit costs as direct or indirect charges to programs. Additionally, a percentage of awards may be withheld, overhead costs may be disallowed, and/or awards may be suspended, until the audit is completed satisfactorily.

N. FORCE MAJEURE: Neither Recipient nor State shall be liable to the other for any delay in, or failure of performance of, any covenant or promise contained in this contract, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to the extent that, such delay or failure is caused by "force majeure". As used in this contract, "force majeure" means acts of God, acts of the public enemy, acts of the State and any governmental entity in its sovereign capacity, fires, floods, epidemics, quarantine restrictions, strikes or other labor disputes, freight embargoes, or unusually severe weather.

O. CONTRACT ORIGINAL AND COPIES: An original of this contract will be retained by the State Auditor's Office. A photocopy will be on file with the South Dakota Department of Health and a second original will be sent to Recipient.

P. RECORD RETENTION/EXAMINATION: Recipient agrees to maintain all records that are pertinent to this contract and retain them for a period of three years following final payment against the contract. State agrees to assume responsibility for these items after that time period. These records shall be subject at all reasonable times for inspection, review or audit by State, other personnel duly authorized by State, and federal officials so authorized by law.

Q. LICENSING AND COMPLIANCE: The Recipient agrees to comply in full with all licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance in which the service and/or care is provided for the duration of this agreement. The Recipient will maintain effective internal controls in managing the federal award. Liability resulting from noncompliance with licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance or through the Recipient's failure to ensure the safety of all individuals served is assumed entirely by the Recipient.

R. CONFIDENTIALITY OF INFORMATION: For the purpose of the sub-paragraph, "State Proprietary Information" shall include all information disclosed to the Recipient by the State. Recipient acknowledges that it shall have a duty to not disclose any State Proprietary Information to any third person for any reason without the express written permission of a State officer or employee with authority to authorize the disclosure. Recipient shall not: (i) disclose any State Proprietary Information to any third person unless otherwise specifically allowed under this contract; (ii) make any use of State Proprietary Information except to exercise rights and perform obligations under this contract; (iii) make State Proprietary Information available to any of its employees, officers, agents or Recipients except those who have agreed to obligations of confidentiality at least as strict as those set out in this contract and who have a need to know such information. Recipient is held to the same standard of care in guarding State Proprietary Information as it applies to its own confidential or proprietary information and materials of a similar nature, and no less than holding State Proprietary Information in the strictest confidence. Recipient shall protect confidentiality of the State's information from the time of receipt to the time that such information is either returned to the State or destroyed to the extent that it cannot be recalled or reproduced. State Proprietary Information shall not include information that (i) was in the public domain at the time it was disclosed to Recipient; (ii) was known to Recipient without restriction at the time of disclosure from the State; (iii) that is disclosed with the prior written approval of State's officers or employees having authority to disclose such information; (iv) was independently developed by Recipient without the benefit or influence of the State's information; (v) becomes known to Recipient without restriction from a source not connected to the State of South Dakota. State's Proprietary Information shall include names, social security numbers, employer numbers, addresses and all other data about applicants, employers or other clients to whom the State provides services of any kind. Recipient understands that this information is confidential and protected under applicable State law at SDCL 1-27-1.5, modified by SDCL 1-27-1.6, SDCL 28-1-29, SDCL 28-1-32, and SDCL 28-1-68 as applicable federal regulation and agrees to immediately notify the State if the information is disclosure, either intentionally or inadvertently. The parties mutually agree that neither of them shall disclose the contents of the contract except as required by applicable law or as necessary to carry out the terms of the contract or to enforce that party's rights under this contract. Recipient acknowledges that the State and its agencies are public entities and thus are bound by South Dakota open meetings and open records laws. It is therefore not a breach of this contract for the State to take any action that the State reasonably believes is necessary to comply with the South Dakota open records or open meetings laws. If work assignments performed in the course of this Agreement require additional security requirements or clearance, the Recipient will be required to undergo investigation.

S. CONFLICT OF INTEREST: Recipient agrees to establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal organizational conflict of interest, or personal gain. Any potential conflict of interest must be disclosed in writing.

T. RECYCLING. State strongly encourages Recipient to establish a recycling program to help preserve our natural resources and reduce the need for additional landfill space.

The parties signify their agreement by signing below.

Thomas E. Martinec, Director Health Systems Development and Regulation Department of Health	Date	Grantee Signature	Date
		Print or Type Grantee Name	
Kari J. Williams Administrator, Financial Management Department of Health	Date		

State Contact Person: Susan Gannon Phone: (605)773-5952

Recipient Contact Person: Misty Moser Phone: 605-696-8352

The following shall be completed by the Recipient:

Nonprofit _ Profit _
Recipient fiscal year beginning _____ and ending _____

The following shall be completed by the State:

MSA Account code 5 2 0 6 _ _ _ _ _ _ _ _ _ _ _ _ _ _

Fund Source Name:	Fund Source Name:	Fund Source Name:
CFDA No:	CFDA No:	CFDA No:
Program: 3049-0903001-736	Program:	Program:
CO: 2018-Federal	CO: 2018-Federal	CO: 2018-Federal
3047-Other $4,315.00	3047-Other	3047-Other
1000-General	1000-General	1000-General

SDCL 1-24A-1 states that a copy of all consulting contracts shall be filed by the agency with the State Auditor within five days after such contract is entered into and finally approved by the contracting parties. For further information about consulting contracts, see the State Auditor's policy handbook.

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