



## Vector Control Board Meeting

8:30am Thursday March 4<sup>th</sup> 2021

Fargo City Commission Chambers  
225 4th Street North  
Fargo, ND 58102

### **Vector Control Board**

Dr. Tim Mahoney MD  
Dr. Joe Rinehart PhD  
Dr. Matthew Eaton DDS

Note: Meeting will be conducted by Cass County Vector Control Board, but all persons/organizations involved in area mosquito abatement efforts are encouraged to attend.

Ben Prather  
Director

#### Agenda

|                                  |                    |
|----------------------------------|--------------------|
| Call to Order                    |                    |
| Welcome Dr. Eaton                |                    |
| 2021 Aerial Application Contract | Dow/Prather        |
| 2021 Metro Municipal Contracts   | Prather/Discussion |
| Non-target effects               | All                |
| Adjourn                          |                    |

1201 Main Ave West  
West Fargo, North  
Dakota  
58078-1301  
701-298-2382

## Agenda

|                                  |                    |
|----------------------------------|--------------------|
| Call to Order                    |                    |
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| Non-target effects               | All                |
| Adjourn                          |                    |

1. Recommend 1 year extension for 2021
2. Recommend RFQ in 2022 for 3 Year

CASS COUNTY - AIRBORNE ~~VECTOR CONTROL~~CUSTOM SPRAYING, LLC INC.  
MOSQUITO SPRAYING AGREEMENT  
~~2018 - 2020~~2021

This Mosquito Spraying Agreement ("Agreement") is made between Airborne ~~Custom Spraying~~Vector Control, Inc LLC., a Minnesota ~~Limited Liability Company~~corporation, of Halstad, MN ("Contractor"), and the County of Cass, North Dakota, a municipal corporation ("County"), for itself and on behalf of Cass County Vector Control ("CCVC") who agree as follows:

RECITAL

The Contractor and the County hereby agree that Contractor will be retained by County for the purpose of aerial spraying of pesticides over Cass County, North Dakota. In order to be retained by County, County requires the following from Contractor and its Pilot in Command:

- Minimum of 2,000 hours flight experience;
- Minimum of 50 hours night flight time with a twin-engine aircraft;
- Minimum of 200 hours flight time with a twin-engine aircraft;
- Minimum of 50 hours flight time for the make, model, and series that will be used to complete the spray mission for the County;
- Minimum of 100 hours flight time applying pesticides to a city;
- Minimum of 20 hours flight time applying pesticides to a city at night;
- Minimum of 100 takeoffs/landings at altitude typical of project area with loads similar to an average load;
- Minimum of 2 years' experience in aerial mosquito control;
- Twin engine aircraft with a spray system meeting all specifications in FAR137 and authorized by the FAA and which is based within one hundred (100) miles of the County;
- Spray system nozzles shall be equal to the rotary atomizer-Micronair, 30 micron droplet spectrum;
- Swath Guidance GPS equipment with downloading capabilities. Upon request from the County, Contractor must provide printed reports within 24 hours of application.
- Reloading equipment capable of thirty (30) minute turns; and,

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- Licensed and permitted to conduct business as an aerial applicator in North Dakota by April 1, 2021+8.

Contractor declares it has sufficient personnel and equipment to satisfy the requirements of the above paragraph to effectively spray all areas of the County with chemical pesticides approved for residential spraying. Contractor has provided to the County a written emergency response action plan identifying action steps in the event of an accident or a chemical release/dump, which plan is in form and substance satisfactory to the County.

SECTION I.

County hereby engages Contractor as an independent contractor, and not as an employee, to conduct aerial spraying of pesticides of approximately 35,000 acres over the County when directed to do so by CCVC, and Contractor hereby accepts and agrees to such engagement. County acknowledges and agrees that CCVC will be responsible for the direction of Contractor's work under the terms of this Agreement.

SECTION II.

The term of this Agreement shall commence May 1, 2021+8 subject to Section III of Agreement and shall terminate November 1, 2021+9 (the "Term"), subject, however, to prior termination as hereinafter provided. ~~This Agreement shall be renewed for an additional two (2) year term if approved and accepted in writing by both the Contractor and the County prior to April 1<sup>st</sup> of 2020. Both the County and Contractor agree to negotiate in good faith. This Agreement pertains to mosquito spraying services for the years 2018 through 2020, and a two (2) year Renewal Term if extended as provided in this agreement.~~

SECTION III.

County shall pay Contractor, and Contractor shall accept from County, in full payment of Contractor's services hereunder, compensation at a rate as follows:

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- \$35,000.00 Retainer Fee paid on or before March 23 of ~~each year of this Agreement (with first Retainer Fee to be paid on or before March 23, 2018); 2021.~~
- The quoted rate per acre (see Appendix A) is based on the use of the chemical Permethrin 30 + 30 applied at .007 lbs. per acre and mixed with mineral oil for a finished rate of 1 oz. per acre.
- If the County determines that a different application rate of Permethrin or a chemical other than Permethrin should be used, then the rate per acre shall be renegotiated and both the County and Contractor agree to negotiate in good faith.
- County shall pay Contractor a \$500.00 Ferry Fee for each application and assessed to every release of the aircraft by the County.

The Retainer Fee will be subtracted from the billing cycles until 100% of the Retainer Fee has been assessed against Contractor by the County, therefore reducing the cost of the initial billings by \$35,000.00. If at the end of each spray season there remains any unused Retainer Fee, then the unused Retainer Fee shall be retained by and become the sole property of Contractor. Any unused Retainer Fee will not apply to future spray seasons.

SECTION IV.

Contractor shall provide all chemicals and shall be responsible for any and all licenses, permits, fees, and all other items required of aerial applicators of pesticides. The chemical usage rates will be determined by CCVC and shall be subject to Section III of this Agreement.

SECTION V.

All chemicals used by Contractor must be a chemical which has been previously approved by the Environmental Protection Agency, the North Dakota State Department of Health and the Cass County Public Health Department prior to application. Further, all chemicals must be applied according to the manufacturers' label, terms and specifications.

SECTION VI.

Contractor shall comply with all applicable statutes, ordinances, rules, regulations, and orders of all public agencies and authorities relating to the aerial application of pesticides over residential areas.

SECTION VII.

No waiver or modification of this Agreement or of any covenant, condition or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith and no evidence of any proceeding, arbitration, or litigation between the parties hereto arising out of or affecting this Agreement, or the rights or obligations of the parties hereunder, unless such waiver or modification is in writing, duly executed as aforesaid and the parties further agree that the provisions of this section may not be waived as herein set forth.

SECTION VIII.

Contractor will secure public liability insurance in the minimum amounts as follows:

- Non-Chemical:
  - \$5,000,000 Public Liability (bodily injury and property damage) combined single limit.
- Chemical:
  - \$500,000 each person bodily;
  - \$500,000 each occurrence bodily; and,
  - \$500,000 each occurrence property.
- Chemical coverage includes "all labeled products for mosquito control"
- Chemical coverage includes "cities and towns and residential areas"
- Coverage includes the County as a fully insured additional insured

Contractor shall pay the premium on such insurance policy, and the County shall be designated as a "named insured" on such policy. Contractor shall maintain such policy in force for all months in which it performs services for the County under the provisions of this Agreement.

SECTION IX.

Contractor agrees to indemnify the County from any and all liability, loss or damage the County may suffer as a result of claims, demands, costs, or judgments arising from or arising against it from Contractor's negligence in services performed by the Contractor relative to this Agreement.

SECTION X.

Contractor agrees that, upon receiving written authorization from CCVC, aerial application of pesticides over the County shall be completed within a reasonable time from notification by CCVC, not to exceed seventy-two (72) hours, unless such performance is prevented by an act of God (such as high winds, rain or cold temperature) or unforeseen circumstances beyond the control of the Contractor pertaining to the aerial application of the County or aerial application of other clients of Contractor. However, the County reserves the right to cancel or withdraw said notice in writing delivered by CCVC to Contractor prior to the scheduled application. No aerial spraying shall occur without prior written notification to Contractor by and with the approval of CCVC.

SECTION XI.

Contractor agrees that performance under this Agreement shall be completed in a satisfactory and workman-like manner, subject to prior review and approval by the County, and/or state, and/or federal agencies.

SECTION XII.

Contractor shall remain in contact with CCVC for purposes of exchanging information and receiving directives related to the performance of this Agreement. Such contacts should be made and

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initiated by the Contractor with the designated representatives of CCVC at the time and place agreed upon by the parties hereto.

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#### SECTION XIII.

With respect to termination of this Agreement:

- In the event of any violation by Contractor of any of the terms of this Agreement, and after failure by Contractor to remedy such violation within fifteen (15) days after written notice of such violation by County, County thereon may terminate this Agreement with written notice to Contractor and with pay for services rendered only to the time of such termination.
- In the event Contractor is not paid by the County in full within thirty (30) days after the delivery of an invoice by Contractor to the County, then Contractor may terminate this Agreement without notice and shall not be further obligated to the County for further aerial spraying.
- If the County and Contractor cannot agree on a renegotiated rate based on the change of the chemical used for spraying, as discussed under Section III of this Agreement, then Contractor may terminate this agreement with thirty (30) days written notice and shall not be further obligated to the County for further aerial spraying.
- In the event that the County terminates this Agreement prior to the end of the Term and there is no unremedied violation by Contractor, then County shall be obligated to pay the remaining unpaid Retainer Fees through the end of the existing Term of this Agreement payable as a lump sum within thirty (30) days of termination. In the event that the Contractor terminates this Agreement prior to the end of the Term, then County shall not be obligated to pay remaining unpaid Retainer Fees.

#### SECTION XIV.

Prior to the spraying season, CCVC and County will provide an updated map detailing the spray boundaries with the corresponding updates regarding acreage changes.

CCVC and County shall also assist in the application process for approval with the North Dakota Department of Health. County shall supply an FAA authorization application signed by the chairperson of the Cass County Commission. County shall be responsible for providing this

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information before April 15th of each year of the contract period. There shall be a \$100 processing fee after that date.

CCVC shall be responsible for making public announcements via radio, television and newspaper at least 48 hours in advance of each spray application. Contractor and CCVC shall edit the announcements in cooperation.

CCVC makes the "go, no go decision" for the release of aircraft. The ultimate decision to spray shall be that of Contractor and shall depend upon the weather conditions at the time of arrival. Should the weather conditions become unfavorable for spraying while the aircraft is en route or while spraying, then Contractor shall coordinate with CCVC the decision to postpone the application. The Ferry Fee shall be applied to County for the release of the aircraft. CCVC shall then be responsible for rescheduling the application and to make further public announcements. Contractor is not responsible for changes in weather or unforeseen mechanical difficulties that may hinder the application.

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[SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, the parties have executed this Agreement at County of Cass, North Dakota,  
on the \_\_\_\_ day of \_\_\_\_\_, 2021~~18~~.

AIRBORNE VECTOR CONTROL~~CUSTOM~~  
SPRAYING, LLC~~INC.~~

By \_\_\_\_\_  
Robert Aslesen, Vice President

COUNTY OF CASS, NORTH DAKOTA

By \_\_\_\_\_  
Chairman, Cass County Commission

ATTESTING:

By \_\_\_\_\_  
Cass County Auditor

APPENDIX A

PRICING STRUCTURE

(1) Price per Acre

| Combined Acres Per Application          | Unit Price *       |
|---|--------------------|
| Fee based on spraying over 15,000 acres | \$2.05 per acre    |
| Fee based on 5,001 – 15,000 acres       | \$2.40 per acre    |
| Fee based on 0 – 5,000 acres            | \$2.80 per acre    |
| Retainer Fee +                          | See Schedule Below |

\* Unit Price includes Permethrin mosquitocide at .007 pounds ai per acre.

(2) Ferry Fee per Application

Ferry Fee of \$500 per jurisdiction per application.

(3) Retainer Fee per Jurisdiction per Season

| Jurisdiction           | Retainer Fee + |
|------------------------|----------------|
| Cass County, ND        | \$35,000       |
| City of Fargo, ND      | \$26,000       |
| City of West Fargo, ND | \$8,550        |
| City of Moorhead, MN   | \$12,000       |

+ The retainer fee will be applied as a credit to the beginning of the billing cycle each spray season until 100% of the retainer has been assessed, therefore reducing the cost of the initial billings by the amount of the retainer fee per season. If at the end of the season there remains any unused retainer fee, then the unused retainer fee shall be retained by and become the sole property of Airborne ~~Custom Spraying~~ Vector Control.

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## Agenda

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| Call to Order                    |                    |
| Welcome Dr. Eaton                |                    |
| 2021 Aerial Application Contract | Dow/Prather        |
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| Non-target effects               | All                |
| Adjourn                          |                    |

1. Recommend Draft 1 year agreements for all partnering agencies
  - a. Horace w/ ET
  - b. West Fargo w/ cost share ET
  - c. Moorhead 1 year
    - i. Provisional language for equipment
  - d. Fargo w/ cost share ET
2. Included 3 year agreement as requested by Moorhead
  - a. Provisional language for equipment
  - b. Undetermined if the Cass County Commission will approve of either

## **2021 Mosquito Control Agreement City of Horace and Cass County Government**

This is an agreement to formalize the partnership for mosquito control between the City of Horace whose office is at 215 Park Drive East Horace, ND 58047 hereinafter CITY, and the Cass County Commission, whose office is at 211 Ninth Street, Fargo, North Dakota 58108. Mailing address is Box 2806 Fargo, ND 58108 hereinafter COUNTY.

### THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

- 1) COUNTY agrees to provide mosquito control activities throughout the Vector Control District commensurate with the funding available. For the 2021 season, approximately \$789,967 in County funds has been designated for the Countywide Vector Program. County funds will be used within the City of Horace and in surrounding areas with the objective being to distribute services commensurate with revenue. Activities include, but are not limited to, treating water for larvae, spraying for adult mosquitoes, and public information activities.
- 2) In addition to services provided in paragraph 1, COUNTY employees will be utilized within and around the City of Horace for additional mosquito control activities. These activities include the use of off-highway vehicle for treatment of right of ways, treatment of larval mosquito habitat on all land within City of Horace, residual spraying for adult mosquitoes, and adult mosquito surveillance activities. The Vector Director will provide coordination of activities and employees. The Vector Director will work in cooperation with City of Horace officials to provide technical assistance as necessary.
- 3) Based upon a standard formula of \$1 per residential household per month, the CITY agrees to pay \$11604 on an annual basis to supplement the control efforts of COUNTY referred to in paragraph 2.
- 4) COUNTY will provide services within the predetermined "Extra-territorial" area for various mosquito control activities such as but not limited to: making applications of pesticides using off-highway vehicles, inspection of public and private property, and collection of mosquito traps for population monitoring.
- 5) CITY agrees to fund all the activities described in paragraph 4. Anticipated total cost of services defined in paragraph 4 are not exceed \$8,000 from **June 1st to AUGUST 31st** in Horace ET. Additional service can be provided upon request of CITY if desired. COUNTY will provide monthly statements to CITY of time and materials, and invoice CITY monthly. COUNTY will provide updates to CITY at any time requested to monitor expenditures.
- 6) CITY agrees to fund all contract costs for aerial spraying within the City limits. The CITY will make the decision(s) to use or not use an aerial applicator. County will coordinate the spray operation upon the City's approval.
- 7) CITY agrees to fund the cost of city-wide evening truck mounted adult mosquito spraying at \$125.00 per application when requested by CITY. Estimate between 3 and 15 applications per season dependent upon conditions.

8) COUNTY agrees to assume all liability and agrees to indemnify and defend the CITY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of the COUNTY in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of COUNTY, its employees or contractors and any part from which COUNTY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by COUNTY in furtherance of this agreement.

9) CITY agrees to assume all liability and agrees to indemnify and defend the COUNTY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of the City in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of CITY, its employees or contractors and any part from which CITY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by CITY in furtherance of this agreement.

Chair, Cass County Commission:

Date:

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Mayor, City of Horace:

Date:

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2021 MOSQUITO CONTROL AGREEMENT  
CITY OF WEST FARGO AND CASS COUNTY GOVERNMENT

This is an agreement to formalize the partnership for mosquito control between the City of West Fargo and Cass County Government during the 2021 mosquito control season. The agreement is made between the City of West Fargo, whose office is located at 800 4 Ave East, West Fargo, ND 58078, hereinafter CITY, and Cass County Government, whose office is 211 Ninth Street South, Fargo, ND 58108, hereinafter COUNTY.

THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

1. COUNTY agrees to provide mosquito control activities throughout the Vector Control District commensurate with the funding available. For the 2021 season, approximately \$789,967 in Vector Control Mill funds has been designated for the Countywide Vector Program. County funds will be used within the City of West Fargo and in surrounding areas with the objective being to distribute products and services commensurate with the source of revenue.
2. In addition to service provided in paragraph 1, COUNTY will provide services within the City of West Fargo and adjacent area for various mosquito control activities such as but not limited to: making applications of pesticides using off-highway vehicles, spraying mosquitoes in West Fargo parks and schools, inspection of public and private property, collection of mosquito traps for population monitoring. The County Vector Director will provide technical direction and coordination of these activities. The Vector Director will also work in cooperation with CITY officials to provide other technical assistance as necessary.
3. CITY agrees to provide funding to support the activities referred to in paragraph 2. Total estimated cost for these activities is \$82,500. Estimated start date and end dates for activities is April 15<sup>th</sup> to October 1<sup>st</sup> respectively.
4. COUNTY will provide services within the predetermined "Extra-territorial" area for various mosquito control activities such as but not limited to: making applications of pesticides using off-highway vehicles, inspection of public and private property, and collection of mosquito traps for population monitoring.
5. CITY agrees to fund fifty percent (50%) of the activities described in paragraph 4. COUNTY agrees to fund fifty percent (50%) of the activities described in paragraph 4. Anticipated total cost of services defined in paragraph 3 are estimated to not exceed \$15,000.
6. COUNTY will provide monthly statements to CITY of time and materials, and invoice CITY monthly.
7. CITY agrees to fund the cost of City-wide adult mosquito spraying at \$1,000 per application. Estimate between 5 and 10 applications per season dependent upon conditions. Adult mosquito spraying will be invoiced monthly.
8. If COUNTY costs significantly exceed any line items, COUNTY may request an additional funding to maintain activities in LINE 2. If at any time the amount charged to CITY exceeds funds available; the CITY can request a stoppage in service.
9. If at any time total charges to CITY exceeds \$95,000; the CITY can request a stoppage in service.



10. To request a stoppage in service, CITY must provide COUNTY written notice 14 days in advance of requested termination to Cass County Vector Control at the following address:
- a. 1201 Main Ave West  
West Fargo, ND 58078
11. CITY agrees to fund contract costs for aerial spraying when CITY requests the services of an aerial applicator. COUNTY will coordinate the aerial spray operation upon the CITY's approval. **Additional funds for an aerial application are available for use in COUNTY at the discretion and authorization of COUNTY.**
12. COUNTY will fund all contract costs for aerial spraying in unincorporated areas and all other areas within the district when determined necessary.
13. COUNTY agrees to assume all liability and agrees to indemnify and defend the CITY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of the COUNTY in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of COUNTY, its employees or contractors and any party from which COUNTY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by COUNTY in furtherance of this agreement.
14. CITY agrees to assume all liability and agrees to indemnify and defend the COUNTY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of the CITY in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of CITY, its employees or contractors and any part from which CITY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by CITY in furtherance of this agreement.

Chair, Cass County Commission

Date

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Mayor, City of West Fargo

Date

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# City of Moorhead

## 2021 MOSQUITO CONTROL AGREEMENT

### BETWEEN THE CITY OF MOORHEAD AND CASS COUNTY GOVERNMENT

This agreement for mosquito control services is made between the City of Moorhead whose office is at PO Box 779, 500 Center Ave Moorhead, MN 56561 hereinafter CITY, and the Cass County Commission, whose office is at 211 Ninth Street, Fargo, North Dakota 58108. Mailing address is Box 2806 Fargo, ND 58108 hereinafter CASS COUNTY (CITY and CASS COUNTY collectively and/or referred to as "Party" and/or "Parties")

WHEREAS, pursuant to Chapter 54-40.3, N.D.C.C. and Minnesota Statutes Section 471.59, the above-named governmental units have the legal authority to enter into an agreement, through action of their respective governing bodies, to jointly or cooperatively exercise any power common to the contracting powers or any similar powers, including those which are the same except for territorial limits within which they may be exercised.

#### THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

- 1) The purpose of this agreement is to collaborate under a single unit for the control of mosquitoes and related pests in the joint jurisdictions for the three-year period of 2021, 2022, & 2023. CASS COUNTY agrees to provide mosquito control activities throughout the CITY commensurate with available funding and resources.
- 2) All activities herein are to be funded by the CITY. These activities include but are not limited to: collection of adult mosquito traps, specimen identification, data reporting, pesticide applications on public and private lands, inspection of public and private property, as well as applications for the control of adult mosquitoes.
- 3) CITY agrees to provide full funding for all labor, supplies, and additional cost of any and all activities within and adjacent to CITY as designated by CITY.
- 4) Estimated annual cost for items in paragraph 2 is:
  - a) \$90,000 for the **2021** mosquito control season
  - b) \$95,000 for the **2022** mosquito control season
  - c) \$100,000 for the **2023** mosquito control season.
  - d) Estimated start and end dates for the above activities is May 15th to Sept. 15th respectively.
- 5) CITY agrees to fund the cost of City-wide adult mosquito spraying at \$1,500 per application. Estimate between 5 and 10 applications per season dependent upon conditions. Adult mosquito spraying will be invoiced monthly.
- 6) CASS COUNTY will provide 4 statements each year for time and materials referred to in paragraphs 2 and 3 covering the following date ranges: April through June 15, June 16 to July 15, July 16 to Aug 15, Aug 16 to Season End.
- 7) The Cass County Director of Vector Control and other fulltime CASS COUNTY staff will provide technical direction, coordination of activities, public relations, and any other miscellaneous activities as requested through the duration of the agreement. The Vector Director will also work in cooperation with CITY officials to provide other technical and administrative assistance as necessary.

- 8) CASS COUNTY will provide the following goods and services through the duration of the agreement: Administration, mapping, training, operational supplies (such as PPE), field supervision, data management, and product procurement. The CITY agrees to provide funding to support the activities referred to in this paragraph. The estimated total cost for these activities is \$20,000 annually. This will appear as a \$5,000 “Administration Charge” on each statement.
- 9) If at any time total charges to CITY exceeds:
  - a) \$110,000 for the 2021 season
  - b) \$115,000 for the 2022 season
  - c) \$120,000 for the 2023 season

the CITY can request a stoppage in service in the respective year. To request a stoppage in service, CITY must provide CASS COUNTY written notice 14 days in advance of requested termination to Cass County Vector Control at the following address:

CASS COUNTY VECTOR CONTROL  
1201 Main Ave West  
West Fargo, ND 58078

- 10) If total charges are likely to exceed projected amounts in paragraph 9) by more than 20% as estimated prior to the start of each respective season; CASS COUNTY will provide an updated estimate no later than June 1<sup>st</sup> of each respective season.
- 11) CITY acknowledges and maintains “Decision Maker” and “Operator” rolls as specified by all applicable Local, State and Federal laws regarding pesticide applications.
- 12) CITY agrees to provide the use of 2 pickup trucks and 2 truck mounted ULV sprayers through the duration of this agreement.
  - a) **OR COUNTY agrees to provide the use of trucks, truck mounted ULV sprayers, and all associated equipment through the duration of this agreement for a fee of \$7,500 due at with the final billing statement each year.**
- 13) CITY agrees to provide authority under Moorhead Council Policy in acceptance of this contract for CASS COUNTY employees, appointees, or other designated party to enter upon any land, public or private, within the CITY and extraterritorial space at any reasonable time to inspect for or to control public health vectors and their breeding places.
- 14) CITY agrees to fund any additional costs for aerial spraying when CITY requests the contracted services of an aerial applicator. CASS COUNTY will coordinate the aerial spray operation upon the CITY’s approval or after expressed written permission is given by the CITY authorizing the Vector Control Director as its agent to make the determination to engage the service.
- 15) CITY agrees to provide assistance in matters of permitting, licensing, and any other state of Minnesota statutory legal obligations in result of this agreement.
- 16) CASS COUNTY agrees to assume all liability and agrees to indemnify and defend the CITY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of CASS COUNTY in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of CASS COUNTY, its employees or contractors and any party from which CASS COUNTY may obtain

information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by CASS COUNTY in furtherance of this agreement.

- 17) CITY agrees to assume all liability and agrees to indemnify and defend the CASS COUNTY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of the CITY in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of CITY, its employees or contractors and any party from which CITY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by CITY in furtherance of this agreement. Nothing herein shall be deemed a waiver by CITY of the limitations on liability set forth in Minnesota Statutes Section 466.04, as amended from time to time, and the CITY's obligation to indemnify, hold harmless and defend CASS COUNTY shall be limited by the limitations on liability set forth in Minnesota statutes Section 466.04.
- 18) The statutory limits of liability for the Parties may not be added together to determine the maximum amount of liability for each Party.
- 19) Each Party shall be responsible for injuries or death of its own personnel. Each Party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing assistance pursuant to this Agreement. Each Party waives the right to sue any other Party for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers. Each party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing services pursuant to this Agreement. Each Party waives the right to sue any other party for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries were caused wholly or partially by the negligence of any other Party or its officers, employees, or volunteers.
- 20) Each Party shall be responsible for damages to or loss of its own equipment. Each Party waives the right to sue any other party for any damages to or loss of its equipment, even if the damages or losses were caused wholly or partially by the negligence of any other Party or its officers, employees, or volunteers.
- 21) Either Party may terminate this Agreement upon thirty (30) days written notice to the other Party.
- 22) No amendment, modification, or waiver of any condition, provision or term shall be valid or of any effect unless made in writing signed by the party or parties to be bound, or a duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification or waiver. Any waiver by any party of any default of another party shall not affect or impair any right arising from any subsequent default. Except as expressly and specifically stated otherwise, nothing herein shall limit the remedies and rights of the parties thereto under and pursuant to this Agreement.
- 23) Pursuant to Minn. Stat. § 6.551 and 16C.05, subd. 5. CASS COUNTY agrees that CITY, the State Auditor, or any of their duly authorized representatives, may examine any books, records, documents and the accounting practices and procedures of CASS COUNTY related to this Agreement. If either CITY or CASS COUNTY requests that the State Auditor conduct such an examination, then the requesting party is liable for the costs of the examination.
- 24) This Agreement may be executed in counterparts with both CITY and CASS COUNTY having a fully-executed counterpart.
- 25) Whenever the singular number is used herein, the same shall include the plural where appropriate, and the words of any gender shall include any other genders where appropriate.

- 26) This Agreement constitutes the entire agreement by and between the parties, and any other prior representations or agreements are deemed merged herein, and those not specified herein do not represent any agreements or promises or covenants or representations on the part of either party hereto.
- 27) Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.
- 28) This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective personal representatives, successors and assigns.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021

Chairman, Cass County Board of Commissioners \_\_\_\_\_

Authorized Official, City of Moorhead \_\_\_\_\_

Point of Contact for Mosquito Control (please print name) \_\_\_\_\_

Phone number(s) \_\_\_\_\_

Contact for Mosquito Control (please print name) \_\_\_\_\_

Phone number(s) \_\_\_\_\_

# City of Moorhead

## 2021 MOSQUITO CONTROL AGREEMENT

### BETWEEN THE CITY OF MOORHEAD AND CASS COUNTY GOVERNMENT

This agreement for mosquito control services is made between the City of Moorhead whose office is at PO Box 779, 500 Center Ave Moorhead, MN 56561 hereinafter CITY, and the Cass County Commission, whose office is at 211 Ninth Street, Fargo, North Dakota 58108. Mailing address is Box 2806 Fargo, ND 58108 hereinafter CASS COUNTY (CITY and CASS COUNTY collectively and/or referred to as "Party" and/or "Parties")

WHEREAS, pursuant to Chapter 54-40.3, N.D.C.C. and Minnesota Statutes Section 471.59, the above-named governmental units have the legal authority to enter into an agreement, through action of their respective governing bodies, to jointly or cooperatively exercise any power common to the contracting powers or any similar powers, including those which are the same except for territorial limits within which they may be exercised.

#### THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

- 1) The purpose of this agreement is to collaborate under a single unit for the control of mosquitoes and related pests in the joint jurisdictions for 2021. CASS COUNTY agrees to provide mosquito control activities throughout the CITY commensurate with available funding and resources.
- 2) All activities herein are to be funded by the CITY. These activities include but are not limited to: collection of adult mosquito traps, specimen identification, data reporting, pesticide applications on public and private lands, inspection of public and private property, as well as applications for the control of adult mosquitoes.
- 3) CITY agrees to provide full funding for all labor, supplies, and additional cost of any and all activities within and adjacent to CITY as designated by CITY.
- 4) Estimated annual cost for items in paragraph 2 is:
  - a) \$90,000 for the 2021 mosquito control season
  - b) Estimated start and end dates for the above activities is May 15th to Sept. 15th.
- 5) CITY agrees to fund the cost of City-wide adult mosquito spraying at \$1,500 per application. Estimate between 5 and 10 applications per season dependent upon conditions. Adult mosquito spraying will be invoiced monthly.
- 6) CASS COUNTY will provide 4 statements each year for time and materials referred to in paragraphs 2 and 3 covering the following date ranges: April through June 15, June 16 to July 15, July 16 to Aug 15, Aug 16 to Season End.
- 7) The Cass County Director of Vector Control and other fulltime CASS COUNTY staff will provide technical direction, coordination of activities, public relations, and any other miscellaneous activities as requested through the duration of the agreement. The Vector Director will also work in cooperation with CITY officials to provide other technical and administrative assistance as necessary.

8) CASS COUNTY will provide the following goods and services through the duration of the agreement: Administration, mapping, training, operational supplies (such as PPE), field supervision, data management, and product procurement. The CITY agrees to provide funding to support the activities referred to in this paragraph. The estimated total cost for these activities is \$20,000 annually. This will appear as a \$5,000 “Administration Charge” on each statement.

9) If at any time total charges to CITY exceeds:  
\$110,000 for the 2021 season

the CITY can request a stoppage in service in the respective year. To request a stoppage in service, CITY must provide CASS COUNTY written notice 14 days in advance of requested termination to Cass County Vector Control at the following address:

CASS COUNTY VECTOR CONTROL  
1201 Main Ave West  
West Fargo, ND 58078

- 10) If total charges are likely to exceed projected amounts in paragraph 9) by more than 20% as estimated prior to the start of each respective season; CASS COUNTY will provide an updated estimate no later than June 1<sup>st</sup> of each respective season.
- 11) CITY acknowledges and maintains “Decision Maker” and “Operator” rolls as specified by all applicable Local, State and Federal laws regarding pesticide applications.
- 12) CITY agrees to provide the use of 2 pickup trucks and 2 truck mounted ULV sprayers through the duration of this agreement.
- a) **OR COUNTY agrees to provide the use of trucks, truck mounted ULV sprayers, and all associated equipment through the duration of this agreement for a fee of \$7,500 due at with the final billing statement each year.**
- 13) CITY agrees to provide authority under Moorhead Council Policy in acceptance of this contract for CASS COUNTY employees, appointees, or other designated party to enter upon any land, public or private, within the CITY and extraterritorial space at any reasonable time to inspect for or to control public health vectors and their breeding places.
- 14) CITY agrees to fund any additional costs for aerial spraying when CITY requests the contracted services of an aerial applicator. CASS COUNTY will coordinate the aerial spray operation upon the CITY’s approval or after expressed written permission is given by the CITY authorizing the Vector Control Director as its agent to make the determination to engage the service.
- 15) CITY agrees to provide assistance in matters of permitting, licensing, and any other state of Minnesota statutory legal obligations in result of this agreement.
- 16) CASS COUNTY agrees to assume all liability and agrees to indemnify and defend the CITY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of CASS COUNTY in completion of the tasks stated herein or may result from the

decisions, recommendations, actions, omissions of actions or other errors on the part of CASS COUNTY, its employees or contractors and any party from which CASS COUNTY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by CASS COUNTY in furtherance of this agreement.

- 17) CITY agrees to assume all liability and agrees to indemnify and defend the CASS COUNTY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of the CITY in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of CITY, its employees or contractors and any party from which CITY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by CITY in furtherance of this agreement. Nothing herein shall be deemed a waiver by CITY of the limitations on liability set forth in Minnesota Statutes Section 466.04, as amended from time to time, and the CITY's obligation to indemnify, hold harmless and defend CASS COUNTY shall be limited by the limitations on liability set forth in Minnesota statutes Section 466.04.
- 18) The statutory limits of liability for the Parties may not be added together to determine the maximum amount of liability for each Party.
- 19) Each Party shall be responsible for injuries or death of its own personnel. Each Party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing assistance pursuant to this Agreement. Each Party waives the right to sue any other Party for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers. Each party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing services pursuant to this Agreement. Each Party waives the right to sue any other party for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries were caused wholly or partially by the negligence of any other Party or its officers, employees, or volunteers.
- 20) Each Party shall be responsible for damages to or loss of its own equipment. Each Party waives the right to sue any other party for any damages to or loss of its equipment, even if the damages or losses were caused wholly or partially by the negligence of any other Party or its officers, employees, or volunteers.
- 21) Either Party may terminate this Agreement upon thirty (30) days written notice to the other Party.
- 22) No amendment, modification, or waiver of any condition, provision or term shall be valid or of any effect unless made in writing signed by the party or parties to be bound, or a duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification or waiver. Any waiver by any party of any default of another party shall not affect or impair any right arising from any subsequent default. Except as expressly and specifically stated otherwise, nothing herein shall limit the remedies and rights of the parties thereto under and pursuant to this Agreement.
- 23) Pursuant to Minn. Stat. § 6.551 and 16C.05, subd. 5. CASS COUNTY agrees that CITY, the State Auditor, or any of their duly authorized representatives, may examine any books, records, documents and the accounting practices and procedures of CASS COUNTY related to this Agreement. If either CITY or CASS COUNTY requests that the State Auditor conduct such an examination, then the requesting party is liable for the costs of the examination.
- 24) This Agreement may be executed in counterparts with both CITY and CASS COUNTY having a fully-executed counterpart.



- 25) Whenever the singular number is used herein, the same shall include the plural where appropriate, and the words of any gender shall include any other genders where appropriate.
- 26) This Agreement constitutes the entire agreement by and between the parties, and any other prior representations or agreements are deemed merged herein, and those not specified herein do not represent any agreements or promises or covenants or representations on the part of either party hereto.
- 27) Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.
- 28) This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective personal representatives, successors and assigns.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2021.

Chairman, Cass County Board of Commissioners \_\_\_\_\_

Authorized Official, City of Moorhead \_\_\_\_\_

Point of Contact for Mosquito Control (please print name) \_\_\_\_\_

Phone number(s) \_\_\_\_\_

Contact for Mosquito Control (please print name) \_\_\_\_\_

Phone number(s) \_\_\_\_\_

2021 MOSQUITO CONTROL AGREEMENT  
CITY OF FARGO AND CASS COUNTY GOVERNMENT

This is an agreement to formalize the partnership for mosquito control between the City of Fargo and Cass County Government during the 2021 mosquito control season. The agreement is made between the City of Fargo, whose office is located at 200 North 3<sup>rd</sup> Street, Fargo, North Dakota 58102, hereinafter CITY, and Cass County Government whose office is 211 Ninth Street, Fargo, ND 58018 hereinafter COUNTY.

THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

1. COUNTY agrees to provide mosquito control activities throughout the Vector Control District commensurate with the funding available. For the 2021 season, approximately \$789,967 in Vector Control Mill funds has been designated for the Countywide Vector Program. COUNTY funds will be used within the CITY and in surrounding areas with the objective being to distribute products and services commensurate with the source of revenue.
2. In addition to service provided in paragraph 1, COUNTY will provide services within the CITY for various mosquito control activities such as but not limited to: making applications of pesticides using off-highway vehicles, spraying mosquitoes in and surrounding Fargo including parks and schools, inspection of public and private property, collection of mosquito traps for population monitoring. The COUNTY Vector Director will provide technical direction and coordination of these activities. The Vector Director will also work in cooperation with CITY officials to provide other technical and administrative assistance as necessary.
3. CITY agrees to provide funding to support the activities referred to in paragraph 2. The total cost for these activities is \$290,000. Estimated start date and end dates for activities is April 15<sup>th</sup> to October 1<sup>st</sup> respectively.
4. COUNTY will provide services within the predetermined "Extra-territorial" area for various mosquito control activities such as but not limited to: making applications of pesticides using off-highway vehicles, inspection of public and private property, and collection of mosquito traps for population monitoring.
5. CITY agrees to fund fifty percent (50%) of the activities described in paragraph 4. COUNTY agrees to fund fifty percent (50%) of the activities described in paragraph 3. Anticipated total cost of services defined in paragraph 4 are estimated to not exceed \$40,000.
6. COUNTY will provide monthly statements to CITY of time and materials, and invoice CITY monthly.
7. CITY agrees to fund the cost of city-wide adult mosquito spraying at \$3,000 per full application. Estimate between 5 and 10 applications per season dependent upon conditions. Adult mosquito spraying will be invoiced monthly.
8. If funding needed to maintain activities in paragraph 2 and paragraph 5 is forecasted to exceed \$302,000 COUNTY must provide CITY with written notice requesting contract adjustment 14 days prior to contract funding shortfall. All COUNTY contract adjustments will receive acceptance or rejection through written notice by CITY within 10 days of request. Failure by CITY to respond to COUNTY within 10 days of request will constitute CITY acceptance of contract adjustments.

All requests for contract adjustments shall be submitted to:

Fargo Public Works  
402 23<sup>rd</sup> Street N.  
Fargo, ND 58102

9. If COUNTY fails to comply with paragraph 6, all costs associated with activities outlined in paragraph 2 exceeding contracted dollar amounts will be the sole responsibility of COUNTY to fund.
10. COUNTY will fund up to \$73,000 for up to one (1) aerial spray application or comparable partial applications within the metro area including within CITY limits and surrounding area when determined necessary.
11. CITY agrees to fund any additional costs for aerial spraying above or beyond paragraph 8 when CITY requests the contracted services of an aerial applicator. COUNTY will coordinate the aerial spray operation upon the CITY's approval or after expressed written permission is given by the CITY authorizing the Vector Control Director as its agent to make the determination.  
**Additional funds for an aerial application are available for use in COUNTY at the discretion and authorization of COUNTY.**
12. COUNTY agrees to assume all liability and agrees to indemnify and defend the CITY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of the COUNTY in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of COUNTY, its employees or contractors and any party from which COUNTY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by COUNTY in furtherance of this agreement.
13. CITY agrees to assume all liability and agrees to indemnify and defend the COUNTY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of the CITY in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of CITY, its employees or contractors and any part from which CITY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by CITY in furtherance of this agreement.

Chair, Cass County Commission

Date

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Mayor, City of Fargo

Date

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## Agenda

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|----------------------------------|--------------------|
| Call to Order                    |                    |
| Welcome Dr. Eaton                |                    |
| 2021 Aerial Application Contract | Dow/Prather        |
| 2021 Metro Municipal Contracts   | Prather/Discussion |
| Non-target effects               | All                |
| Adjourn                          |                    |

1. Numerous organizations are participating on this issue
  - a. State, Federal, and NGO participation
  - b. Primary agencies leading AMCA & USFWS
2. No finding of wrong doing, error, or any judgment against any part for the 8/26/20 application.
  - a. 100% by the book and within legal specifications
    - i. Our diligence , protocols, and justification standards are world class
    - b. 4 independent investigations with same conclusion
3. We have provided hours of testimony, public meetings, and press statements in the past 6 months both locally and nationally
4. Please be aware: there are major risks with reactive policy making
  - a. No idea what August 2021 will require
  - b. Peak WNV human transmission occurs in August
5. Science and industry are confident that these types of interactions are not supposed to happen.
  - a. Much is left to be debated and determined
  - b. Nationally recognized void in monarch pesticide toxicity information, data, or understanding
6. No recognized or established BMP for monarchs
  - a. Not included in the Endangered Species Act (ESA) for 2021
7. No formal conclusion of cause, scope, or unknown aggravating factors
8. Citizen input mostly requests additional resources at Cass Vector Control
  - a. No objective or constructive criticism or suggestions
  - b. Most commentary points to increase staff, scope, and operational readiness in Aug-Oct
    - i. New FT Positions
      1. Public Educator and PR 55
      2. Reception & Administrative Assistance 50
      3. Right-of Way Supervisor 50
      4. 2 Field Supervisors 50
      5. Assistant Lab Supervisor 55
      6. Regulatory Compliance and QC? 50
    - ii. Anticipated elevated roles as a result of the above:
      1. Deputy Director 20
      2. Technical and Laboratory Services Coordinator 15
      3. Application Equipment Specialist 10
    - iii. Result in 10 FTE on staff for truck spraying in late season
      1. Metro truck application would still require 2.5 to 3 evenings
      2. FTE Payroll increase of \$250k to \$350k
      3. Seasonal Payroll decrease of ~ \$50K
9. National discussions are ongoing with no tangible end point in sight
  - a. BMP possible in 2022?
10. Several tasks forces have dissolved or failed before initiation with no results

# Cass County Vector Control

SCIENCE AND NATURE

## Mosquito spraying caused a 'monarch massacre.' Can a repeat be avoided?

Inspectors for North Dakota and Minnesota's agriculture departments have determined in separate investigations that the aerial sprayer hired in Fargo-Moorhead committed **no violations** during the Aug. 26 spraying that was followed by a mass die-off of butterflies.

Written By: Patrick Springer | Jan 30th 2021 - 6am.



## INVESTIGATING REGULATORY AGENCIES



✓ No Violation(s)



✓ No Violation(s)



✓ No Violation(s)



✓ No Violation(s)

**Not just one investigation. Four.**

# Partnering Agencies in Various Work Groups



## First of its kind, and a massive ongoing effort. Tasks include:

1. Cross discipline understanding monarch behavior, biology, and migration. Identify experts in the study of monarchs and other vulnerable species
2. Cross discipline understanding of integrated mosquito management
3. Cross discipline understanding of unique mosquito characteristics of the FMWF Metro Area
4. Evidence to rule out a freak coincidence?\*
5. Discuss ESA provisions & review current and potential EPA label language or guidance.
6. Create new BMPs or extend established BMPs
7. Determine pyrethroid toxicity levels for monarchs

