

## Service Agreement – Roadside/Openings Mowing

### SECTION ONE

THIS AGREEMENT is made and entered into by and between the County of Aitkin, State of Minnesota (County), through the Aitkin County Land Department, (Department), and \_\_\_\_\_ (Independent Contractor).

### RECITALS

WHEREAS, the County, through the Department, wishes to purchase the services of Roadside/Openings Mowing from Independent Contractor; and

WHEREAS, the County and the Independent Contractor mutually agree that services to be performed by the undersigned shall be performed as an Independent Contractor and not as an employee, officer, or agent of the County;

WHEREAS, the Independent Contractor is prepared to perform services for the County;

WHEREAS, there are funds available for the purchase of these services;

NOW, THEREFORE, in consideration of the mutual undertakings and agreements hereinafter set forth, the County, through the Department, and the Independent Contractor agree as follows:

#### 1) **Term and Cost of the Agreement**

The Independent Contractor agrees to furnish services on behalf of the County during the period commencing 06/01/2020 and terminating 10/01/2020.

The Independent Contractor shall be paid a rate of \$ \_\_\_\_\_ per mile mowing and \$ \_\_\_\_\_ per opening. The cost of this Agreement shall not exceed above rates.

#### 2) **Services to be Provided**

The Independent Contractor is to perform services in accordance with Section Two, “Contract Specifications” and Section Three, “Site Maps”. The parties further agree that Sections Two and Three are expressly incorporated into and made a part of this Agreement in all respects.

The Independent Contractor is responsible for inspecting any Agreement sites prior to signing this Agreement and accepts the specified sites as being satisfactory to perform the services of the Agreement without risk to person or property.

The Independent Contractor agrees that it shall furnish all materials, labor,

equipment, tools and other items necessary for the performance of the contractual undertaking that it has assumed herein. The Independent Contractor agrees that it has a substantial economic investment in tangible assets used in performing the services hereunder. Independent Contractor shall serve as the sole employer with respect to any of the employees employed by the Independent Contractor for the performance of the services required hereunder.

The parties agree that the County shall initially designate the work to be performed. It shall also make a final inspection within a reasonable period of time after the Independent Contractor claims that the work has been completed so final payment can be made. All work shall be performed in a workmanlike manner. The work that is to be performed is set out in Section Two. Legal descriptions of the property where work shall be done and site maps are set out in Section Three.

3) **Payment for Services**

Payment for services shall be made directly to the Independent Contractor after completion of services upon the presentation of a claim in the manner provided by law for payment of claims against the County.

4) **Independent Contractor Status**

That at all times and for all purposes hereunder, Independent Contractor shall be an independent contractor and is not an employee, official, or agent of the County for any purpose. No statement contained in this Agreement shall be construed so as to find Independent Contractor to be an employee, official, or agent of the County, and Independent Contractor shall not be entitled to any of the rights, privileges, or benefits of employees of the County, including but not limited to, workers' compensation, health/death benefits, and indemnification for third-party personal injury/property damage claims.

Independent Contractor acknowledges and agrees that no withholding or deduction for State or Federal income taxes, FICA, FUTA, or otherwise, will be made from the payments due Independent Contractor and that it is Independent Contractor's sole obligation to comply with the applicable provisions of all Federal and State Tax laws.

Independent Contractor shall at all times be free to exercise initiative, judgment and discretion as to how to best perform or provide services identified herein. The parties agree that the Independent Contractor shall have sole control over the means and manner of performance of the Independent Contractor's obligations hereunder including, but not limited to the method, time, hours, days to be worked and other details of performance (subject to the specifications in Sections Two and Three). The County reserves the right to inspect the job site for the sole purpose of ensuring that the end result shall be or has been accomplished and the specifications of Sections Two and Three met. The County takes no responsibility for the supervision or direction of the performance of any of the services to be performed by the Independent Contractor or of its employees or

subcontractors. Independent Contractor shall serve as the sole employer with respect to any of the employees employed by the Independent Contractor for the performance of the services required hereunder. The County further agrees that it shall exercise no control over the selection and dismissal of the Independent Contractor's employees.

Independent Contractor is responsible for hiring sufficient workers to perform the services/duties required by this contract, withholding their taxes, and paying all other employment tax obligations on their behalf.

The Independent Contractor shall comply with all federal, state, county or other government regulations or laws, including, but not limited to, the Fair Labor Standards Act, the Wage and Hour Laws, the Occupational Safety and Health Act and the Equal Opportunity laws.

5) **Indemnification and Insurance**

The Independent Contractor agrees it will defend, indemnify and hold harmless the County, its officers, agents, and employees against any and all liability, loss, costs, damages and expenses which the County, its officers, agents, or employees may hereafter sustain, incur, or be required to pay arising out of the Independent Contractor's performance or failure to adequately perform its obligations pursuant to this Agreement.

Independent Contractor further agrees that in order to protect itself as well as the County under the indemnity provision set forth above, it will at all times during the term of this Agreement keep in force the following:

- a) Any policy obtained and maintained under this clause shall provide that it shall not be cancelled, materially changed, or not renewed without thirty days' prior notice thereof to the County.
- b) Workers' Compensation Insurance.

The following insurance must be maintained for the duration of this Agreement.

5.1. General Liability Insurance

- 5.1.1 \$500,000 for claims for wrongful death and each person for other claims  
\$1,500,000 each occurrence  
No less than \$2,000,000 aggregate

5.2. Business Automobile Liability Insurance

- 5.2.1. \$500,000 each person  
\$1,500,000 each occurrence  
No less than \$2,000,000 aggregate

5.2.2. Must cover owned, non-owned, and hired vehicles.

5.3 Workers' Compensation Per Statutory Requirements

5.3.1. County reserves the right to rescind any contract not in compliance with these requirements and retains all rights thereafter to pursue any legal remedies against bidder.

Prior to the effective date of this contract, and as a condition precedent to this Agreement, the Independent Contractor will furnish the County with Certificates of Insurance listing the County as a certificate holder. A Certificate of Insurance for each policy must be on file with the County Land Department within 10 days of execution of this Agreement and prior to commencement of any work under this Agreement. Each certificate must include a 10-day notice of cancellation, nonrenewal, or material change to all named and additional insureds. The County reserves the right to rescind any agreement not in compliance with these requirements and retains all rights thereafter to pursue any legal remedies against Independent Contractor. All insurance policies shall be open to inspection by the County, and copies of policies shall be submitted to the County upon written request. All subcontractors shall provide evidence of similar coverage.

6) **Data Practices**

All data collected, created, received, maintained, or disseminated for any purposes by the activities of Independent Contractor because of this contract is governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as amended, the Minnesota Rules implementing such act now in force or as adopted, as well as federal regulations on data privacy.

7) **Records-Availability and Retention**

Pursuant to Minn. Stat. § 16C.05, subd. 5, the Independent Contractor agrees that the County, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonable deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the Independent Contractor and involve transactions relating to this Agreement.

Independent Contractor agrees to maintain these records for a period of six years from the date of termination of this Agreement.

8) **Merger and Modification**

a) It is understood and agreed that the entire Agreement between the parties is contained here and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter. All items referred

to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.

- b) Any material alterations, variations, modifications, or waivers of provisions of this Agreement shall be valid only when they have been reduced to writing as an amendment and signed by the parties.

9) **Default and Cancellation**

- a) If the Independent Contractor fails to perform any of the provisions of this Agreement or so fails to administer the work as to endanger the performance of the Agreement, this shall constitute default.

Unless the Independent Contractor's default is excused, the County, through the Department, may, upon written notice, immediately cancel this Agreement in its entirety.

Further, upon the Independent Contractor's default, the County shall have the right to retain the bidder's bond submitted by the Independent Contractor, and to pursue any and all legal remedies.

- b) This Agreement may be cancelled with or without cause by either party upon thirty days' written notice.

10) **Subcontracting and Assignment**

Independent Contractor shall not enter into any subcontract for performance of any services contemplated under this Agreement without the prior written approval of the County through its Land Commissioner or Assistant Land Commissioner, and subject to such conditions and provisions as the County may deem necessary. The Independent Contractor shall be responsible for the performance of all subcontractors.

11) **Nondiscrimination**

During the performance of this Agreement, the Independent Contractor agrees to the following:

No person shall, on the grounds of race, color, religion, age, sex, disability, marital status, public assistance status, criminal record, creed, sexual orientation or national origin be excluded from full employment rights in, participation in, be denied the benefits of or be otherwise subjected to discrimination under any and all applicable federal and state laws against discrimination.

12) **Execution**

IN WITNESS WHEREOF, the County has caused this Agreement to be signed by its duly authorized officers and the Independent Contractor has hereunto set its hand.

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

INDEPENDENT CONTRACTOR

COUNTY OF AITKIN, MINNESOTA

\_\_\_\_\_  
Contractor Name, Date

\_\_\_\_\_  
Rich Courtemanche,  
Land Commissioner, Date

\_\_\_\_\_  
Print Contractor Name

\_\_\_\_\_  
Contracting Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Social Security or Taxpayer I.D.

SECTION TWO

**Roadside/Openings Mowing**

**I. General**

This project involves roadside mowing and mowing of openings along the forest roads on Aitkin County Tax Forfeited lands. These roads and openings are in the north half of the county. These roads are aggregate and approximately 12'-18' wide. The openings average approximately 0.25 acres in size.

**II. Explanation of Terms**

“Brushing” is defined as cutting a 5 foot (minimum) swath from the edge of the maintained driving surface.

“Mile” is defined as 5,280 linear feet of road, as measured by the Project Supervisor, with both sides treated.

“Transportation” includes moving machine to and from work sites, between work sites, and all other moving of machine when not performing roadside mowing or brushing work under this contract.

**III. Equipment Specifications**

1. Brush cutter must be adequate to chop brush and trees up to 3 inches in diameter.
2. Cutting head must be attached on a boom to reach out into ditches, since there are no shoulders on most roads.
3. Vehicle must display a flashing light, visible from front and rear, and a "Slow Moving Vehicle" sign, visible from the rear, while operating.
4. Contractor shall affix adequate guards on machine to protect employees, road users, and bystanders.

**IV. Forest Roads**

Following is a list of approximately 129.6 miles ACLD forest roads and 58 openings that are scheduled for treatment. Additional road miles may be treated if funding allows and a written agreement is signed by the successful bidder and the project supervisor.

***Planned roadways to be treated:***

<b>Forest Road</b>	<b>Openings</b>	<b>Mileage</b>
<b>T51-R24</b>		
33-2	1	2.35
<b>T51-R27</b>		
54-3	2	2.94
54-4	0	0.4
54-6	4	5.08

54-5	0	2.8
<b>T52-R26</b>		
12-2	4	3.45
12-3	3	1.3
12-1	2	0.92
<b>North Soo Line</b>		
99-1	0	47.25
<b>T50-R24</b>		
18-2	0	8.3
<b>T52-R23</b>		
2-1	2	3.41
2-2	3	2.53
2-3	3	1.54
2-7	1	1.93
<b>T51-R26</b>		
20-3	3	0.59
20-6	1	0.66
20-8	1	1.02
20-9	2	0.96
<b>T52-R27</b>		
55-1	8	5.94
55-2	2	1.31
55-3	2	2.07
55-6	0	0.69
<b>T50-R27</b>		
53-2	0	1.16
52-7	0	9.28
53-1	0	0.75



<b>T49-R27</b>		
52-2	7	6.2
52-3	0	0.5
52-6	0	1.2
<b>T48-R27</b>		
51-1	2	4.3
<b>T47-R23</b>		
30-1	1	1.4
<b>T47-R22</b>		
27-1	4	5.6
<b>T49-R24</b>		
39-1	0	1.8
<b>Totals</b>	<b>58 openings</b>	<b>129.6 miles</b>

**V. Project Supervisor**

Dan Gordon  
502 Minnesota Ave N  
Aitkin MN 56431  
218-927-7364 office  
218-232-5297 cell

**VI. Project Specifications**

1. All work must be done to the satisfaction of the ACLD Project Supervisor or his appointee.
2. Contract operations may not begin before June 1, 2020 and must be completed before October 1, 2020.
3. Contractor shall bear all cost for transportation, equipment, labor, tools and all else necessary to complete the contract work.
4. All brush and small trees (up to 3" diameter) shall be cut within 6 inches of the ground surface.
5. Travel speed while mowing or brushing must be regulated by the operator such that all target plants are severed. Partial cutting of shrub and tree stems within the target zone is not acceptable.
6. Slash generated from mowing, brushing, or pruning shall be kept off the driving surface of the road and shall be randomly scattered across the cut area.
7. No work shall commence under this agreement until Contractor is in receipt of a Notice to Proceed, and Project Supervisor identifies which roads or part thereof shall be brushed.

**VII. Invasive Species Control**

1. The contractor must take the following actions to minimize the risk of spreading invasive plant species during contract operations: Before arriving at the work site, and before leaving the worksite at project completion, the contractor must inspect for and remove all caked mud, dirt clods, plants, plant parts, and debris from the equipment, tools, personal gear to be used under this contract.
2. Follow other actions as directed by the Project Supervisor to minimize the introduction and/or spread of invasive species.

**VIII. Payment**

Payment will be made on a per mile basis, to the nearest tenth of a mile for actual miles brushed meeting specifications.

Contractor shall submit an invoice to the Project Supervisor, and shall identify the road, the miles of brushing completed, and the date the road was completed. The Contractor may submit invoices bi-weekly for roads completed.

**IX. Cancellation**

This agreement may be cancelled by ACLD with 30 days written notice.