



Trust Lands Management Division 2022-2023 Yellowstone County Weed Control Agreement

THIS AGREEMENT is entered by and between the State of Montana, Department of Natural Resources and Conservation, (hereinafter referred to as “the State”), whose address and phone number are 1371 Rintop Drive, Billings MT 59105, (406)247-4400 and, Yellowstone County Weed District (County), whose address and phone number are 3319 King Ave East, Billings MT 59101, (406)256-2708.

1. **EFFECTIVE DATE, DURATION, AND RENEWAL**

1.1 Agreement Term. The agreement’s initial term is upon execution, through December 31, 2023, unless terminated earlier as provided in this agreement. In no event is this agreement binding on the State unless the State’s authorized representative has executed it in Section 9.

2. **SERVICES AND/OR SUPPLIES**

2.1 Weed Control Activities. Provide the State the following weed control activities:

2.1.1 Tracts. Provide cost-share biological/chemical and/or labor for Leafy Spurge, Hounds Tongue, White Top, Knapweed, Thistles, Russian Olive, Salt Cedar, Toadflax, Oxeye Daisy, Poison Hemlock, Mullein as well as other noxious weed species containment and/or eradication on the following State Trust Lands:

T: 2N, R: 26E, Sec: 36, SE4—Lease # 8334— Houser, Leonard (406-860-1654)

T: 1S, R: 25E, Sec: 36— Lease #8115— Blain (Jellison Rd.) (406-252-6937)

T: 3N, R: 27E, Sec: 36, N2—Lease #5922— Razor Creek Farms Corp. (406-373-5535)

T: 1N, R: 26E, Sec: 18, E2 & Sec: 20, N2—Lease #2352— Skyway Drive Tracts

T: 1N, R: 25E, Sec: 22—Lease #8352— Dennis Rehberg (406-656-6628)

T: 4N, R: 23E, Sec: 16, E2—Lease #2210— Bart Erickson (406-667-2319)

The State’s cost associated with these tracts shall not exceed **\$3,665.00** over the biennium.

2.2 Herbicide Application Requirements. All ground application equipment must be 4-Wheel Drive capable to ensure transport of chemicals in a safe manner across uneven terrain. All equipment used for herbicide application must be thoroughly inspected prior to use to prevent any spills and/or leaks. All chemical spills must be reported to the State liaison immediately. All State laws regarding the application of herbicides must be strictly adhered to.

3. WARRANTIES

3.1 Warranty of Services. The County warrants that the services provided conform to the agreement requirements, including all descriptions, specifications and attachments made a part of this agreement. The State's acceptance of services provided by the County shall not relieve the County from its obligations under this warranty. In addition to its other remedies under this agreement, at law, or in equity, the State may, at the County's expense, require prompt correction of any services failing to meet the County's warranty herein. Services corrected by the County shall be subject to all the provisions of this agreement in the manner and to the same extent as services originally furnished.

4. CONSIDERATION/PAYMENT

4.1 Payment Schedule. In consideration of the noxious weed management services to be provided, the State shall pay the County according to the following schedule: The State shall pay the agreement in full upon receipt of an invoice for **\$3,665.00** from the County for noxious weed management services.

In No case shall the State's total cumulative payment under this agreement exceed three thousand six hundred sixty-five dollars and No/100 (\$3,665.00).

4.2 Payment Terms. Unless otherwise noted in the solicitation document, the State has thirty (30) days to pay invoices, as allowed by 17-8-242, MCA. The County shall provide banking information at the time of agreement execution to facilitate the State's electronic funds transfer payments.

5. ACCESS AND RETENTION OF RECORDS

5.1 Access to Records. The County shall provide the State, Legislative Auditor, or their authorized agents access to any records necessary to determine agreement compliance. The State may terminate this agreement under section 20, Agreement Termination, without incurring liability, for the County's refusal to allow access as required by this section. (18-1-118, MCA.)

5.2 Retention Period. The County shall create and retain all records documenting the weed control activities for a period of eight years after either the completion date of this agreement or termination of the agreement.

6. AGREEMENT TERMINATION

6.1 Termination for Convenience. The State may, by written notice to the County, terminate this agreement without cause and without incurring liability to the County. The State shall give notice of termination to the County at least 30 days before the effective date of termination. The State shall pay the County only that amount, or prorated portion thereof, owed to the County up to the date the State's termination takes effect. This is the County's sole remedy. The State shall not be liable to the County for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

6.2 Termination for Cause with Notice to Cure Requirement. The County may terminate this agreement for the State's failure to perform any of its duties under this agreement after giving the State written notice of the failure. The written notice must demand performance of the stated failure within a specified

period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

6.3 Reduction of Funding. The State must by law terminate this agreement if funds are not appropriated or otherwise made available to support the State's continuation of performance of this agreement in a subsequent fiscal period. (18-4-313(4), MCA.) If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this agreement (whether at an initial agreement payment level or any agreement increases to that initial level) in subsequent fiscal periods, the State shall terminate this agreement as required by law. The State shall provide the County the date the State's termination shall take effect. The State shall not be liable to the County for any payment that would have been payable had the agreement not been terminated under this provision. As stated above, the State shall be liable to the County only for the payment, or prorated portion of that payment, owed to the County up to the date the State's termination takes effect. This is the County's sole remedy. The State shall not be liable to the County for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

7. EVENT OF BREACH – REMEDIES

7.1 Event of Breach by the County. Any one or more of the following the County acts or omissions constitute an event of material breach under this agreement:

- Products or services furnished fail to conform to any requirement.
- Failure to submit any report required by this agreement.
- Failure to perform any of the other terms and conditions of this agreement.

7.2 Event of Breach by State. The State's failure to perform any material terms or conditions of this agreement constitutes an event of breach.

7.3 Actions in Event of Breach.

Upon the County's material breach, the State may:

- Terminate this agreement under section 6.1; or
- Treat this agreement as materially breached and pursue any of its remedies under this agreement, at law, or in equity.

Upon the State's material breach, the County may:

- Terminate this agreement under Section 6.2 and pursue any of its remedies under this agreement, at law, or in equity; or
- Treat this agreement as materially breached and, except as the remedy is limited in this agreement, pursue any of its remedies under this agreement, at law, or in equity.

8. LIAISONS AND SERVICE OF NOTICES

8.1 Agreement Liaisons. All project management and coordination on the State's behalf must be through a single point of agreement designated as the State's liaison. The County shall designate a liaison that will provide the single point of contact for management and coordination of the County's work. All work performed under this agreement must be coordinated between the State's liaison and the County's liaison.

Zach Huyser is the State's liaison.

(Address): 1371 Rintop Dr.
(City, State, ZIP): Billings, MT 59105
Telephone: (406)247-4402
Cell Phone: (406)591-8196
Fax: (406) 247-4410
E-mail: zach.huyser@mt.gov

Joe Lockwood is Contractor's liaison.

(Address): 3319 King Ave East
(City, State, ZIP): Billings, MT 59101
Telephone: (406) 256-2708
Cell Phone:
Fax: N/A
E-mail: glockwood@yellowstonecountymt.gov

9. EXECUTION

The parties through their authorized agents have executed this agreement on the dates set out below.
A scanned copy or facsimile copy of the original has the same force and effect as the original document.

STATE OF MONTANA
Department of Natural Resources &
Conservation—Southern Land Office
1371 Rintop Drive
Billings MT 59105

Yellowstone County Weed District
3319 King Ave East
Billings, MT 59101

BY: Zach Huyser, SLO Land Use Specialist
(Name/Title)

BY: Joe Lockwood, Yellowstone County Weed
Coordinator
(Name/Title)

(Signature)

(Signature)

DATE: _____

DATE: _____