

NOXIOUS WEED CONTROL AGREEMENT

This Noxious Weed Control Agreement (Agreement) is entered into by and between the State of Montana, Department of Transportation (MDT), and Yellowstone County Weed District (Applicator).

- I. **PURPOSE.** The purpose of this Agreement is to set forth the terms and conditions for the control of listed noxious weeds within the limits of the rights-of-way on all state routes within Yellowstone County Weed District, for state routes which are under the jurisdiction of MDT.

- II. **PAYMENT.** MDT agrees to pay Applicator the sum of \$42,000 annually for FY 2026 (July 1, 2025 through June 30, 2026), which shall be paid upon submission of an itemized billing from Applicator setting forth the dates, place, equipment, supplies and time spent by Applicator for control of noxious weeds. Itemized billing submissions must be submitted to MDT for payment no later than June 15th for spring treatments, and no later than October 30th for summer and fall treatments. Applicator must provide daily weed control report forms supporting the billing to the MDT contact person. This contract may, upon mutual agreement, be extended in one (1) year increments for a period not to exceed a total of three (3) years, [two (2) additional years].
 1. **COST INCREASE BY MUTUAL AGREEMENT.** After the Contract's initial term and if MDT agrees to a renewal, the parties may agree upon a cost increase. MDT is not obligated to agree upon a renewal or a cost increase. Any cost increases must be based on need and prevalence of additional noxious weed control.

- III. **APPLICATOR DUTIES AND RESPONSIBILITIES.** Applicator agrees payment by MDT is due only upon acceptable performance of the following:
 1. Applicator must be licensed to spray MDT right-of-way. Applicator must be in direct charge and supervision of all spray crews performing work under this Agreement.
 2. Spraying by Applicator must be for listed noxious weed control only. Continuous spraying of the right-of-way or boom spraying is prohibited unless preauthorization is given by the Billings Division Maintenance Chief or designee, and then only in accordance with the environmental impact statement and policy.
 3. Applicator must use chemicals only in accordance with the manufacturer/supplier's label for use and spraying techniques. Only chemicals registered with the Environmental Protection Agency (EPA) and the State of Montana may be used.

4. Applicator must notify the Billings Division Maintenance Chief or designee prior to initiating spraying season.
5. Spraying by Applicator must be done in such a manner as to most effectively prevent non-target damage to residential areas, plants, gardens, berries, orchards, vineyards, farm years, farm crops, or any threat to livestock or persons in the area.
6. Applicator must provide all necessary equipment, tools, chemicals, supplies, personnel, safety equipment and traffic control so as to perform the work in a timely, effective and professional manner. MDT personnel will not directly supervise Applicator's work.
7. Applicator must maintain for the duration of this Agreement, at its own cost and expense, insurance in an amount of \$750,000 or more against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the duties and obligations in the Agreement by its agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission of Applicator, its agents, employees, representatives, assigns or subcontractors.
8. Applicator must maintain workers' compensation insurance and require its contractors and its contractor's sub-contractors to carry their own workers compensation coverage while performing work within MDT right-of-way in accordance with Mont. Code Ann. §§39-71-401 and 39-71-405. Neither the Applicator nor its employees are employees of MDT. This insurance/exemption must be valid for the entire Agreement period.
9. Applicator shall protect, defend, indemnify, and hold MDT, its elected and appointed officials, agents and employees, while acting within their duties as such, harmless from and against all claims, liabilities, demands, causes of action, and judgments (including the cost of defense and reasonable attorney fees) arising in favor of or asserted by Applicator's employees or third parties on account of damage to property, bodily or personal injury, or death arising out of any services performed, act or omission that in any way results from the acts or omissions of the Applicator, or their agents, or subcontractors, except the sole negligence of MDT, under this Agreement.

IV. MDT DUTIES.

1. MDT shall remit payment per the Agreement within 30-days of submission of the itemized billing statement from Applicator.
2. MDT shall provide a response as soon as possible to any questions or requests from Applicator as to spraying equipment, materials, or locations, and any limitations regarding chemicals used or area to be sprayed.

V. GENERAL TERMS AND CONDITIONS.

1. This Agreement shall be effective upon signature of the Parties, and shall terminate on June 30, 2026 ,unless otherwise agreed to by the Parties.
2. Either party may terminate this Agreement with or without cause by providing written notice to the other no later than 30-days prior to the desired date of termination.
3. The Applicator assumes all responsibility for ensuring and enforcing safe working conditions and compliance with all safety-related rules and regulations for the benefit of the Applicator's own employees and the traveling public. That responsibility includes all duties relating to safety, regardless of whether any such duties are, or are alleged to be, "nondelegable" (e.g., Mont. Code Ann., Title 50, Chapter 71, Part 2).
4. It is understood and accepted by both Parties that the Applicator is acting and performing as an independent contractor under this Agreement. Neither Party is by virtue of this Agreement authorized as an agent, employee or legal representative of the other. Nothing contained in this Agreement shall be deemed or construed, either by the Parties hereto or by any third party, to create the relationship of principal and agent or create any partnership, joint venture or other association between MDT and Applicator.
5. The Applicator shall not assign, subcontract, or transfer any part of this Agreement without the prior written consent of MDT.
6. The Applicator must, in the performance of this Agreement, fully comply with all applicable federal, state or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Attachment A, Non-Discrimination Notice, is incorporated into this Agreement and during the performance of this Agreement, Applicator for itself, its assignees, and successors in interest, agrees to adhere to the contents of Attachment A. https://www.mdt.mt.gov/other/webdata/external/civilrights/title_vi_nondisc.pdf

7. The Applicator agrees to retain records supporting the services rendered or supplies delivered for a period of 3 years after either the completion date of the Agreement or the conclusion of any claim, litigation or exception relating to the Agreement taken by the State of Montana or third party. All records maintained in connection with this Agreement are open for review and/or audit, without prior notice, by representatives of MDT, the Legislative Auditor, and the Legislative Fiscal Analysts, during normal business hours.
8. Each Party to this Agreement agrees to perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.
9. The Parties agree that any litigation concerning this Agreement must be brought in the First Judicial District Court, in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees except as otherwise noted in this Agreement.
10. A declaration by any court that any provision of the Agreement is illegal and void shall not affect the legality and enforceability of any other provision of the Agreement, unless the provisions are mutually dependent.
11. Subject to the foregoing, this document contains the entire agreement between the Parties, and no statements, promises or inducements made by either Party or its agents which in any way modifies, alters or changes the contents of this document is binding.
12. This Agreement may only be modified or amended, in writing, by mutual agreement of the parties.
13. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

IN WITNESS WHEREOF, duly authorized representatives of MDT and the
Applicator have executed this Agreement on the dates indicated.

YELLOWSTONE COUNTY WEED DISTRICT

Joe Lockwood
Printed Name

Weed Coordinator
Title

Joe Lockwood
Signature

7/2/2025
Date

MONTANA DEPARTMENT OF TRANSPORTATION

Printed Name

Title

MDT NON-DISCRIMINATION AND DISABILITY ACCOMMODATION NOTICE
Will be included with this agreement.

https://www.mdt.mt.gov/other/webdata/external/civilrights/title_vi_nondisc.pdf

