

Agreement for On-Call ROW Mowing and Litter Pickup Services

This AGREEMENT is between City of Norman, Oklahoma, a municipal corporation (hereinafter referred to as CITY) and MTS Brush Hogging Dozer and Lawn LLC (hereinafter referred to as CONTRACTOR).

WITNESSETH:

For the purpose and subject to the terms and conditions hereinafter set forth, the CITY hereby contracts for certain services, and CONTRACTOR is prepared to provide such services as are agreed to in this document.

The parties agree as follows:

ARTICLE 1 – EFFECTIVE DATE AND TERM.

The effective date of this AGREEMENT shall commence upon the execution of this contract, and the initial term shall be for a period of 12-Months. Upon mutual agreement between the CITY and the CONTRACTOR, this contract may be renewed for as many as 2 consecutive one-year periods, upon CITY's sole discretion and with thirty (30) days' notice prior to expiration of the initial term set herein. Authorization of this AGREEMENT shall be provided by the Streets Program Manager via Work Order assignment.

ARTICLE 2 – NATURE OF AGREEMENT.

It is agreed and understood between the parties hereto that this is a pre-positioned or "standby" AGREEMENT. As such, there is no quantity set as to quantities associated with this AGREEMENT and actual quantities ultimately provided hereunder will vary based on the CITY's needs and upon applicable mowing acreages.

ARTICLE 3 - SERVICES TO BE PERFORMED.

Pursuant to this AGREEMENT, CONTRACTOR shall provide Right-Of-Way Mowing and Litter Cleanup services in a professional and workman-like manner.

The services provided under these specifications, as set forth in applicable Work Order assignments, shall be accomplished in a prompt and timely manner.

The CONTRACTOR shall at all times observe and comply with all applicable federal and state laws, City ordinances, rules and regulations.

ARTICLE 4 – COMPENSATION

CITY shall pay CONTRACTOR in accordance with the Unit Rate Price Schedule included as Exhibit A, attached hereto and incorporated by reference as part of this AGREEMENT.

The Unit Rate Price Schedule is the same or not higher than that provided in Oklahoma State Contract AC-0035C between CONTRACTOR and the Oklahoma Department of Transportation, which was finally executed and thus effective on July 1, 2022 ("ODOT Mowing Contract"). CONTRACTOR shall honor this unit pricing with respect to CITY for the Term provided herein.

Any potential renewal terms for this Agreement shall be based upon the unit pricing effective under the ODOT Mowing Contract at the time of renewal.

CONTRACTOR may submit weekly or semi-monthly invoices for services rendered. Invoices must reference the Work Order number. CONTRACTOR shall submit invoices on a regular basis and in no instance, for more than a thirty (30) day period.

Each invoice shall include a description of the location and dates upon which services were provided by the CONTRACTOR for each Work Order assignment.

CONTRACTOR shall be paid within twenty (20) days of submitting a complete invoice. If there are any items in dispute, CONTRACTOR will be paid for those items not in dispute, and disputed items will be resolved within 45 days, and paid within 10 days of resolution. Disputed items must be submitted to CONTRACTOR within ten (10) days of the receipt of the invoices.

Payment to CONTRACTOR will be made for any work directed by the CITY.

In order for both parties to this AGREEMENT to close their books and records, CONTRACTOR will clearly state "Final Invoice" on CONTRACTOR'S final/last billing to the CITY.

ARTICLE 5- INSURANCE; PROOF OF INSURANCE

CONTRACTOR shall maintain at all times this AGREEMENT is in force the following insurance coverages with an insurance carrier authorized to conduct business in the State of Oklahoma:

- 1) Workers' Compensation Insurance as required by the statutes of the State of Oklahoma, and adequate (but in no event less than \$100,000) Employer's Liability Insurance;
- 2) Comprehensive General Liability Insurance, with a limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate;
- 3) Public Liability and Property Damage Insurance covering all operations and activities hereunder in the following minimum limits (but in no event less than the statutory limits found at 51 Oklahoma Statutes, Section 151 et seq., or successor or amendatory statutes):
 - a) Bodily Injury Liability in the amount of not less than \$100,000 for injuries, including accidental death, to any one person, and subject to the same limit for each person, in an amount not less than \$1,000,000 for one occurrence; and

b) Property Damage Liability in the amount of not less than \$100,000 for any one incident and with an aggregate limit of not less than \$1,000,000 per occurrence.

Combined aggregate liability coverage shall not be less than \$2,000,000 (two million U.S. dollars) for bodily injury, death, and property damage; and

4) Automobile Liability Insurance policy with a minimum limit of not less than One Million Dollars (\$1,000,000.00) combined single limit for bodily injury and property damage, and providing coverage for all leased, owned, hired or non-owned vehicles used in any of CONTRACTOR's activities pursuant to this agreement, with any self-insured retention not exceeding One Hundred Thousand Dollars (\$100,000.00). Any and all mobile equipment which is not covered under this Comprehensive Business Auto policy shall have said coverage provided for under the Comprehensive General Liability Policy.

CONTRACTOR shall furnish the CITY with a certificate evidencing the existence of all such insurance coverage; and updating said certificate as needed for so long as this AGREEMENT remains in force. Said insurance coverage certificate shall demonstrate that CITY is named as an additional insured under the policies required hereunder and that said policies cannot be cancelled or materially modified except upon thirty (30) days advance written notice to the CITY. The foregoing provisions regarding additional named insured shall not create nor be deemed to create any liability on the part of said additional named insured which would not otherwise exist under the laws of the State of Oklahoma.

ARTICLE 6 – SURVIVAL

Upon completion of all services, obligations and duties provided for in this AGREEMENT, or in the event of termination of this AGREEMENT for any reason, the terms and conditions of this AGREEMENT shall survive.

ARTICLE 7 – INDEMNIFICATION

CONTRACTOR shall defend, indemnify, and save harmless the CITY, its officers, agents and employees from and against all claims, damages, losses, and expenses including attorney fees arising out of or resulting from the performance of the work, caused by any act or omission of CONTRACTOR, any subcontractor, and anyone for whose acts any of them may be liable.

ARTICLE 8 – RELATIONSHIP OF PARTIES.

The CONTRACTOR shall operate as an independent contractor, and the CITY shall not be responsible for any of the CONTRACTOR'S acts or omissions. The CONTRACTOR shall not be treated as an employee with respect to the services performed hereunder for Federal or State tax, unemployment, or workers' compensation purposes. The CONTRACTOR understands that neither federal, nor state, no payroll tax of any kind shall be withheld or paid by the CITY on behalf of the CONTRACTOR or the employees of the CONTRACTOR. The CONTRACTOR further agrees that the CONTRACTOR is fully responsible for the payment of any and all taxes

arising from the payment of monies under this Agreement. The CONTRACTOR shall not be treated as an employee with respect to the services performed hereunder for purposes of eligibility for, or participating in, any employee pension, health, or other fringe benefit plan of the CITY. The CITY shall not be liable to the CONTRACTOR for any expenses paid or incurred by the CONTRACTOR unless otherwise agreed in writing. The CONTRACTOR shall supply, at its sole expense, all equipment and materials required to provide the contracted services unless otherwise agreed in writing. The CONTRACTOR shall comply with all federal, state, and local laws regarding business permits, certificates and licenses that may be required to carry out the services to be performed under this Agreement. The CONTRACTOR shall insure that all personnel engaged in work under this Agreement shall be fully qualified and shall be authorized under state and local law to perform the services under this Agreement.

ARTICLE 9 – CITY’S RESPONSIBILITIES

CITY shall be responsible for providing access to all project sites, and providing information required by CONTRACTOR that is available in the files of the CITY to assist CONTRACTOR in completing any assigned tasks.

ARTICLE 10 – NON-DISCRIMINATION

The CONTRACTOR hereby affirms its support of affirmative action and that it abides by the provisions of the "Equal Opportunity Clause" of Section 202 of Executive Order 11246 and other applicable laws and regulations, including the City of Norman's policies and provisions. The CONTRACTOR affirms its policy to recruit and hire employees without regard to race, age, color, religion, sex, sexual preference/orientation, gender identity or expression, marital status or familial status, including marriage to a person of the same sex, citizen status, national origin or ancestry, place of birth, presence of a disability or status as a Veteran of the Vietnam era or any other legally protected status. It is the CONSULTANT's policy to treat employees equally with respect to compensation, advancement, promotions, transfers and all other terms and conditions of employment. The CONSULTANT further affirms completion of applicable governmental employer information reports including the EEO-1 and VETS-1 00 reports, and maintenance of a current Affirmative Action Plan as required by Federal regulations.

ARTICLE 11 – SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of the AGREEMENT, or the occurrence of any event rendering any portion or provision of this AGREEMENT void, shall in no way affect the validity or enforceability of any other portion or provision of the AGREEMENT. Any void provision shall be deemed severed from the AGREEMENT and the balance of the AGREEMENT shall be construed and enforced as if the AGREEMENT did not contain the particular portion or provision held to be void. The parties further agree to reform the AGREEMENT to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

ARTICLE 12 - ENTIRETY OF AGREEMENT

The CITY and CONTRACTOR agree that this AGREEMENT, and CONTRACTOR's response to said request incorporated by reference and attached hereto, sets forth the entire AGREEMENT between the parties, and that there are no promises or understandings other than those state herein. This AGREEMENT supersedes all prior contracts, representations, negotiations, letters or other communications between the CITY and CONTRACTOR pertaining to the services, whether written or oral. None of the provisions, terms and conditions contained in this AGREEMENT may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.

ARTICLE 13 – MODIFICATION

The AGREEMENT may be modified in writing by Amendment executed by both CITY and CONTRACTOR.

ARTICLE 14 – SUCCESSORS AND ASSIGNS

CITY and CONTRACTOR bind themselves and their partners, successors, assigns and legal representatives to this AGREEMENT. CONTRACTOR shall not assign this AGREEMENT without the express written approval of the CITY.

ARTICLE 15 – NOTICE

Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid as follows:

As To CITY	CITY OF NORMAN, OKLAHOMA P.O. Box 370 Norman, Oklahoma 73070 (Attn: Joseph Hill)
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As To CONTRACTOR	MTS Brush Hogging and Dozer LLC 3490 Hwy 51 Mannford, OK 74044 Unique Entity ID: N2DXUAJ5V4J3 Email: mtsservicesok@gmail.com Phone: 918-688-6903
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ARTICLE 16 – GOVERNING LAW.

The parties agree that this Agreement shall be governed by the laws of the State of Oklahoma and that venue is found in Cleveland County, State of Oklahoma.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this AGREEMENT.

DATED this ____ day of _____, 202_.

CITY OF NORMAN, OKLAHOMA

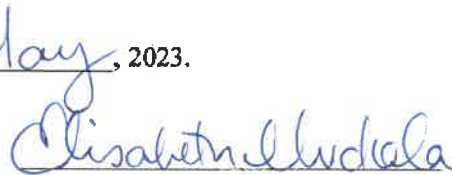
By: _____

Larry Heikkila, Mayor

Attest: _____

Brenda Hall, City Clerk

Approved as to form and legality this 17 day of May, 2023.



City Attorney's Office

CONTRACTOR

By: 

Name: Landon Sloan

Title: Manager

ATTEST/WITNESS:

By: 

Title: Stormy Pitts

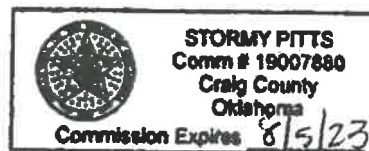


EXHIBIT A – Base Unit Pricing

Item #	Description	Unit of Measure	
1	MOWING, Full Width	ACRE	22.83
2	MOWING, Safety Width	ACRE	22.83
3	LITTER, Pickup	ACRE	6.34