

Appendix 1

Sample Contracts, Agreements and Memorandums of Understanding

I. Sample Professional Services Contract

This Professional Personal Services Contract made and entered this DAY (ie, 1st) day of DATE, by and between the Montana Department of Fish, Wildlife, and Parks from its Helena office, hereinafter referred to as department, and County Weed Control of County, hereinafter referred to as contractor.

WHEREAS, department has need of the personal services of contractor in the profession of Weed Control, and contractor desires to provides those services to department.

Now, THEREFORE, in consideration for the terms, conditions, and promises as hereinafter set forth, department and contractor agree as follows:

1. Purpose. The purpose of this contract is to provide department with the professional personal services of contractor in order to do the following: Spray leafy spurge on Department lands on Smith River (BLM in-lieu lands.)
2. Contractors' duties. In order to fulfill the purpose of this contract, contractor agrees and promises to carry out the following duties. Spray leafy spurge on Department lands on Smith River and such other related tasks as necessary to fulfill this contract.
3. Compensation. Department agrees and promises to pay to contractor compensation as follows: \$7.00/Hr. Labor — \$6.00/Hr Truck + Chemical Per diem pro-rated with other accounts. Maximum compensation not to exceed \$400.00.

Payment for partial performance of any services under this contract may not be made prior to approval of that performance by the department liaison. Final payment under his contract may not be made until all services required under his contract and all applicable terms of the contract have been met. Each billing by contractor shall include the following wording and appropriate party shall sign accordingly:

"I certify that the foregoing statement is true and accurate and that I have not been paid therefor."

(Contractor)

Appendix 1

4. Effective date and performance schedule. The term of this contract is from DATE through DATE .
5. Liaison. Department designates NAME as liaison for contractor under this agreement. Contractor agrees to make all official contacts with department with this designee, or such other person as the designee appoints.
6. Department assistance. Department agrees and promises to provide assistance to contractor as follows: Provide maps as necessary.
7. Ownership and publication of materials. Unless specifically set forth in this item, department retains ownership for all purposes of the working papers, working products, and end products resultant from partial or full performance under this contract. Contractor agrees and promises to have all information concerning activities ;under his contract approved by the designated liaison prior to release of that information.
8. Independent contractor. This contract is with contractor as an independent contract or and does not establish an employer-employee relationship with contractor or any person employed by him for any purpose. In this regard, contractor agrees to pay all state, federal, or local taxes, fees, or other assessments related to employment of himself or any person or individual employed by him as necessary in fulfillment of this contract.
 - 8a. The contractor agrees to obtain in full force and effect, without any periods of lapse, worker's compensation insurance on all employees of the contractors. This insurance coverage shall be continuous during the entire term of this contract. As an alternative to maintaining effective worker's compensation insurance coverage on all employees of the contractor, these members may be certified as independent contractors provided that criteria for such election described in 39-71-401, MCA, and the Administrative Rules of Montana, are met.

Appendix 1

- 8b. Student intern. This contract is with contractor as a student intern. The school program sponsored and required of contractor by the educational institution he is attending is N/A. Contractor hereby states he is neither an independent contractor nor an employee of the Montana Department of Fish, Wildlife and parks, but rather a student of _____N/A_____ (applicable educational institution)
9. Special conditions. Contractor agrees and promises to perform the special conditions under his agreement as follows: Use caution when spraying along water's edge
10. Records by contractor. Contractor agrees and promises to keep and maintain reasonable records of activities performed under this contract.
11. Access to records. As required by law, contractor agrees to permit access to those contractor's records as may be necessary for legislative post-audit and analysis purposes in determining compliance with the terms of this contract. This contract shall automatically terminate upon refusal of contractor to allow access to records necessary to carry out the legislative post-audit and analysis functions set forth in Title 5, Chapters 12 & 13, MCA.
12. Termination and default. This contract may be terminated by notice in writing to the opposite party at its address as set forth herein at least _____ days prior to the effective date of termination. Upon default by either department or contractor, the nondefaulting party may terminate this contract as set forth in this item. If default is remedied prior to the effective date of termination, the nondefaulting party may elect not to terminate this contract. Upon termination, department agrees and promises to pay contractor for work performed up to and including the termination date, and contractor agrees and promise to return all materials supplied by department except those used in performance of this contract as well as working papers,

Appendix 1

working products, and end products resulting from this agreement.

13. Venue. Department and contractor agree that venue for any court action arising under this agreement shall be in the First Judicial District in and for Lewis and Clark County, Montana. Further, department and contractor agree that this contract shall be interpreted according to the laws of Montana.
14. Assignment. Department and contractor agree that as this contract is for the personal services of contractor, this contract is not assignable, may not be transferred, nor may a subcontract be let hereunder unless both parties agree in writing prior to any such action.
15. Entire agreement - modification. This writing contains the entire agreement between department and contractor on the subject matter of this contract; statements, promises, or inducements made by either party or agents of either party, which are not contained in this agreement, are not valid or binding. No modification, enlargement, or alteration of this contract is valid or binding except upon written agreement signed by all parties to this contract.
16. Bonds. The department, or any subdivision thereof (board, council, commission or trustee), or body acting for the department, may require a bond to insure the 1) faithful performance of all the provisions of the agreement; 2) full payment of all laborers or subcontractors; 3) full payment to all persons supplying goods, services, materials or supplies to complete the work herein prescribed. It is hereby agreed that the contractor, upon adequate and due notice from the department prior to consummation of this agreement, will supply sufficient bond, provided by a reputable and established surety company or other method approved by the State of Montana, the terms of which will be established by the department.

A copy of said bond shall be filed with the County Clerk and Recorder for Lewis and Clark County, and other counties where such work is performed.

Appendix 1

17. **Equal Employment Opportunity.** Pursuant to Sections 49-2-303 and 49-3-207, Montana Code Annotated, no part of this agreement shall be performed in a manner which discriminates against any person on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or natural origin by the persons performing the agreement. Any hiring shall be on the basis of merit and qualifications directly related to the requirements of the particular position being filled.
18. **Fair Labor Standards.** The contractor agrees to comply with all federal and state wage and hour rules, statutes and regulations, and warrants that all applicable federal and state fair labor standards provisions will be complied with, both by the contractor, in the event the sub-contracted services to fulfill the terms and conditions of the agreement are agreed upon by the department and the contractor.
19. **Inability to Fulfill Contract.** It is understood that contractor will notify the liaison of the department immediately upon determination that any malady or occurrence has taken place which would, in any way, affect or alter the duties, responsibilities, authorities, relationships or ability of the contractor to fulfill the provisions of this agreement in a timely manner and as prescribed herein.
20. **Execution.** Each party has full power and authority to enter into and perform this agreement, and the person signing this agreement on behalf of each party further acknowledges that he has read this agreement, understands it and agrees to be bound by it.

IN WITNESS WHEREOF, the undersigned parties to this contract caused this contract to be entered into on the date first above written.

CONTRACTOR

DEPT. OF FISH, WILDLIFE & PARKS

By _____

By _____

Approved for legal consent:

Appendix 1

II. Sample Disturbed Site Rehabilitation Contract

Protection of Disturbed Areas from Establishment of Noxious Weeds.

To protect disturbed areas such as, but not limited to, landings, temporary roads, and loading ramps from establishment of noxious weeds the purchaser shall, when directed in writing by Forest Service, revegetate those areas where purchaser's operations have exposed the mineral soil.

Revegetation shall be done by seeding with grass or other desirable herbaceous seed. All seed used shall be certified and approved in advance by Forest Service.

Unless agreed to in writing, seeding shall be done in the early spring or fall during weather and moisture conditions favorable for quick germination and growth of the seed. Seeding shall be completed within 6 months of the last disturbance activity scheduled by the purchaser on the disturbed areas and before the germination of noxious weed seedlings.

Seeding shall be spread evenly at the rate of _____ pounds per acre and the seed mixture shall consist of _____.

In addition to seeding, purchaser shall apply _____ pounds per acre of fertilizer. Percentages of nitrogen, phosphate, and potassium shall not be less than ____-____-_____.

Purchaser may, under B4.225, deposit sufficient funds to cover the cost of seeding. The rate of deposit for seeding shall be _____ 1/dollars (\$_____) per M board feet 2/, (other, specify) 3/ or equivalent for (Live-Dead) 4/ material meeting utilization standards and reported cut.

Appendix 1

III. Sample Closure Order

Public Notice
ORDER ESTABLISHING PROHIBITIONS IN AREAS OF
THE SHOSHONE NATIONAL FOREST

USDA - Forest Service
Shoshone National Forest
P.O. Box 2140
Cody, WY 82414
Telephone: (307) 527-6241

WASHAKIE WILDERNESS ORDER

By virtue of the authority vested in me under the Regulations of the Secretary of Agriculture, 36 CFR 261.50 (a) & (b), the following acts are prohibited:

1. Grazing livestock on sites posted closed to grazing [36 CFR 261.57 (e)].
2. Possessing or transporting other than processed supplemental feed for livestock [36 CFR 261.58 (t)].

This order is posted in accordance with 36 CFR 261.51.
THIS ORDER SUPERSEDES AND RESCINDS STEPHEN P.
MEALEY'S ORDER OF JUNE 21, 1984. DONE AT CODY, WYO-
MING THIS 30TH DAY OF MAY, 1985.

NAME, Forest Supervisor

Violations of this prohibition and the other regulations found in 36 CFR 261.3 through 261.21 are punishable by a fine of not more than \$500 or imprisonment for not more than six months or both (16 USC 551).

Appendix 1

IV. Sample Inter-Agency Quarantine Agreement

State of Wyoming Memorandum of Understanding

- A. PARTIES: This Agreement is made between the Wyoming Highway Patrol (WHP), Wyoming Department of Agriculture (WDA), Park County and Teton County Weed and Pest Control (District).
- B. AUTHORITY: W.S. 11-2-202, 11-5-116, 11-5-118, 37-8-301 and 24-12-103.
- C. PURPOSE: The parties desire to cooperate in the enforcement of quarantines established pursuant to W.S. 11-5-116.
- D. SERVICES BY THE WHP:
1. The WHP shall provide assistance to the WDA and the District in the implementation of the quarantine by providing inspection of vehicles transporting agronomic crops and/or farm products into and within Park County or Teton County.
 2. The WHP shall periodically check vehicles transporting agronomic crops and/or farm products (hay & straw) into and within Teton County and request proof of Transit Certificate (WDA-70).
 3. The WHP shall periodically check vehicles transporting agronomic crops and/or farm products into Park County, and request proof of Transit Certificate (WDA-70). Agronomic crops and/or farm products being transported into or within Park County requires either a Quarantine Release (WDA-113) or Transit Certificate (WDA-70).
 4. Any driver failing to provide proof of certification shall be advised to: 1) return the cargo to its point of origin, or 2) change the destination of the cargo to a place outside of Park County or Teton County. The WHP at its discretion will take appropriate enforcement action.
 5. Advise the individual of their right to a consultation within twenty-four (24) hours **before** the district board

Appendix 1

or its designated agent or legal counsel, for the purpose of providing proof of certification. In the event the individual exercises the right to a consultation, the cargo shall be moved to a port of entry or other location designated by the WHP or the District until said consultation has been held, and the cargo is released. Any person violating any provision of the quarantine may be subject to a fine not to exceed \$100 pursuant to W.S. 11-5-117.

E. SERVICES BY THE DISTRICT:

1. Provide personnel to inspect fields for certification.
2. Provide assistance upon request to WHP to answer question concerning certification.
3. Pay for services rendered as agreed upon between affected District and the WHP.
4. If requested, grant the individual a consultation within twenty-four (24) hours. [See D (5) above regarding temporary storage of cargo.] Any person violating any provision of the quarantine may be subject to a fine not to exceed \$100 pursuant to W.S. 11-5-117.

F. SERVICES BY THE WDA:

1. Provide certificate of inspection forms (WDA-69) and transit certificate forms (WDA-70).
2. Provide assistance upon request to WHP to answer question concerning certification.
3. Provide assistance upon request to the District.
4. Provide a procedure manual for the enforcement of quarantines.

G. DURATION OF THIS AGREEMENT:

1. This agreement shall become effective upon signing by all parties and shall remain in effect until terminated by written notice of one of the parties.
2. This agreement may be amended by written mutual agreement of the parties.

Appendix 1

H. COMPLIANCE WITH LAWS:

In performing this contract, all parties agree to comply with all applicable state, federal, and local laws, rules, and regulations.

I. SOVEREIGN IMMUNITY:

The State and District reserve all claims it may have to sovereign immunity from events arising out of this agreement.

Appendix 1

V. Sample County Weed Control Plan

WEED CONTROL PLAN (Project Name - County)

The Department of State Lands, Abandoned Mine Reclamation (AMR) Bureau hereby submits this Weed Control Plan to the _____ County Weed Control Board as required by the Montana County Noxious Weed Management Act. Rule 7-22-2121, New Section C (3) (a) states, "The person or agency disturbing the land shall submit to the board a written plan specifying the methods to be used to accomplish revegetation. The plan must describe the time and method of seeding, fertilization practices, recommended plant species, use of weed-free seed, and weed management procedures to be used."

The attached Invitation For Bid package, covers most of the above requirement under the following sections: (1) Section IV, Special Provisions, Subsection 4.30, Fertilizing, Seeding, and Mulching; and (2) Section V, Technical Specifications, Subsection 5.00, Seed and Fertilizer.

Upon completion of the _____ Project the Abandoned Mine Reclamation Bureau will continue to monitor the site biannually for any further abandoned mine hazards and any growth of noxious weeds. If any noxious weeds listed by the _____ County Weed District appear on the reclamation site, the County Weed Supervisor will be notified immediately.

The most effective method of control will be implemented according to the District's noxious weed program. The AMR Program assumes responsibility for weed control on all AMR sites during reclamation construction and for two years after the date of reclamation completion. After two years, the weed control responsibility reverts back to the deeded landowner.

The Weed Control Plan for the _____ Abandoned Mine Reclamation Project is officially approved and in effect until two years after the completion of reclamation construction when executed by the following officials.

NAME, Chief Abandoned Mine Reclamation Bureau Department of State Lands	Date
-------------------------------------------------------------------------------	------

Chairman _____ County Weed Control Board	Date
---------------------------------------------	------

Supervisor _____ County Weed District	Date
------------------------------------------	------

Appendix 1
VI. Sample Weed Management Cooperative Agreement

**Weed Management Cooperative Agreement
Between Department of State Lands
and _____ Weed Management District**

This Cooperative Agreement between the Montana Department of State Lands (hereinafter “Department”) and the _____ County Weed Management District (hereinafter “District”) outlines the responsibilities for noxious weed management on state-owned lands (hereinafter “state lands”) administered by Department, and for easements held by Department within District.

- I. Management and Control of Weeds on State Lands
 - A. For State Lands Not Subject To a Land Authorization or an Easement -

For state lands not subject to a land-use authorization (a lease, license, sale contract, or timber sale contract) or an easement, and for easements held by Department, Department assumes responsibility for compliance with the noxious weed management and control requirements of Title 7, Chapter 22, Part 21, MCA. Upon written request of Department, District may conduct management and control measures necessary for compliance with Title 7, Chapter 22, Part 21, MCA, or state lands and on easements held by the Department.
 - B. For State Lands Subject to an Easement - District shall treat all easements across state lands as the private land of the easement holder.
 - C. For State Lands Subject to a Land Use Authorization -
 1. Request by District for Voluntary Compliance
When the District has received a complaint or has other reason to believe that noxious weeds are present on state lands subject to a land use authorization, such as a lease, license sale contract, timber sale contract, District shall notify the holder of the land use authorization, inspect as necessary, seek voluntary compliance, as

Appendix 1

provided in 7-22-2123, by the holder of the land use authorization.

2. Enforcement by District - If noxious weeds are present on state lands subject to a land use authorization and also present on private lands owned or controlled by the holder of the state land use authorization, the District shall include the state lands in whatever enforcement action it takes to remedy the weed problem on the private lands.
3. Department Assistance to District - If noxious weeds are present on state lands subject to a land use authorization but are not present on the private lands owned or controlled by the holder of that state land use authorization, and the holder of the state land refuses to voluntarily comply after District action under C. 1., District shall then require compliance through administration of its land use authorization.

II. Other Responsibilities of Department

- A. Department shall reimburse District for all weed management and control measures conducted pursuant to I. A. above. Department may not request District to conduct weed management and control unless it has money appropriated by the Montana Legislature for that purpose.
- B. Department shall notify the District of any noxious weed infestation it observes on state lands or on easements held by Department within District.
- C. Upon request of District, Department shall, whenever possible, furnish information and assistance to develop District's noxious weed management plan.

III. Administration of Agreement

- A. Each party to this agreement agrees to hold the other party free and harmless of and from all liability arising

Appendix 1

out of, or occasioned by, the negligence of that other party, its agents, officers, and employees in the conduct of control and management activities pursuant to this agreement.

- B. This agreement is effective upon signature by both parties and remains in effect until no longer authorized by law or until terminated by either party on 30 days written notice.
- C. Department's obligation under this Cooperative Agreement are contingent upon appropriation of funds by the Montana Legislature.

_____ Weed Management District

By: _____
Chairman Date

DEPARTMENT OF STATE LANDS

By: _____
NAME, Commissioner Date

Appendix 1

VII. Sample Source of Material Contract

Source of Supply and Quality Requirements.

All material sources shall meet weed-free requirements set forth in the Regional Certification Standards For Feeds (livestock and wildlife), Mulches, Bedding, and Re-seeding Materials. The Contractor shall notify the Engineer of the source (s) proposed for use at least 1 month before beginning operations or starting crushing. The source(s) will be investigated for “weeds of concern” during the period. If weeds of concern are present, the investigator will determine if the upper portion of the source is to be stripped or the weeds sprayed with a herbicide. When spraying is required, the spray shall be applied by a licensed operator in accordance with the regulations of the applicable state where the source is located. An agronomist’s certification that the source(s) is free from “weeds of concern” may be substituted for the above requirements.

Material Source Management.

If Material Source _____ is used, the following provisions shall apply:

- * The Contractor’s activities shall be restricted to the areas designated on the Development and Reclamation Plan (DRP).
- * Area A is reserved for this project and has been previously stripped and partially developed. The excavated portion of the area is filled with water. The area shall be developed from west to east. The depth of the excavation may vary with material availability.

Appendix 1

VIII. Sample Cooperative Agreement Between Landowners in a WMA

McIntosh Coulee Weed Control Project Cooperative Agreement

We, the undersigned, realize the potential that spotted knapweed possesses to invade rangeland and to destroy the quality of our land. Having seen the rapid spread of spotted knapweed in the McIntosh Coulee area in recent years, we have chosen to support an aggressive integrated weed management program on our property in this area. We extend our support for the three year control program as outlined in the attached Individual Weed Management Plans.

Our goal is to return our rangeland to its full potential and to prevent this infestation from sweeping throughout the Sweetgrass Hills. Following the three year program, we will continue to monitor the area for future weed threats and will strive for the elimination of these weeds as long as the need arises.

LANDOWNERS AND AGENCY LAND MANAGER REPRESENTATIVES, MCINTOSH COULEE WEED CONTROL PROJECT

Cooperator Name
Address

Date

Cooperator Name
Address

Date

Cooperator Name
Address

Date

Cooperator Name
Address

Date

Appendix 1

Individual Weed Management Plan for:

Name: _____ Phone: _____

Address: _____

No. Acres Owned: _____ Location: T ___ R ___ Sec _____
or Subdivision _____

Current land use: _____ Future land use: _____

Outline past weed control practices: _____

Previous owner if land has changed ownership in last 3 years:

Are noxious weeds mapped? Yes ___ No ___

Well log information: List depth to first water: _____
List soil type: _____

Planned weed control practices for year 1:

Targeted weed species (list all): _____

Acres to be treated: _____ Crop or land use: _____

Control Practices:

Herbicide applications:

Herbicide trade name(s) and application rate(s): _____

Who will do applications? Self ___ Commercial applicator ___
Estimated cost: _____

Acres to be seeded: _____ Type of seed: _____
Planting rate: _____ Estimated cost: _____

Appendix 1

Acres to be handpulled or cultivated (circle one): _____
Estimated cost: _____

Cross-fencing, feet or miles (circle one): _____
Estimated cost: _____

Spring development: Detail- _____
Estimated cost: _____

Grazing systems: Explain - _____

Estimated cost: _____

Other:

Repeat for each planned additional year:

Year 2

Year 3

Year 5

Year 5

ETC.

Appendix 1

IX. Sample Invitation to Bid

NOTICE IS HEREBY GIVEN that the Steering Committee of the Sample Weed Management Area, will until 10:30 o'clock a.m. upon _____ DATE _____, receive sealed bids for the application of pesticides in Sample Weed Management Area. At 10:30 a. m. on _____ DATE _____, at the County Courthouse, all bids received will be opened and publicly read aloud. The specifications, bid forms and other contract documents are on file at the County Courthouse, where they can be obtained. All bids submitted by mail should be addressed to Sample Weed Management Area, PO Box _____, City, State, zip, and clearly marked "Contract Spraying Bid Form".

The Steering Committee reserves the right to reject any and all bids and to waive informalities in the bidding.

No bidder may withdraw his bid for a period of thirty (30) days after the scheduled date of bid opening.

By order of the Steering Committee.

DATED this _____ day of _____, _____

Sample Weed Management Area

By: _____
Chairman

Appendix 1

X. Sample Contractor Agreement

THIS AGREEMENT is entered into this _____ day of _____, YEAR, by _____ hereinafter called CONTRACTOR, and SAMPLE WEED MANAGEMENT AREA, hereinafter called WMA,

WITNESSETH

CONTRACTOR and WMA, in consideration of the mutual covenants and agreements herein contained, agree as follows:

1. CONTRACTOR shall furnish the equipment, labor and supervision for application of pesticides in Sample Weed Management Area as from time to time required by WMA, in accordance with the *Requirements - Specifications* and bid of CONTRACTOR. Said *Requirements - Specification, General Conditions, Invitation to Bid, and Bid*, and any addenda are made a part hereof.

2. Noxious weed treatment and sterilization will be performed between April 1 and November 30 of each year during the term of this contract as from time to time required by WMA.

3. WMA will pay and CONTRACTOR will accept in full consideration for the performance of this contract, subject to additions and deductions as may hereafter be agreed in writing, the following:

a. for spot control of noxious weeds and bare-ground treatment - each unit (consisting of a vehicle, spray equipment, two applicators, and supervision) used in the work: \$_____ per hour.

b. for broad jet spraying of noxious weeds: \$_____ per lane mile.

c. all payments to be made by WMA to CONTRACTOR pursuant to the *Requirements - Specifications and General Conditions*.

Appendix 1

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in three counterparts, each of which shall without proof or accounting for the others, be deemed an original thereof.

CONTRACTOR

By: _____

Title: _____

SAMPLE WEED MANAGEMENT AREA

By: _____

Title: _____

ATTEST:

Secretary

Appendix 1

XI. Sample Bid Form

Application of Pesticides
For
Sample Weed Management Area

TO: Steering Committee, Sample Weed Management Area

In compliance with your *Invitation to Bid* and the *Requirements - Specifications, General Conditions, Agreement* form and any addenda thereto, the undersigned hereby proposes to provide all labor, equipment, and supervision for the application of pesticides in the Sample Weed Management Area during and for the year(s) specified for the following amounts:

- a. for control of noxious weeds and bare-ground treatment - each unit (consisting of vehicle, spray equipment, two applicators, and supervision) used in the work: \$_____ per hour
- b. for broad jet spraying of noxious weeds: \$_____ per lane mile

Attached hereto is a description of the spray unit or units to which the undersigned intends and proposes to use in performance of the work, and other information relating to equipment and facilities of the undersigned.

If written acceptance of this bid is mailed, telegraphed or delivered to the under-signed within thirty (30) days after the date of opening bids, the undersigned will, at the WMA's earliest convenience, execute and deliver a contract in the form of agreement attached to the Specifications and will give bond if requested.

Signed:

BIDDER

By: _____

Title: _____

Address: _____

Appendix 1

XII. Sample Pesticide Application Contract

Pesticide Applications
For
Sample Weed Management Area

1. Contract Documents:

a. The contract documents consist of the Agreement, the Requirements - Specifications, General Conditions, Invitation to Bid, Bid Form and all addenda and alterations made prior to their execution, together with the proposal.

b. Sample Weed Management Area, is through said documents referred to as WMA.

c. Any discrepancy in the contract documents shall be called to the attention of WMA before proceeding with the work.

2. Preparation and Submission of Bids:

a. All bids shall be submitted on the forms furnished or copies thereof and signed in ink. Any erasure or change in the bid must be explained or noted over the signature of the bidder.

b. Each bid shall give the full business name of the bidder and be signed by him with his usual signature.

c. Bidders who are not able to comply with all specifications shall state in writing each item of noncompliance in detail and the substitution offered thereof.

d. No oral explanation in regard to the meaning of the specifications will be made and no oral instructions will be given before the award of the contract. Discrepancies, omissions or doubts as to the meaning of the specifications shall be communicated to WMA for interpretation promptly, allowing sufficient time for a reply before a submission of bids. Any interpretation will be made in the form of an addendum to the specifications and the addendum sent to all bidders.

e. Each bidder shall rely solely upon his own judgment in determining the estimated amount of work to be performed and the estimated types and/or quantity of any and all equipment, fuel, labor, supervision and all other cost or other items required to be

Appendix 1

furnished by bidder/contractor pursuant to all applicable contract documents.

3. Receipt and Opening of Bids:

a. All bids will be opened publicly and read aloud at the County Courthouse at 10:30 a.m. upon DATE. The Steering Committee shall decide when the specified time has arrived and no bid received thereafter will be considered. No responsibility will attach to any person for the premature opening of a bid not properly addressed and identified.

4. Award of Contract:

a. The contract will be awarded as soon as possible to the lowest responsible bidder provided his bid is reasonable and it is to the best interest of WMA to accept it, and subject to preference for in-state materials and contractors.

b. Each bidder shall submit evidence of his experience, qualifications and financial ability. This includes a current financial statement.

c. Each bidder shall provide proof of liability insurance and other insurance coverage as required by WMA the bidding.

d. WMA reserves the right to reject any or all bids and to waive any informality in.

5. Preference to in-state Contractors:

a. Preference is hereby given to materials, supplies, equipment, machinery and provisions produced, manufactured, supplied or grown in-state, quality being equal to that offered by competitors outside of the state.

6. Bond:

a. WMA shall withhold 10% of each payment until November 1 of each contract year. After the board has determined that all expenses pertaining to the operations of the contract spraying have being satisfied by CONTRACTOR, the balance of the payment shall be made in full to CONTRACTOR. If necessary, WMA

Appendix 1

shall be entitled to expend part or all of the withheld funds to pay any outstanding debts incurred by CONTRACTOR in the process of fulfilling his contract with WMA.

7. Payment to CONTRACTOR:

a. Upon the first workday of each month WMA will pay to CONTRACTOR the contract price for the amount of work performed between the 16th day and last day of the preceding month; and upon the first workday after the 15th day of each month WMA will pay to CONTRACTOR the contract price for the amount of work performed during the 1st through the 15th days of the month. All payments to be made by WMA are, however, subject to receipt from CONTRACTOR of a statement or invoice, daily worksheets upon forms furnished by WMA, and voucher verifying the amount of work performed. Any daily worksheets not completed and submitted to WMA within one working day after completion of the work will not be paid until the next payment period. Any work not paid for any one period may be included with the invoices~ or voucher submitted for the following period. WMA reserves the right, before making any payment, to require CONTRACTOR to submit evidence that payrolls, material bills, taxes and other indebtedness connected with the work has been paid.

8. Location of the Work:

a. The work is required to be performed throughout and within the Sample Weed Management Area.

b. CONTRACTOR shall work directly with the supervisor of WMA and/or his agents in planning CONTRACTOR'S spraying schedule, CONTRACTOR'S spraying schedule shall comply with the need for spraying as determined by the supervisor of WMA and/or his agents.

9. Indemnity and Hold Harmless Agreement:

a. CONTRACTOR agrees to indemnify defend and hold harmless the Sample Weed Management Area, its directors, officers, agents and employees from and against any and all liability, claims, suits, damages, costs, losses, expenses, and injuries, including but not limited to attorney's fees and court costs, arising out of or resulting from any negligent act or omission by

Appendix 1

CONTRACTOR, its agents or employees, in the performance of this agreement and/or any addenda made a part hereof.

10. Inadequate Performance

CONTRACTOR understands and agrees that WMA may terminate this Contract by giving CONTRACTOR thirty (30) days written notice in advance of WMA'S decision to terminate, in the event CONTRACTOR'S performance under the terms and conditions of any or all the contract documents is not acceptable or satisfactory to WMA, as WMA may at its sole discretion determine.

CONTRACTOR

By: _____

Title: _____

SAMPLE WEED MANAGEMENT AREA

By: _____

Title: _____

ATTEST:

Secretary

Appendix 1

XIII. Sample Contract Requirements - Specifications

CONTRACTOR shall furnish all equipment, labor, fuel and supervision to perform in a good and workmanlike manner the application of pesticides as from time to time required by WMA.

WMA will provide the pesticides required and will specify the rate of application for each job.

1. The work to be performed includes:

a. Application of all chemicals required to perform spot treatment of noxious weed control contracts between WMA and various government and private agencies, including:

Wyoming State Highway Department (highway rights-of-way)
Bureau of Reclamation;
Bureau of Land Management (within Sample Weed Management Area);
United State Forest Service (within Sample Weed Management Area);
County road rights-of-way (within Sample Weed Management Area);
Sample Irrigation District (canal and lateral rights-of-way);

b. Noxious weed spraying with an approved broad jet system.

Copies of previous contracts between WMA and such agencies are available for inspection at the office of WMA during regular business hours.

2. For spot control of noxious weeds and spot sterilization, CONTRACTOR shall provide vehicles, spray units, two applicators and supervision for each spray unit. For spot control of noxious weeds, each spray unit must have an injection system capable of allowing a minimum of three products to be added to the spray solution somewhere between the outlet of the spray tank and the nozzle. WMA will pay to CONTRACTOR an amount per hour for each unit (one unit consisting of a vehicle with spray equipment, two applicators and supervision). With prior approval of WMA, use of extra applicators (with proper equipment) or additional equipment that will facilitate the work, will be paid at the rate of one-third (1/3) of the hourly contract price for a spray unit.

3. For broad jet control of noxious weed, CONTRACTOR shall provide such equipment as in his discretion he determines proper.

Appendix 1

However, each spray unit must have an injection system capable of allowing a minimum of three products to be added to the spray solution somewhere between the outlet of the spray tank and the nozzle. WMA will pay to CONTRACTOR for this type spraying an amount per lane mile.

4. WMA will, among other things, consider in awarding the contract the following:

- a. Size and number of vehicle or vehicles and spray unit or units available to be used in the performance of the work;
- b. availability of mobile radios in spray units (other than those required by this contract)

CONTRACTOR shall along with his bid submit information relating to such matters and should be prepared to provide such additional or other information as WMA may request.

5. CONTRACTOR shall in performance of the work:

- a. provide a certified commercial applicator to perform and/or supervise the work;
- b. comply with county, state and federal laws, rules and regulations at all times;
- c. comply with all federal labels when mixing, applying and recommending pesticides;
- d. provide Worker's Compensation insurance for all employees and any and all other benefits or coverages required under state law such as unemployment insurance;
- e. collect and pay all withholdings as required by law;
- f. provide liability insurance and other insurance coverage as WMA determines proper and necessary to protect, indemnify and hold harmless WMA from any and all expenses for any claims for damages and injuries brought against CONTRACTOR for its performance under this contract in the event that any legal action is brought against CONTRACTOR and/or WMA.
- g. provide a certificate (see attachment #1) as proof that the CONTRACTOR has insurance coverage with minimum limits as follows:

Appendix 1

- i. general liability of \$1,000,000 aggregate
- ii. product liability of \$1,000,000 aggregate
- iii. personal injury of \$500,000
- iv. general liability of \$500,000 each occurrence
- v. fire damage of 50,000 any one fire
- vi. medical expenses of 10,000 any one person
- vii. automobile liability of 500,000 combined single limit
- viii. WMA is named as an additional insured.

6. The noxious weed spraying and spot sterilization will be performed as required (and as permitted by weather conditions) between April 1 and November 30 of each subsequent year that this Contract is in effect.

7. For the purpose of estimating the amount of work to be performed and time required, the records of WMA showing the amount of such work required in the previous years which are available for inspection at the office of WMA during regular business hours.

8. WMA does not guarantee any minimum number of hours or lane miles of work and cannot provide a maximum number of such hours or miles. CONTRACTOR shall formulate and make his bid upon his own judgment of the amount of work to be performed based upon available past records of WMA. No agent, employee, officer or director of WMA is authorized to make any representation or warranty as to such matters and is specifically prohibited from doing so.

9. CONTRACTOR shall perform all work in a good and workmanlike manner.

10. WMA shall continually monitor the quality of work being done by CONTRACTOR.

11. Within a reasonable amount of time after application, WMA shall determine if the area treated was done in a satisfactory manner.

12. WMA may require areas to be retreated where deemed appropriate. If WMA determines that the area is to be retreated because of poor workmanship, CONTRACTOR shall not be paid for the labor required for said re-treatment. For areas that are retreated because of weather or growing season, CONTRACTOR shall be paid at the hourly contract price.

Appendix 1

13. WMA reserves the right to terminate the contract after thirty (30) days written notice if WMA determines that CONTRACTOR is not performing the work in a reasonably diligent and workmanlike manner which determination shall be made at WMA'S sole discretion.

14. For purposes of computing an hour for which payment will be made, time will be computed starting when the unit departs from WMA's warehouse and terminating upon the unit's return. CONTRACTOR will not be paid for time the unit is not actually engaged in application of pesticides other than time the unit is traveling to and from the warehouse and the location of the work to be performed other than listed in section 18 below.

15. For the purposes of this agreement, supervision shall be defined as an individual who shall be directly in charge of the spray units in his immediate vicinity. CONTRACTOR shall provide one (1) supervisory individual for each three (3) spray units. The supervisory individual shall not be one of the applicators. CONTRACTOR shall furnish each supervisory individual a vehicle with a mobile radio operating on a frequency between 450.000 MHz and 470.000 MHz, and allow WMA to operate three (3) radios on the same frequency. WMA shall not be responsible for any additional costs incurred by CONTRACTOR because of the addition of said radios.

16. WMA reserves the right to instruct any single unit or group of units to discontinue spraying or shutdown operations for any just cause. CONTRACTOR shall not be paid for the unit or units from the time of shutdown until CONTRACTOR has corrected the reason for the shutdown.

17. Each unit shall be required to keep a daily log which, among other items, shall include:

- a. the time the unit leaves the warehouse;
- b. the time spent actually treating weeds;
- c. the time and reason that any unit is shutdown;
- d. the time spent traveling to and from the work area;
- e. specific information concerning the area being treated;
- f. approximate miles or acres covered;

Appendix 1

g. amount or amounts and type or types of pesticides being used;

h. other information as required by WMA.

The forms for such logs shall be furnished by WMA and CONTRACTOR shall turn over the completed logs to WMA on a daily basis. A unit shall present current logs to WMA representative upon request.

15. Any unit that discontinues spraying (shutdown) for climactic reasons shall continue to be paid by WMA for a period of fifteen (15) minutes. At the conclusion of that time, the unit shall either.

a. move to another area where climactic conditions allow spraying operations and begin spraying; or

b. resume treating the same area if climactic conditions allow such action; or

c. return to the warehouse.

If the unit does not begin one of the above actions at the conclusion of the fifteen-minute period, WMA shall discontinue payment to CONTRACTOR for the unit until one of such actions is started. WMA shall pay CONTRACTOR for no more than fifteen (15) minutes of shutdown time on an individual unit in a single work day.

CONTRACTOR

By: _____

Title: _____

SAMPLE WEED MANAGEMENT AREA

By: _____

Title: _____

ATTEST:

Secretary