

# CITY OF SUN VALLEY

## RESOLUTION 2015-11

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### A RESOLUTION OF THE CITY OF SUN VALLEY AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR SERVICES WITH AK PEST CONTROL

WHEREAS, The City of Sun Valley is a municipal corporation duly organized and existing under the laws of the State of Idaho Code §50-101 et seq.; and

WHEREAS, Pursuant to Idaho Code § 50-301 and § 50-302, Sun Valley is empowered to enter into contracts and take such steps as are reasonably necessary to maintain the peace, good government and welfare of the City and its trade, commerce and industry; and

WHEREAS, the contract for services between the City and AK Pest Control is for control and eradication of noxious weeds within the City right-of-way limits and within the granted easements where the multi-use path is located.

THEREFORE, IT IS RESOLVED BY THE CITY OF SUN VALLEY, IDAHO

SECTION 1: That the Mayor is hereby authorized to execute a contract for services (Exhibit 1) with AK Pest Control.

SECTION 2: That this Resolution shall be known as Resolution No. 2015-11 of the City of Sun Valley, Idaho and shall be in full force and effect from and after its passage and approval.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS THE \_\_\_\_ DAY OF APRIL 2015.

\_\_\_\_\_  
Dewayne Briscoe, Mayor

\_\_\_\_\_  
Alissa Weber, City Clerk

## **EXHIBIT 1**



**Mayor**  
Dewayne Briscoe

**Council**  
Keith Saks, *President*  
Michelle Griffith  
Peter Hendricks  
Jane Conard

CONTRACT FOR SERVICES BETWEEN THE CITY OF SUN VALLEY AND AK PEST MANAGEMENT

1. The City of Sun Valley is a municipal corporation.
2. AK Pest Management is a sole proprietorship of Aaron J. Bennion and Kimberly J. Bennion dba AK Pest Management.
3. AK Pest Management ("AK") will perform noxious weed control and furnish all related equipment as outlined in the General Agreement, attached hereto as Exhibit A and incorporated by reference, to control the spread of noxious weeds within the City's road right-of-way and the multi-use path system easements (collectively the "work").
4. The work will consist of, among other things, three (3) applications of herbicide.
5. Compensation: The City of Sun Valley agrees to pay the Contractor the sum of \$3,875 per application, or \$11,625 for the contract term.
6. The City of Sun Valley Street Superintendent or their Designee must approve the Work before each payment is made.
7. The work will commence upon the execution of this Agreement.
8. AK shall, to the fullest extent permitted by law, indemnify, defend, and hold the City of Sun Valley harmless from any damage, liability, or cost (including reasonable attorneys' fees and cost of defense) arising out of or related to the work in any way, including but not limited to the performance or non-performance of its obligations under this Agreement. The scope of this indemnification shall include but not be limited to claims arising from death or injury to any person or damage to any Property. The Hold Harmless and Indemnity Agreement are attached hereto as Exhibit B and incorporated by reference.
9. During the performance of the work under Agreement, AK shall maintain the following insurance:
  - a. General liability insurance of not less than \$1,000,000 for each occurrence and not less than \$2,000,000 in the aggregate.
  - b. Prior to commencement of the Work, AK shall furnish the City a valid insurance certificate.
10. Term: The term of this Agreement is for one (1) year. The Agreement shall automatically renew for successive one (1) year periods for up to three years, unless terminated in writing.
11. Termination: Sun Valley may terminate this Contract for any reason by providing thirty (30) days' written notice to Contractor.

**SIGNATURES:**

**AK Pest Management**

By: \_\_\_\_\_  
Its: Authorized Representative

Dated: \_\_\_\_\_

**City of Sun Valley**

By: \_\_\_\_\_  
Mayor DeWayne Briscoe

Dated: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk Alissa Weber

Dated: \_\_\_\_\_

## **EXHIBIT A**

## **GENERAL AGREEMENT NOXIOUS WEED CONTROL**

The following is the scope of work for control and eradication of noxious weeds within the City right-of-way limits and within the granted easements where the multi-use path is located.

### **SECTION I. GENERAL REQUIREMENTS**

- 1) SCOPE OF WORK** - Unless otherwise stated, the Contractor shall furnish all labor, supervision, materials, tools, construction equipment, transportation, and other items of work and costs necessary to complete the specified work.
- 2) PROJECT** - This project is for the City of Sun Valley 2015 Noxious Weed Control Program. Slater Storey, City of Sun Valley Street Department oversees the weed control program and can be reached at (208) 622-4438 x37 or (208) 720-0174. All correspondence and billing shall be directed to him.
- 3) COMPLETION TIME** - All work under the contract shall be started after the date of notice to proceed. Work once started shall be completed by the date specified in Section II – TECHNICAL REQUIREMENTS.
- 4) GUARANTEE** - The Contractor guarantees all work, labor and materials for the extent of the growing season. If any unsatisfactory condition or defect develops within that time, the Contractor will be notified of such defect. The Contractor shall respond within twenty-four (24) hours of the notification. The contractor assumes all costs of correcting such defect. This guarantee shall not apply to work, which has been abused or neglected by the City of Sun Valley.
- 5) SUBCONTRACTORS** - The Contractor shall not award, assign or delegate any work, or any provision of this contract to any subcontractor.
- 6) INSURANCE** - The Contractor shall furnish acceptable liability and workers compensation insurance certificates to the City of Sun Valley at the time it returns the signed contract. The certificates shall specify all of the parties who are additional insured; the City of Sun Valley, its employees, volunteers, officers, agents, assigns, and/or officials shall be named as additional insured, and include applicable policy endorsements, the 30-day cancellation clause, and the deduction or retention level. Insuring companies or entities are subject to the City of Sun Valley acceptance.

### **SECTION II. TECHNICAL REQUIREMENTS**

#### **1) SPECIAL REQUIREMENTS**

- a)** The project shall include work on: 1) road right-of-way, defined as (15) fifteen feet maximum from the edge of the asphalt of the road, and 2) multi-use path shoulder defined as (5) five feet maximum from the edge of the asphalt of the multi-use path. Each area, road right-of-way and path shoulder, shall receive three applications of herbicide.
- b)** Any modifications and/or changes to this agreement shall be agreed to in writing between the City of Sun Valley and the contractor.
- c)** All rules, regulations, terms, conditions, requirements and restrictions shall comply with the "Underlying Contract".
- d)** All three herbicide applications shall be completed no later than August 31<sup>st</sup> of the given year, unless approved by the Street Department Superintendent, or their Designee.

### **SECTION III. DESCRIPTION / SPECIFICATIONS**

#### **GENERAL SPECIFICATIONS**

1. **SCOPE OF CONTRACT** - This contract requires herbicide application for noxious weed control in compliance with its terms, specifications and provisions. This includes furnishing all supervision, personnel, personal protective equipment, transportation, equipment, chemicals, operating supplies, mobilization, and all elements required to perform the work. The Contractor shall furnish the herbicides, surfactants (if required) and dyes (if required). Methods of herbicide application may include vehicle-mounted spray tanks, ATV-mounted spray tanks and backpack spray tanks. In project areas, noxious weed infestations occur in densities from a few occasional plants to continuous coverage.
2. **LOCATION AND DESCRIPTION** - The work is located within the limits of the City of Sun Valley and Bureau of Land Management. Treatment areas will consist of non-ornamental landscaped public road right-of-ways and non-ornamental landscaped shoulders of the multi-use path system. Areas of private property are not to be treated. These areas are known by the City of Sun Valley and will be indicated on the maps. Private areas may include condominium projects, townhome projects, and Sun Valley Company property.
  - a) **Project Location** - Project maps will be provided to the Contractor in advance of the start date.
  - b) **Accessibility** – Access will be determined upon award of the contract.
  - c) **Boundaries**. Boundaries of treatment areas are known by the City of Sun Valley, and will be relayed to the Contractor either verbally or during a site visit if they are not obvious on the ground, or if they cannot be determined based on the maps provided.
3. **CITY FURNISHED PROPERTY**
  - a) If the City of Sun Valley requires that pesticide application information be recorded on a specific form, the forms will be provided to the Contractor.
  - b) “Noxious Weed Control Area” signs will be supplied by the City of Sun Valley.
  - c) A high-output water source will be made available. Location to be determined.

### **TECHNICAL SPECIFICATIONS**

#### **GENERAL REQUIREMENTS**

1. All weed control measures shall comply with all herbicide labels and applicable federal, state and county laws and regulations.
2. The Contractor shall be in compliance with all applicable OSHA, EPA, manufacturer’s directions, Idaho State and federal requirements for handling herbicides, including storage, transportation, application and clean-up of spills.
3. The Idaho State Department of Agriculture specifies pesticide record-keeping requirements. Although there is no required format for the herbicide application records, the records **MUST** contain specific information. The City of Sun Valley may, at its option, require this information to be recorded on a form which will be provided by the City, and may also include additional information to be collected and recorded. Pesticide Application Record information, along with a map of the herbicide application area, must be completed daily by the Contractor. If the Contractor has a preferred

format, it must be approved by the Street Department Superintendent, or their Designee, prior to beginning work so additional information requirements can be addressed. Additional information, if not already included in the Contractor's preferred format, may include the following: weed species treated, equipment type used (examples include truck, ATV, backpack, etc.), written description of areas treated such as road numbers, segments of roads treated. All records shall be made available for inspection at any time, and a copy shall be provided to the City when requested. In addition, the Contractor shall keep the Street Department Superintendent, or their Designee, informed of their progress on a daily basis.

**4. RIPARIAN, WET LANDS, AND OTHER WET AREAS** – Riparian and wetland habitats are described as areas near streams, lakes, ponds, bogs, etc., or where vegetation indicates that an area stays moist all year long. To minimize risk to riparian areas, other wet areas or sensitive areas, buffer zones MAY be designated by the City in advance of herbicide treatment. No herbicides shall be applied to the buffer zones. Where applicable, buffers will be designated with flagging. Where no buffers are designated, the following restrictions apply:

- a) Method of control shall be via a backpack spray system. No power boom spraying is permitted.
- b) A water-safe herbicide, such as Weedar 64 is the preferred choice.
- c) Herbicides shall be applied when wind speeds are less than 5 miles per hour.
- d) Herbicide is to be applied while traveling upstream.
- e) No cross stream spraying of the opposite bank will be allowed.

**5. UNIQUE VEGETATION (Sensitive Plants)**

- a) No vehicle-based application shall occur within 50 feet of known sensitive plant locations. Preferred method of control would be manual or hand spray.
- b) Hand-spraying shall not occur when wind speeds exceed 5 miles per hour.

**6.** Herbicides will not be applied where no weeds are present.

**7.** The Contractor will be required to post signs identifying areas being treated with herbicides. The multi-use path system being sprayed will be marked at key access points. The posting sites will be determined by the Street Department Superintendent, or their Designee. The signs will indicate the work being performed and the date of the application. The signs to be used will be supplied by the City of Sun Valley. Additional public noticing will be the responsibility of the City of Sun Valley.

**8. CONTRACTOR'S PERSONNEL AND EQUIPMENT**

- a) All herbicide application shall be performed by, or directly supervised by, a state licensed applicator. The applicator or supervisor shall have a current and valid Idaho State Professional Pesticide Applicator's License, or have a reciprocity agreement with the Idaho State Department of Agriculture. The Contractor shall provide skilled workers who have experience with the specific type of work described in this contract.
- b) The Contractor must be able to identify the target weed species in all stages of development, and to distinguish between those weed species and non-target species. Herbicide application to non-target species when no weeds are present shall constitute noncompliance.
- c) The Contractor shall apply herbicides by using a spray truck, ATV and/or backpack spray system. No boom spraying is to take place. The type and the amount of equipment used, supplies (including spill kits), and personnel needed to accomplish the contract work is the responsibility of the Contractor.
- d) Equipment to be used for application may be subject to inspection by the Street Department Superintendent, or their Designee, prior to execution of the contract. Inspection will ascertain the condition of the equipment and the ability of the equipment to perform the required work. Equipment in poor condition or incapable of performing at acceptable levels in the judgment of the Street Department Superintendent, or their Designee, shall be replaced upon request.

Failure to comply with such requests shall be sufficient grounds for termination of the contract. Rejection of equipment does not relieve the Contractor from the responsibility to perform the required work.

- e) All herbicide equipment shall be properly calibrated and be regularly inspected by the Contractor for correct calibration. All nozzles shall be kept clean during operation. A tight-fitting lid is mandatory on all spray tanks, and the Contractor shall inspect equipment daily for leaks.
- f) The Contractor shall post "Material Safety Data Sheets" (MSDS) in vehicles and make them available to workers, or have a notification system in place that has been approved by the Street Department Superintendent, or their Designee. These sheets provide information relating to physical and chemical data, fire or reactivity data, specific health hazard information, spill or leak procedures, instructions for worker hygiene, and special precautions.
- g) The Contractor shall report immediately all details of chemical spillage accidents, exposure incidents or accidents, and/or worker health complaints, if any occurred, to the Street Department Superintendent, or their Designee.

**9. HERBICIDE INFORMATION** - In addition to federal, state and local laws and requirements, additional restrictions and guidelines shall be adhered to as stated below.

- a) Herbicides approved for use in the City of Sun Valley are listed below. No other herbicide shall be used without prior consent from the Street Department Superintendent, or their Designee.
- b) Herbicide List
  - Weedar 64
  - Banvel, Clarity, Vanquish (Dicamba)
  - Curtail (Clopyralid + 2, 4-D)
- c) Application rates shall be consistent with herbicide labels.
- d) Depending on the biology of the targeted weed species, the environment in which it is growing, and the population size, one chemical may be sufficient and sometimes a mixture of two is needed. At sites where two (2) or more herbicides are to be sprayed, the tank shall be cleaned between changes of herbicides unless an injection system is used.
- e) Mixing may be done on-site with the following stipulations: Mixing, loading, and equipment cleaning must be done more than 200 feet from private land, open water, or other sensitive resources identified by the Street Department Superintendent, or their Designee, and the Contractor shall provide a method by which water can be pumped into the holding vehicle at least 100 feet from the source. On-site water sources shall be adjacent to the project area and shall be approved in advance by the Street Department Superintendent, or their Designee.
- f) Herbicides shall be transported daily to the project site. The City of Sun Valley will not provide storage of herbicides. Transporting of concentrate should be in original containers and in a manner that will prevent tipping or spilling.
- g) All empty herbicide containers are the property of the Contractor and shall be triple rinsed and the residue disposed of by spraying it on weeds near the application site at rates that do not exceed those on the spray site. All empty and rinsed herbicide containers shall be slashed, bagged and disposed of at an appropriate site.
- h) Weather conditions will be monitored before and during all spray projects. Spraying will not be allowed when adverse conditions are expected or encountered.

**10. NOXIOUS WEED INFORMATION** - The noxious weed species listed below are known to exist in the City of Sun Valley and shall be treated if found within the project areas. If other species of weeds are discovered it shall be the responsibility of the Contractor to document the location and size of infestation and notify the Street Department Superintendent, or their Designee, of the find.

Known Weeds:

- Dalmatian Toadflax – Perennial

- Diffuse Knapweed – Annual, Biennial, or short lived Perennial
- Spotted Knapweed – Biennial or short lived Perennial
- Russian Knapweed – Perennial
- Canada thistle – Perennial
- Scotch Thistle – Biennial

**EXHIBIT B**

## HOLD HARMLESS AND INDEMNITY AGREEMENT

This HOLD HARMLESS AND INDEMNIFICATION AGREEMENT (“Agreement”) is made of this \_\_\_\_ day of \_\_\_\_\_, 2015 by and between the City of Sun Valley, an Idaho municipal corporation (hereinafter “City”), and Aaron J. Bennion and Kimberly J. Bennion dba AK Pest Management (hereinafter “Contractor”).

- A. The City is a municipal corporation and political subdivision of the State of Idaho, and has authority to enter into this Agreement.
- B. AK Pest Management is a contractor doing business for the City of Sun Valley.
- C. Contractor will be spraying for the control of noxious weeds within the City street right of way and spraying for the control of noxious weeds adjacent to the asphalt edge of multi-user path system within the City of Sun Valley.
- D. Contractor shall take reasonable and due care to protect the health and welfare of the public through the use of appropriate safety measures as outlined by the chemical manufacturer and the Idaho State Department of Agriculture.

NOW, THEREFORE, on the basis of the foregoing recitals and in consideration of mutual promises and undertakings hereinafter set forth, the parties agree as follows:

1. **Hold Harmless and Indemnification.** Contractor agrees to hold the City and its agents employees, officials, representatives, insurers, and attorneys harmless from and to indemnify the City and its agents, employees, officials, representatives, insurers and attorney from all costs or expenses, and any and all claims, demands, obligations, liabilities, damages, costs, lawsuits and judgments, including attorney’s fees arising in any way or related to from Contractor’s noxious weed control.
2. **Liability Insurance.** Prior to engaging in the noxious weed control mentioned above, Contractor will furnish to the City a certificate of insurance bearing evidence of liability insurance; for all stages of weed control, with limits of liability of at least \$1,000,000. The insurance policy will be subject to the City’s approval and, will name the City and its agents, employees, representative, insurers, and attorney as an additional insured; the certificate of insurance shall be attached here to as **Exhibit A**. Such insurance shall not be cancelled without at least a thirty (30) day written notice to the City.
3. **Miscellaneous Provisions.**
  - a. This agreement shall be binding upon and insure to the benefit of the parties hereto, and their respective heirs, personal representatives, successors and assigns.
  - b. This agreement, the contract to which it is attached, and a permit from the City of Sun Valley is the entire agreement between the parties with respect to the subject matter thereof and supersedes all prior agreements between them with respect thereto.
  - c. This Agreement shall be construed in accordance with the laws of the State of Idaho.
  - d. In the event that any party hereto has to retain counsel for the purpose of enforcing any of the rights, duties or obligations arising out of or relating to this agreement, the non-prevailing party shall pay to the prevailing party the latter’s reasonable attorney’s fees and costs, whether or not litigation is actually instituted, and including attorney’s fees and costs on appeal and in any bankruptcy proceeding.
  - e. This Agreement may be executed in several counterparts and all so executed shall constitute one Agreement, binding on all the parties hereto even though all the parties are not signatories to the original or same counterpart.

