

**SAMPLE CONTRACT**

Mowing of State Route Medians, City Right-of-Ways, City Easements, and City Properties

This Contract entered into this 14th day of February 2022, by and between the City of Oak Ridge, Tennessee, a municipal corporation, ("the City,") and, \_\_\_\_\_, ("Contractor.")

WITNESSETH

In consideration of the mutual promises of the parties hereto, the parties do hereby agree as follows:

ARTICLE 1: Scope of This Contract

The work to be done consists of furnishing all labor, materials, supplies, tools, equipment, and other incidentals necessary to provide mowing for the City of Oak Ridge in accordance with the attached specifications as required for the mowing of state route medians, City right-of-ways, City easements, and City properties, in strict accordance with the terms and provisions of this Contract, the project specifications, and the bid of Contractor attached hereto.

In performance of this Contract, Contractor binds itself to the City to comply fully with all provisions, undertakings, and obligations hereinafter set forth.

ARTICLE 2: Term

This Contract shall become effective upon its execution and shall continue in full force and effect through December 31, 2022. Upon execution of this Contract, Contractor shall be prepared to begin the work on the anticipated start date of March 15, 2022, however work shall not commence until the City issues a Notice to Proceed. Work shall be conducted with the frequency listed in Attachment A. Work shall continue until October 31, 2022, unless an alternate schedule is approved by the parties in writing. This Contract shall renew automatically for nine (9) one-year renewal periods. Either party may elect not to renew this Contract upon written notice to the other party at least thirty (30) days prior to the then-current term's expiration. Time of is the essence for this Contract.

ARTICLE 3: Changes

The City may, by written order and without notice to the Sureties, make changes in the specifications of this Contract within the general scope thereof. If any such changes cause an increase or decrease in the scope of this Contract or in the time required for its performance, the City shall make an equitable adjustment and shall modify this Contract in writing accordingly.

Should Contractor encounter materially different conditions from those shown in the specifications, Contractor shall notify the City in writing immediately of such conditions before they are disturbed. The City shall promptly investigate the conditions and—if it finds that they do so materially differ from those specified—shall modify this Contract to provide for any increase or decrease of cost and time difference from said conditions.

Except as otherwise herein provided, no charge for any extra work or material will be allotted unless the same has been approved in writing by the City, and the price stated.

ARTICLE 4: Inspections and Defective Work

All workmanship and services shall be subject to inspections, examinations, and tests by the City at all times during the performance of this Contract. The City shall have the right to reject defective workmanship and to require correction. Rejected workmanship shall be satisfactorily corrected without charge. If Contractor fails to proceed at once to correct such defective workmanship, the City may proceed with such corrective work and Contractor shall be liable for all direct costs incurred as a result of the correction.

This provision does not negate, modify, or replace any warranties contained elsewhere in this Contract. This provision shall survive the termination or suspension of this Contract.

Neither payment nor any provisions in the Contract document shall relieve Contractor of responsibility for faulty materials or defective workmanship. The City shall give notice of observed defects with reasonable promptness. The deterioration due to ordinary use and normal wear is excepted from this guarantee.

Contractor shall reimburse the City for the cost of damage, if any, as well as the cost of replacing defective materials or workmanship. If replacements are not made within ten (10) days after the City gives notice of such defect in workmanship, or thirty (30) days in case of materials, then the City shall have the right to make replacements and charge the cost of same to Contractor or Contractor's surety.

#### ARTICLE 5: Site Investigation

Contractor represents that it has visited the various sites and determined the nature of the work and the difficulties and facilities attending execution of the work, and all other matters, which can in any way affect the work under this Contract.

#### ARTICLE 6: Delays, Damages

If Contractor refuses or fails to prosecute the work with such diligence as will ensure its completion within the time specified in Article 2, or fails to complete the work within such time, the City may terminate this Contract. In such event, the City may take over the work and prosecute the same to completion by contract or otherwise. Contractor shall be liable to the City for any excess cost occasioned thereby. If the City terminates this Contract under this Article, the City may take possession of and utilize all materials, appliances, tools, and equipment as may be on the work site necessary to complete the work.

#### ARTICLE 7: Payment

As consideration for performing all work and services set forth in this Contract, and as full consideration thereof, the City agrees to pay Contractor on a unit-price basis for actual work completed in accordance with Contractor's bid sheet, which is incorporated by reference into this Contract. Payment shall be made monthly upon invoice in accordance with the project specifications.

#### ARTICLE 8: Rate Adjustment

The per unit prices will be adjusted for each renewal terms by one hundred percent (100%) of the Consumer Price Index (CPI) for the month of February of the current year, which reflects the unadjusted annual percentage change from the month of February of the prior year.

#### ARTICLE 9: Indemnification by Contractor

Contractor agrees to protect, indemnify, and hold harmless the City from and against all claims for injury, death, or destruction of property resulting from any act or omission on the part of Contractor, Contractor's employees, Contractor's subcontractors, anyone for whose acts Contractor is responsible, others whose services Contractor engages, or anyone directly or indirectly employed in the performance of this Contract. Contractor shall not be liable to indemnify the City for such injuries, destruction, or death that is caused by the sole negligence or fault of the City. Contractor's duties under this article shall extend to all the City's consultants, agents, and employees. "Claims" as used in this article shall include: all direct, indirect, and consequential losses, expenses, damages, charges, and costs including, but not limited to, fees, charges, or other expenses for engineers, architects, attorneys, other professionals, or court costs.

Upon notice, Contractor shall promptly defend any action stemming from an aforementioned claim. In any and all claims against the City by any of Contractor's employees, Contractor's subcontractors, anyone for whose acts Contractor is responsible, others whose services Contractor engages, or anyone directly or

indirectly employed in the performance of this Contract, Contractor's indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any subcontractor under the workers' compensation acts, disability benefit acts, or other employee benefit acts. The limits of insurance required in this Contract shall not limit Contractor's obligations under this article.

The terms of this article shall survive the termination or suspension of this Contract.

ARTICLE 10: Completion and Performance Bond and Labor and Material Bond

1. Completion and Performance Bond

Prior to commencing work under this Contract, Contractor agrees to furnish the City a Completion and Performance Bond of one hundred percent (100%) of the total annual price with good and sufficient surety acceptable to the City. Contractor shall maintain such bonds during the term of this Contract in connection with the performance of the work under this Contract, including any amendments or extensions hereof. The form and conditions of said Performance Bond shall be as prescribed by the City. The bond will be required at the beginning of each contract term and will be in an amount equal to the contract price for that year.

In lieu of a Performance Bond, the City will accept other suitable Securities agreed upon by both parties. At all times during the term of this Contract, Contractor shall provide the City with evidence that Contractor has obtained such Performance Bond or Securities. A certificate from the surety showing that the bond premiums have been paid by Contractor shall accompany the bond.

2. Labor and Material Bond

Prior to commencing work under this Contract, Contractor agrees to furnish the City a Labor and Material Bond in the amount of one hundred percent (100%) of the total annual price with good and sufficient surety or sureties acceptable to the City Contractor shall maintains such bonds during the term of this Contract. These bonds are conditioned such that Contractor shall promptly make payments to the persons supplying labor, material, or supplies to Contractor or subcontractors in the performance this Contract, and any amendment or extension thereof. The form and conditions of this bond shall be as prescribed by the City. The bond will be required at the beginning of each contract term and will be in an amount equal to the contract price for that year.

ARTICLE 11: Rate of Progress

Notwithstanding any other provisions in this Contract, Contractor shall furnish sufficient labor, materials, supplies, tools, and equipment necessary to complete performance of this Contract in accordance with the approved schedules for completion. Contractor shall work the hours necessary including overtime, Sundays, or holidays, to timely complete performance. Should Contractor refuse or fail to comply with its obligations under this Article after receipt of a written directive or request by the City for Contractor to furnish additional labor, materials, supplies, tools, equipment, or work additional hours, including overtime, Sundays, and/or holidays, the City may terminate Contractor's right to proceed with the whole or any part of the work under this Contract.

ARTICLE 12: Compliance with All Laws, Ordinances, Statutes, and Regulations

Contractor shall comply with all federal, state, county, and local laws, ordinances, statutes, and regulations.

ARTICLE 13: Insurance

During the period of Contractor's performance of this Contract, Contractor shall maintain in full force and effect Comprehensive General Liability, Workers' Compensation, and Property Damage Insurance in the amounts set forth below and naming the City of Oak Ridge, Tennessee as an additional insured.

Contractor shall maintain policies providing the following insurance protection, each policy containing a requirement that, in the event of change or cancellation, thirty (30) days' prior written notice be sent by mail to the City. Certificates of Insurance describing the coverage shall be furnished by Contractor and shall contain the following express obligation:

"This is to certify that the policies of insurance described herein have been issued to the insured for whom this certificate is issued and are in force at this time. In the event of cancellation or material change in a policy affecting the certificate holder, thirty (30) days' prior written notice will be given the certificate holder."

1. Comprehensive General Liability:

Bodily Injury	\$300,000	each occurrence
	\$700,000	aggregate
Property Damage	\$100,000	each occurrence
Or Combined Single Limit of	\$1,000,000	

2. Workers' Compensation and Employer's Liability as provided for in applicable statutes.

3. Comprehensive Automobile Liability (Including all owned, non-owned and hired vehicles)

Bodily Injury	\$300,000	each person
	\$700,000	each occurrence
Property Damage	\$100,000	each occurrence
Or Combined Single Limit of	\$1,000,000	

Contractor may purchase at its own expense such additional or other insurance protection as it may deem necessary. Maintenance of the required minimum insurance protection does not relieve Contractor of responsibility for any losses not covered by the above-required policies.

Before commencement of work hereunder, Contractor agrees to furnish to the City of Oak Ridge a Certificate of Insurance or other evidence satisfactory to the City to the effect that such insurance has been procured and is in force. Such certificate can be sent via U.S. Mail to the City of Oak Ridge, Tennessee, ATTN: Legal Department, P.O. Box 1, Oak Ridge, Tennessee 37831-0001, or via e-mail to [acramer@oakridgetn.gov](mailto:acramer@oakridgetn.gov).

ARTICLE 14: Permits and Licenses

Contractor shall obtain, at Contractor's expense, all permits, licenses, and bonds required by law or ordinance and maintain the same in full force and effect.

ARTICLE 15: Subcontracting and Assignment

1. Contractor may utilize the services of specialty subcontractors on those parts of the work which, under normal contracting practices, are performed by specialty subcontractors.
2. Contractor shall not award, assign, transfer, or pledge any work to any subcontractor without prior written approval of the City, which approval will not be given until Contractor submits to the city a written statement concerning the proposed award to the subcontractor, which statement shall contain such information as the City may require.

3. Contractor shall be as fully responsible to the City for the acts and omissions of subcontractors, and of persons either directly or indirectly employed by said subcontractors, as Contractor is for the acts and omissions of persons directly employed by Contractor.
4. Contractor shall make a condition of all subcontracts and/or cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to Contractor by the terms of the General Conditions and other contract documents insofar as applicable to the work of subcontractors and to give Contractor the same power as regards terminating any subcontract that the City may exercise over Contractor under any provision of the contract documents.
5. Nothing contained in this Contract shall create any contractual relation between any subcontractor and the City.

ARTICLE 16: Superintendence by Contractor

Contractor shall give its personal superintendence to the work or have a competent foreman or superintendent satisfactory to the City on the site at all times during the progress of the work, with authority to act on behalf of Contractor.

ARTICLE 17: Termination

Should Contractor refuse or fail to comply with its obligations, violate any of the provisions of this Contract, or if the quality or quantity of the work performed is unsatisfactory, then the City shall have the right to cancel this Contract upon thirty (30) days written notice to Contractor. Unsatisfactory work is work that is below the industries standard of care in the sole judgment of the City. If the City terminates the Contract under this Articles, it shall complete the work undertaken by Contractor without incurring any liability to Contractor except to pay Contractor the fair value to the City of the work satisfactorily performed by Contractor.

ARTICLE 18: Termination of Contract for Cause

If, through any cause, Contractor shall fail to fulfill in timely and proper manner the obligations under this Contract, or if Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract by giving written notice to Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by Contractor under this Contract shall, at the option of the City, become the City's property and Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Contract by Contractor, and the City may withhold any payments to Contractor for the purpose of set-off until such time as the exact amount of damages due the City from Contractor is determined.

ARTICLE 19: Anti-Discrimination

Contractor shall not discriminate against any person because of race, creed, color, national origin, age, sex, sexual orientation, gender identity, disability, religion, or other legally protected status, in performing the work or furnishing the services covered by this Contract. The City of Oak Ridge encourages the utilization of minority and women-owned businesses in its contracting and subcontracting projects. Contractor is encouraged to actively solicit the participation of these businesses. Contractor shall inform its

subcontractors and vendors providing work or services under this Contract of this requirement and shall ensure compliance therewith.

ARTICLE 20: Personnel

Contractor represents that it has, or will, secure at Contractor's expense, all personnel required to perform the work and services outlined in this Contract. Such personnel shall not be employees of or have any contractual relationship with the City.

The services required will be performed by Contractor or under Contractor's supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local laws to perform such services.

ARTICLE 21: Reports and Information

At such times and in such forms as the City may require Contractor shall furnish periodic reports as are pertaining to the work and services covered by this Contract, the costs and obligations incurred or to be incurred in connection herewith, and any other matters covered by this Contract. The City can audit Contractor's and Contractor's subcontractors' financial records pertaining to this project.

ARTICLE 22: Liquidated Damages

The City and Contractor hereby agree that any damage amount for delay in the completion of this Contract's work is unknown and would be difficult—if not impossible—to estimate. Therefore, the parties agree that Contractor shall pay to the City as liquidated damages, and not as penalty, the amount of \$500.00 for each and every day of delay beyond the term specified for completion of the work under this Contract.

ARTICLE 23: Independent Contractor

The parties acknowledge that the relationship created under this Contract is that of independent contracting parties and this Contract does not create a general agency, joint venture, partnership, employment relationship or franchise between the parties. Neither party shall represent itself to be an agent of the other, nor shall it execute any documents or make any commitments to any contractual or other obligations with third parties.

ARTICLE 24: Governing Law

This Contract is governed by the laws of the State of Tennessee. Any lawsuit between the parties arising out of this Contract shall have its venue solely within the state courts of Anderson County, Tennessee or the Federal District Court for the Eastern District of Tennessee in Knoxville, Tennessee, as appropriate.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written, the City of Oak Ridge, by its City Manager, by authority duly given.

APPROVED AS TO FORM AND LEGALITY

CITY OF OAK RIDGE

\_\_\_\_\_  
Tammy M. Dunn, City Attorney

\_\_\_\_\_  
Mark S. Watson, City Manager

CONTRACTOR

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed or Typed Name and Title

Tax ID Number: \_\_\_\_\_

Attachments: Project Specifications  
Bid Documents  
Contractor's Bid

Approved by Resolution: