



City of La Pine
Notice of Invitation to Bid
Forest Fuel Reduction Services

City of La Pine ("City") is soliciting competitive sealed bids from qualified and experienced contractors to provide certain forest fuel reduction services on certain City property located at Map and Taxlot 2210120000100 and additional information at <https://dial.deschutes.org/Real/Index/270340>.

This notice was first published August 15, 2018. Sealed competitive bids must be received by Cory Misley, City Manager, at 16345 Sixth Street, PO Box 2460, La Pine, Oregon 97739, no later than **5:00 p.m., Pacific Time**, on Tuesday, September 4, 2018 (the "Closing").

No bid will be accepted after the Closing. Bids will be publicly opened at 1:00 p.m. on Wednesday, September 5, 2018 at the City of La Pine City Hall, 16345 Sixth Street, La Pine, Oregon 97739.

Bid documents, addenda, and notifications of bid results for this project may be viewed and/or acquired during regular business hours at La Pine City Hall, 16345 Sixth Street, La Pine, Oregon 97739, from Wednesday, August 8, 2018 through Closing. Bid documents, addenda, and notifications may also be viewed, printed, and/or downloaded at City's website www.lapineoregon.gov. Questions regarding the project, or requests for clarification or changes to the project, or protests, must be in writing and directed to: Cory Misley, City Manager, at 16345 Sixth Street, PO Box 2460, La Pine, Oregon 97739.

**City of La Pine
Invitation to Bid
Fuel Reduction Services**

City of La Pine (the "City") is soliciting competitive sealed bids (each a "Bid" collectively the "Bids") from licensed and qualified contractors to provide certain fuel reduction services for and on behalf of City as described in this Invitation to Bid (this "ITB"). Prospective bidders may obtain a copy of this ITB on City's website at www.lapineoregon.gov and/or at La Pine City Hall at 16345 Sixth Street, La Pine, Oregon 97739.

I. BACKGROUND

City is located on Highway 97 approximately 30 miles south of Bend, Oregon. City owns approximately 470 acres of forested property located at Map and Taxlot 2210120000100 (the "Property").

II. SCOPE OF WORK

A. City is soliciting competitive sealed bids from licensed and qualified contractors (each a "Bidder" collectively the "Bidders") to provide the following fuel reduction services (the "Services"):

1. Scope of Work.
 - a. The primary purpose for this project is to thin and reduce forest fire fuel. Property to be thinned in accordance with leaving approximately one-hundred (100) trees per acre. Of those one-hundred (100), approximately fifty (50) shall be a mix of lower class sizes (approximately half at least 4-8 inches) and approximately fifty (50) shall be at or greater than approximately eight (8) inches or above. Diseased trees should be removed.
 - b. All Ponderosa Pines are to be retained on the property. Removal of certain size logs over 6" top that is at least 16' long shall be removed. Contractor must coordinate with the City (subject to City approval) on the size, spacing, location, and machinery used prior to creation of slash piles.
 - c. Any roads built to facilitate work must be closed/decommissioned when work is complete, unless otherwise approved by the City.
 - d. Property to be thinned in accordance with leaving 5-10% of the total area as wildlife clumps not to individually exceed half acre in size.
2. Anticipated Duties Under Contract. The selected contractor will furnish all materials, tools, equipment, and supplies, and will perform (or arrange for and direct) all labor and personnel, required to provide the Services. The selected contractor will meet with the city manager and a representative from Deschutes County Forester's office and/or Project Wildfire prior to the commencement of Services to discuss the planned approach to the Services needed, including, without limitation, additional standards, specifications, and expectations of City.
3. Expectations. The Services must be completed no later than May 31, 2019.

B. The selected contractor must meet the highest standards prevalent in the industry of providing fuel reduction services. Interested contractors are responsible for and strongly encouraged to visit the site and inspect the Property in order to evaluate the condition and estimated value of any and all timber

and/or forest products that may be harvested, as well as any site conditions related to the removal of the forest fuel. City makes no representations or warranties, whether express or implied, with respect to the amount, nature or quality of the timber and/or forest products, including without limitation, warranties of merchantability, fitness for a particular purpose, or any warranties regarding consumer products as defined in the Magnusson-Moss Warranty Act or the Uniform Commercial Code.

III. ANTICIPATED SCHEDULE

ITB Issued	August 8, 2018
Request for Change; ITB Protest Deadline	August 27, 2018
Bid Due Date	September 4, 2018
Bid Opening and Evaluation	September 5, 2018
Notice of Intent to Award (approx.)	September 7, 2018
Award Protest Deadline (approx.)	September 14, 2018
Council Approval – Notice of Award (approx.)	September 26, 2018

IV. FORM OF BID SUBMISSION

A. The following minimum requirements as to the form and manner of submitting Bids must be strictly observed; variance from these requirements will result in rejection of the Bid as unresponsive. A contractor interested in performing the Services must submit a written Bid, on the form attached hereto as Exhibit A, to City containing the following information:

1. Bidder's name, address, contact information, and the name of the primary contact in reference to the Bid.
2. Brief information concerning the Bidder (e.g., background, size, types of services provided, and examples of similar projects completed).
3. Identification of the person(s) who will be assigned and responsible to oversee performance of the Services. Also include a list of equipment.
4. A work plan and accompanying time schedule for timely completion of the Services. Identify any work to be subcontracted (and the subcontractors).
5. Bidder's bid (cost proposal) to perform the Services which will include (a) the estimated cost to perform the Services (without consideration of the estimated value of any timber and/or forest products that will be harvested), and (b) the estimated value of timber and/or forest products that will be harvested. Bidder must provide a total bid equaling the cost to perform the Services as offset by the value of any timber and/or forest product harvested as a result of performing the Services. Bidder will indicate whether the total bid amount is payable to City or payable to Contractor.
6. Each Bidder must sign its Bid.

B. The Bid form must be used without alteration. All blank spaces in the Bid form must be filled in, in ink, or typed, in both words and figures where required.

V. SUBMISSION OF BIDS

Each Bid must be sealed in an opaque envelope or package and must be submitted to City Manager Cory Misley by mail or hand delivery at PO Box 2460, La Pine, OR 97739 or at City Hall, 16345 Sixth Street, La Pine, Oregon 97739 no later than 5:00 p.m., Pacific Time, Tuesday, September 4, 2018. Bids will be publicly opened at 1:00 p.m. on Wednesday, September 5, 2018 at the City Hall. City will record the amount of each Bid, the name of the bidder, and other relevant information. City will not consider any Bid received after the stated date and time, that is incomplete, and/or that is not submitted in the proper manner and format.

VI. EVALUATION OF BIDS

City will evaluate all Bids submitted to City before the Closing. City will evaluate each Bid based on the requirements set forth in this ITB. For purposes of evaluating Bids, City will apply any applicable preferences described in ORS 279A.120, 279A.125, and/or 282.210.

VII. AWARD OF CONTRACT

A. Award. If a contract is awarded, City will award the contract to the lowest responsible bidder whose bid substantially complies with the requirements and criteria set forth in this ITB. The lowest responsible bidder will be determined (a) compliance with the requirements of this ITB, and (b) the total bid amount that is most advantageous to City.

B. Contract. If a contract is awarded, City and the selected contractor will enter into a services agreement concerning the Services. The agreement will contain terms and conditions required under applicable law and will otherwise be in form and content satisfactory to City and will be substantially in the form attached hereto as Exhibit B (the "Contract"). Without otherwise limiting the generality of the immediately preceding sentence, the Contract will include terms and conditions concerning, among other things, acceptable standards of performance, compensation, minimum insurance requirements, compliance with laws, indemnification, representations and warranties, City's right to terminate the Contract and/or declare a default under the Contract, the consequences for Contractor's failure to perform its obligations under the Contract, and City's right to seek damages and other relief available to City contract and applicable law.

C. Notice of Intent to Award. City will provide a written Notice of Intent to Award ("NOI") to all Bidders at least seven (7) calendar days before the award of a contract, unless City determines that circumstances require prompt execution of the Contract. City's award will not be final until the latter of the following: (a) seven (7) calendar days after the date of the NOI; or (b) until City provides written response to all timely filed protests denying the protest(s) and affirming the award.

VIII. ADDITIONAL INFORMATION

A. ITB Cancellation. Notwithstanding anything contained in this ITB to the contrary, if in City's best interest, City reserves the right to, in accordance with Oregon law, (a) amend and/or revise this ITB in whole or in part, (b) cancel this ITB, (c) extend the submittal deadline for responses to this ITB, (d) waive minor informalities and errors in such Bids, and/or (e) reject any or all Bids for any reason and/or without indicating reasons for rejection. Further, City reserves the right to seek clarification(s) from each Bidder and/or require supplemental information for any Bidder. This ITB does not obligate City to award a contract and/or to procure the Services described herein. Bidders responding to this ITB do so at their own expense

and City is not responsible for any costs and/or expenses associated with the preparation and/or submission of any Bid.

B. Requests for Change; Protests; Addenda.

1. Request for Clarification/Change; Solicitation Protests; Award Protest.

a. Solicitation Protest; Request for Change. Bidders may submit to City questions and/or requests for clarification and/or additional information, including, without limitation, inquiries related to the ITB, questions regarding the specifications, and/or questions concerning technical aspects of the Services and/or Bid Documents. A Bidder may request in writing a change to the ITB and/or Contract terms and conditions on or before seven (7) days prior to the Closing. A Bidder may protest the procurement process or this ITB by delivering a written protest on those matters to City on or before seven (7) days prior to the Closing. All protests must be in writing and must comply with OAR 137-047-0730. All questions, requests, and/or protests must be submitted, in writing, by mail to Cory Misley, City Manager, at 16345 Sixth Street, PO Box 2460, La Pine, Oregon 97739 or email at cmisley@lapineoregon.gov. All requests for additional information must clearly reference, "City of La Pine Invitation to Bid – Fuel Reduction Services." Substantive questions and responses will be made available at city's at www.lapineoregon.gov.

b. Right to Protest Award. A Bidder may submit to City a written protest of City's intent to award within seven (7) days after City's issuance of the NOI. A Bidder may submit a protest of the award only as allowed by, and only in compliance with, OAR 137-047-0740. All award protests must be submitted in writing either by mail to Cory Misley, City Manager, at 16345 Sixth Street, PO Box 2460, La Pine, Oregon 97739 or email at cmisley@lapineoregon.gov. All protests must clearly reference, "City of La Pine Invitation to Bid – Fuel Reduction Services."

2. Addenda. Changes to the Bid Documents, whether in response to requests for clarification or change or a solicitation protest, or to issue supplemental instructions, may only be made by written addenda. City will not mail notice of any addenda to the Bidders but will publish notice of any addenda on City's website and each Bidder is responsible for frequently checking said website until Closing. No addenda, with the exception of addenda withdrawing this ITB or extending the Bid period, will be issued less than 72 hours prior to the Closing (except as justified by a countervailing public interest). All addenda so issued will become part of the Bid Documents. No other oral or written statements to Bidders will be binding on City unless reduced to written addendum. Each Bidder is responsible for all addenda/changes to the documents and will be considered non-responsive if the Bid does not reflect those addenda/changes.

C. Modifications or Withdrawal of Bid. Bids may be withdrawn prior to the scheduled time for the opening only as allowed by OAR 137-047-0440. No Bid may be withdrawn (or modified) after the time scheduled for the opening of Bids except in accordance with OAR 137-047-0460.

D. Licenses; Resident Bidder; Nondiscrimination. In addition to all licenses, approvals, and/or certificates required under federal, state, and/or local law to perform the Services, the selected contractor will be required to obtain a City business license and maintain active business license status while conducting work within the City. Each bidder must identify whether the bidder is a "resident bidder" as defined in ORS 279A.120(1). Each bid will include a certification that the contractor has not discriminated and will not discriminate against any disadvantaged business enterprise, minority-owned business, women-owned business, emerging small business, or business that a service-disabled veteran owns, in obtaining any subcontracts. Failure to do so will be grounds for disqualification

E. Insurance Requirements. The contractor will be required to meet all provisions of the Contract, including, without limitation, the following minimum levels of insurance:

1. Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to City, including personal injury liability, products and completed operations, and contractual liability coverage for the indemnity provided under the contract. The insurance will have a combined single limit of not less than \$1,000,000, and an aggregate limit of not less than \$2,000,000. The insurance will name City and its officers, agents, and employees as additional insureds. Prior to execution of the Contract, the contractor will deliver to City certificates (and any related endorsements) evidencing the insurance contractor is required to obtain under the Contract.

2. Automobile Liability Insurance with limits of not less than \$500,000 combined single limit or split limits of \$250,000 per person, \$500,000 per occurrence and \$250,000 property damage. The insurance will name City and its officers, agents, and employees as additional insureds. Prior to execution of the Contract, the contractor will deliver to City certificates (and any related endorsements) evidencing the insurance contractor is required to obtain under the Contract.

3. Workers' Compensation Coverage. Unless exempt, the contractor will have Workers' Compensation insurance satisfying the requirements of applicable Oregon law. Workers' Compensation coverage will contain a waiver of subrogation in favor of the City.

F. Public Contracting Provisions. The selected contractor must comply with the Oregon Public Contracting Code (ORS Chapters 279A, 279B and 279C), including, without limitation, ORS 279A.110, and City's public contracting rules, as all are amended from time to time, in the performance of the contract.

H. Bid Documents. The bid documents include the Notice of Invitation to Bid, this ITB, the Bid form, Contract, and any addenda issued prior to the Closing (collectively, the "Proposal Documents"). All requirements and obligations of the Bid Documents are hereby incorporated by reference into the Contract and are binding on the successful Bidder upon award of the Contract. Each Bidder assumes full responsibility for errors, omissions, and/or misinterpretations resulting from the use of incomplete sets of Bid Documents. The Bid Documents are provided to Bidders only for the purpose of obtaining Bids on the work and do not confer a license or grant for any other use. The Bid Documents, addenda, and notifications of bid results for this project may be viewed and/or acquired during regular business hours at La Pine City Hall, 16345 Sixth Street, La Pine, Oregon 97739, from Wednesday, August 8, 2018 through Closing. Bid Documents, addenda, and notifications may also be viewed, printed, and/or downloaded at City's website www.lapineoregon.gov. Questions regarding the project, or requests for clarification or changes to the project, or protests, must be in writing and directed to: Cory Misley, City Manager, at 16345 Sixth Street, PO Box 2460, La Pine, Oregon 97739.

Exhibit A
Bid Form

Date: _____ Time: _____

TO: City of La Pine
Attn: Cory Misley
16345 Sixth Street
PO Box 2460
La Pine, Oregon 97739
cmisley@lapineoregon.gov

The undersigned, hereinafter called the "Contractor," declares that the only persons or parties interested in this Bid are those named herein; that this Bid is, in all respects, fair and without fraud; and it is made without collusion with any official of City of La Pine, Oregon ("City"); and that this Bid is made without any connection or collusion with any person making another Bid on this contract.

Contractor agrees that all applicable provisions of Oregon law relating to public contracts (ORS Chapter 279A, 279B, & 279C) and City's public contracting rules are, by this reference, incorporated in and made a part of this Bid. Contractor certifies that Contractor has not discriminated and will not discriminate against minority, women or emerging small business enterprises in obtaining required subcontracts.

Contractor agrees that if this Bid is accepted, Contractor will, within ten (10) days after notification of acceptance, execute a contract with City in the form of contract attached to the Invitation to Bid (the "Contract"); and will, at the time of execution of the Contract, deliver to City proof of the required insurance; and will, to the extent of this Bid, furnish all materials necessary to complete the work in the manner, in the time, and according to the methods as specified in the contract documents and required by the City Manager.

Contractor agrees to commence work upon the issuance of a "Notice to Proceed" by City and fully complete the project according to the times specifically set forth in this ITB and/or contract documents. In addition to any other consequence for failure to perform Contractor's obligations under the Contract, Contractor further agrees to pay liquidated damages as set forth in the contract documents for failure to complete within the specified time.

CONTRACTOR INFORMATION

FROM: Contractor's Name: _____
Primary Contact: _____
Address: _____
City/State: _____
Telephone: _____
Facsimile: _____
Email: _____
CCB #: _____

Operating as (strike out conditions that do not apply) an individual, a Limited Liability Company, a Corporation, organized and existing under the law of the State of _____, or a Sole Proprietorship, a Partnership, or Joint Venture consisting of _____.

[Circle one.] Contractor (is) (is not) a resident of the State of Oregon. If Contractor is a resident of another state, specify state of residency: _____.

BID AMOUNT

BID FOR SERVICES:

1. Having become completely familiar with the local conditions and legal requirements affecting the cost of Services (as the term is defined in the Invitation to Bid) at the place where Services are to be executed, and having carefully examined the site conditions as they currently exist, together with any addenda to the Invitation to Bid, the undersigned hereby proposes and agrees to provide all labor, materials, physical plant, equipment, transportation and other facilities and services as necessary and/or required to perform all of the Services described by the aforesaid Scope of Work (as defined in the Invitation to Bid) for the lump sum consideration:

Lump Sum Amount: _____ Dollars (\$ _____).

BID FOR TIMBER/FOREST PRODUCT:

2. Having become completely familiar with the local conditions, including the quantity, quality, and value of any timber and/or forest product to be harvested in connection with the Services, Contractor will pay City the following lump sum amount for timber and/or forest products harvested in connection with the Services:

Lump Sum Amount: _____ Dollars (\$ _____).

TOTAL BID:

3. Indicate the total bid for the project which amount must reflect the bid for Services as offset by the bid for any harvested timber and/or forest products). Contractor must indicate whether the total bid amount will be payable to City or payable to Contractor. The total bid to perform the Services and to receive (harvest) timber and/or forest products is as follows:

Total Bid Lump Sum Amount _____ Dollars (\$ _____).

- Payable to City
- Payable to Contractor

ADDITIONAL INFORMATION:

Contractor will address the following on a separate sheet and attach to this form:

1. Brief information concerning Contractor (e.g., background, size, types of services provided, and examples of similar projects completed).
2. Identify the person(s) who will be assigned and responsible to oversee performance of the Services (as defined in the Invitation to Bid). Also include a list of equipment to be used to perform the Services.
3. Include a work plan and accompanying time schedule for timely completion of the Services (as defined in the Invitation to Bid). Identify any work to be subcontracted (and the subcontractors).

CONTRACTOR:

[Company Name]

By: _____
Its: _____

Exhibit B
City's Services Agreement
(attached)

FOREST FUEL REDUCTION SERVICES AGREEMENT

This Forest Fuel Reduction Services Agreement (this "Agreement") is made and entered into effective on August __, 2018 (the "Effective Date") between City of La Pine, an Oregon municipal corporation ("City"), whose address is 16345 Sixth Street, La Pine, Oregon 97739, and _____ ("Contractor"), whose address is _____

RECITALS:

- A. City owns certain real property located at _____, which property comprises approximately ____ acres (the "Property").
- B. City desires to contract with Contractor to perform certain forest fuel reduction services on the Property. In connection with and exchange for performing the Services (as defined below), Contractor will harvest and retain certain forest products from the Property.
- C. Subject to the terms and conditions contained in this Agreement, Contractor will perform the Services for and on behalf of City.

AGREEMENT:

NOW, THEREFORE, in consideration of the parties' mutual obligations contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Contractor Services.

1.1 Services; Standards. Subject to the terms and conditions contained in this Agreement, Contractor will perform the following forest fuel reduction services concerning the Property for and on behalf of City (collectively, the "Services"): (a) those forest fuel reduction services identified in the attached Schedule 1.1; and (b) any other necessary or appropriate services customarily provided by Contractor in connection with its performance of those services identified in Schedule 1.1. The Services will be performed (i) in substantial compliance with the plans, standards, and specifications prepared by _____ (the "Plans"), which Plans are attached hereto as Exhibit A, and (ii) in accordance with this Agreement, Contractor's proposal attached hereto as Exhibit B, and all addenda mutually executed by City and Contractor (collectively the "Contract Documents"). Contractor will (x) consult with and advise City on all matters concerning the Services reasonably requested by City, (y) devote such time and attention to the performance of the Services that is required to properly and timely perform the Services, and (z) perform the Services to the best of Contractor's ability. City will have the right to enter the Property to inspect the performance of the Services at any time(s).

1.2 Schedule; Condition Precedent. Contractor will commence completion of the Services immediately upon City's delivery of written notice to Contractor. The Services will be completed expeditiously, in a timely manner, in accordance with the schedule identified in Schedule 1.2, and in no event later than _____. Notwithstanding anything contained in this Agreement to the contrary, City's performance of its obligations under this Agreement is conditioned on Contractor's

performance of its obligations under this Agreement, including, without limitation, those Contractor obligations described under Section 4.4.

2. Compensation.

2.1 Compensation. Subject to the terms and conditions contained in this Agreement, City will pay Contractor for Contractor's performance of the Services the lump sum fee of \$_____ ("Contractor's Fee"). Contractor will pay City for the timber and/or forest products harvested in connection with the Services the lump sum of \$_____ ("City's Fee"). Within ten (10) days after execution of this Agreement, Contractor will pay City \$_____ (the "Contract Price"), which fee represents City's Fee reduced by Contractor's Fee.

2.1 No Benefits; No Reimbursement. City will not provide any benefits to Contractor, and Contractor will be solely responsible for obtaining Contractor's own benefits, including, without limitation, insurance, medical reimbursement, and retirement plans. Contractor will provide, at Contractor's cost and expense, all materials, equipment, and supplies necessary or appropriate to perform the Services. City will not reimburse Contractor for any expenses Contractor incurs to perform the Services.

3. Relationship.

3.1 Independent Contractor. Contractor is an independent contractor of City. Contractor is not an employee of City. Contractor will be free from direction and control over the means and manner of performing the Services, subject only to the right of City to specify the desired results. This Agreement does not create an agency relationship between City and Contractor and does not establish a joint venture or partnership between City and Contractor. Contractor does not have the authority to bind City or represent to any person that Contractor is an agent of City. Contractor has the authority to hire other persons to assist Contractor in performing the Services (and has the authority to fire such persons). Contractor will pay when due all charges for labor and materials incurred by Contractor used in the completion of the Services, and will be responsible for keeping the Property free of all liens or other claims related to the Services.

3.2 Taxes; Licenses. City will not withhold any taxes from any payments made to Contractor, and Contractor will be solely responsible for paying all taxes arising out of or resulting from Contractor's performance of the Services, including, without limitation, income, social security, workers' compensation, and employment insurance taxes. Contractor will be solely responsible for obtaining all licenses, approvals, and certificates necessary or appropriate to perform the Services.

4. Representations; Warranties; Covenants.

In addition to any other Contractor representation, warranty, and/or covenant made in this Agreement, Contractor represents, warrants, and covenants to City as follows:

4.1 Authority; Binding Obligation; Conflicts. Contractor has full power and authority to sign and deliver this Agreement and to perform all of Contractor's obligations under this Agreement. This Agreement is the legal, valid, and binding obligation of Contractor, enforceable against Contractor in accordance with its terms. The signing and delivery of this Agreement by Contractor and the

performance by Contractor of all Contractor's obligations under this Agreement will not (a) breach any agreement to which Contractor is a party, or give any person the right to accelerate any obligation of Contractor, (b) violate any law, judgment, or order to which Contractor is subject, or (c) require the consent, authorization, or approval of any person, including, without limitation, any governmental body.

4.2 Quality of Services; Duties. Contractor will perform the Services diligently, expeditiously, in good faith, in a professional manner, and consistent with the terms and conditions contained in this Agreement. Contractor will be solely responsible for the Services. Contractor will make all decisions called for promptly and without unreasonable delay. Notwithstanding anything contained in this Agreement to the contrary, Contractor will perform and complete the following at Contractor's cost and expense: (a) furnish all labor, materials, equipment, tools, supplies, and services necessary or appropriate to complete the Services; (b) perform the Services in a good and workmanlike manner; (c) obtain and pay for all licenses, inspections, and permits required by any private and/or public authority in connection with the Services; (d) perform and complete the Services in compliance with the Laws (as defined below); (e) properly manage and dispose of all waste, including, without limitation, sediment, paint, cement wash, asphalt, motor oil, and grease, in accordance with the Laws; and (f) be responsible to City for the acts and omissions of Contractor and Contractor's Representatives (as defined below). Contractor will maintain proper licensure under applicable Oregon law and maintain proper insurance and bonding as required under this Agreement.

4.3 Insurance. During the term of this Agreement, Contractor will obtain and maintain, in addition to any other insurance required under this Agreement, the following minimum levels of insurance: (a) general liability insurance for all losses or claims arising out of or related to Contractor's performance of its obligations under this Agreement (including, without limitation, damages as a result of death or injury to any person or destruction or damage to any property) with limits of not less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate; (b) comprehensive automobile liability insurance for all owned, non-owned, and hired vehicles that are or may be used by Contractor in connection with Contractor's performance of the Services with limits of not less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate; and (c) workers' compensation insurance in form and amount sufficient to satisfy the requirements of applicable Oregon law. Each liability insurance policy required under this Agreement will be in form and content satisfactory to City, will list City and each City Representative (as defined below) as an additional insured, and will contain a severability of interest clause; the workers' compensation insurance will contain a waiver of subrogation in favor of City. The insurance Contractor is required to obtain under this Agreement may not be cancelled without ten (10) days' prior written notice to City. Contractor's insurance will be primary and any insurance carried by City will be excess and noncontributing. Contractor will furnish City with appropriate documentation evidencing the insurance coverage (and provisions) and endorsements Contractor is required to obtain under this Agreement upon Contractor's execution of this Agreement and at any other time requested by City. If Contractor fails to maintain insurance as required under this Agreement, City will have the option, but not the obligation, to obtain such coverage with costs to be reimbursed by Contractor immediately upon City's demand.

4.4 Compliance With Laws. Contractor will comply and perform the Services in accordance with the Laws. Without otherwise limiting the generality of the immediately preceding sentence, Contractor will comply with each obligation applicable to Contractor and/or this Agreement under ORS 279B.220, 279B.225, 279B.230, and 279B.235, which statutes are incorporated herein by reference. Prior to the Effective Date, Contractor obtained all licenses, approvals, and/or certificates necessary or

appropriate to perform the Services. For purposes of this Agreement, the term "Law(s)" means all applicable federal, state, and local laws, regulations, restrictions, orders, codes, rules, and/or ordinances related to or concerning Contractor, this Agreement, and/or the Services, including, without limitation, all applicable City ordinances, resolutions, policies, regulations, orders, restrictions, and guidelines, all as now in force and/or which may hereafter be amended, modified, enacted, and/or promulgated.

4.5 Indemnification. Contractor will defend, indemnify, and hold City and each present and future City employee, officer, agent, and representative (collectively, "City's Representatives") harmless for, from, and against any and all claims, actions, proceedings, damages, liabilities, injuries, losses, and expenses of every kind, whether known or unknown, including, without limitation, attorney fees, resulting from the following: (a) damage, injury, and/or death to person or property to the extent caused by Contractor's acts and/or omissions (and/or the acts and/or omissions of Contractor's members, managers, directors, officers, shareholders, employees, agents, representatives, consultants, and/or contractors (individually and collectively, "Contractor Representative(s)"); (b) Contractor's failure to pay any tax arising out of or resulting from the performance of the Services; and/or (c) Contractor's breach and/or failure to perform any Contractor representation, warranty, covenant, and/or obligation contained in this Agreement. Contractor's indemnification obligations provided in this Section 4.5 will survive the termination of this Agreement.

4.6 Independent Investigation. Contractor has visited, reviewed, and evaluated the Property (and all surrounding areas) and is satisfied with the nature and condition of the Property (and all surrounding areas) and the general and local conditions, including, without limitation, those bearing upon materials, disposal, availability of labor, uncertainties of weather, and any other conditions concerning the Property (and all surrounding areas) and/or the Services. Contractor warrants that the consideration for the Services and the timber and/or forest products harvested in connection with the Services is fair and reasonable in light of such conditions.

4.7 Contractor's Representations and Warranties. Contractor represents and warrants that (a) Contractor has entered into this Agreement on the basis of its own investigation, examination, and personal knowledge of the Property and (b) Contractor has not relied on any representations or warranties other than those expressly provided in this Agreement. Contractor further represents and warrants that City has made no representations or warranties, whether express or implied, with respect to the amount, nature or quality of the timber and/or forest products contained on the Property, including without limitation, warranties of merchantability, fitness for a particular purpose, or any warranties regarding consumer products as defined in the Magnusson-Moss Warranty Act or the Uniform Commercial Code.

4.8 Surety Bonds. Prior to Contractor's commencement of the Services, Contractor will obtain and deliver to City, at its sole cost and expense, separate performance and payment bonds in forms acceptable to City, executed by a corporate surety holding a certificate of authority to transact surety business in this state, and otherwise acceptable to City. Each bond will be in a sum equal to the full cost of Contractor's Fee.

5. Term; Termination.

5.1 Term; Termination Without Cause. Subject to the terms and conditions contained in this Agreement, the term of this Agreement commenced on the Effective Date and will remain in full

force and effect until the completion of the Services (which in no event will be later than _____, 2018) (the "Completion Date") unless sooner terminated as provided in this Agreement. This Agreement may be extended by the parties' mutual written agreement. City may terminate this Agreement at any time if City determines that termination of this Agreement is in the best interests of the public, which may include, without limitation, non-availability of funding for some or all segments of the Services. City will provide Contractor ten (10) days' prior written notice of any termination City determines is in the best interests of the public. After City's delivery of a termination notice under this Section 5.1, Contractor will provide City with immediate and peaceful possession of the Property. City will reimburse Contractor for any unpaid labor and materials and Contractor's reasonable overhead and profit earned through the date of termination, but Contractor will not be entitled to receive payment for lost profits for Work not performed due to termination under this Section 5.1.

5.2 Termination for Cause. If Contractor (a) fails to prosecute the Services continuously with sufficient laborers and equipment to ensure its completion of the Services by the Completion Date, (b) fails to complete the Services in accordance with the Contract Documents, (c) fails to pay its obligations as and when they become due, (d) breaches and/or otherwise fails to perform any Contractor representation, warranty, covenant, and/or obligation contained in this Agreement, and/or (e) gives City reasonable cause to doubt Contractor's ability to timely, fully, and properly complete the Services (or any other obligation hereunder), such act(s) or omission(s) will constitute a default by Contractor under this Agreement. If City determines that Contractor is in default under this Agreement, City may terminate this Agreement after providing Contractor prior written notice of default and Contractor failing to remedy such default within ten (10) days thereafter. The determination as to whether any of the aforementioned events have occurred will be made by City in City's sole discretion.

5.3 Damages. If City terminates this Agreement under Section 5.2, City may take over the prosecution of all or any portion of the Services and may complete it with its own forces or otherwise, or use such other measures as in City's sole discretion are necessary or appropriate to prevent delay or damages. Completion of the Services, or any portion thereof, will not constitute a forfeiture of City's right to recover damages from Contractor for Contractor's delay or failure to complete the Services. Upon City's termination of this Agreement, City will reimburse Contractor for any unpaid labor and materials and for Contractor's reasonable overhead and profit earned through the date of termination, subject to reasonable retainage to allow City to correct any deficiencies in Contractor's performance of the Services. City's decision to terminate this Agreement will not constitute City's sole remedy; rather, City will have all remedies available to City under this Agreement and at law or in equity. All available remedies are cumulative and may be exercised singularly or concurrently.

6. Miscellaneous.

6.1 Severability; Assignment; Binding Effect. Each provision contained in this Agreement will be treated as a separate and independent provision. The unenforceability of any one provision will in no way impair the enforceability of any other provision contained herein. Any reading of a provision causing unenforceability will yield to a construction permitting enforcement to the maximum extent permitted by applicable law. Contractor will not assign this Agreement to any person without City's prior written consent. Subject to the immediately preceding sentence, this Agreement will be binding on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit. This Agreement may be amended only by a written agreement signed by each party.

6.2 Attorney Fees; Dispute Resolution. If any arbitration or litigation is instituted to interpret, enforce, and/rescind this Agreement, including, without limitation, any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney fees and other fees, costs, and expenses of every kind, including, without limitation, costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court. If any claim, dispute, or controversy arising out of or related to this Agreement occurs (a "Dispute"), City and Contractor will exert their best efforts to seek a fair and prompt negotiated resolution of the Dispute and will meet at least once to discuss and seek a resolution of the Dispute. If the Dispute is not resolved by negotiated resolution, either party may initiate a suit, action, arbitration, or other proceeding to interpret, enforce, and/or rescind this Agreement.

6.3 Governing Law; Venue. This Agreement is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Agreement. Any action or proceeding arising out of this Agreement will be litigated in courts located in Deschutes County, Oregon. Each party consents and submits to the jurisdiction of any local, state, or federal court located in Deschutes County, Oregon.

6.4 Attachments; Further Assurances; Notices. Any exhibits, schedules, instruments, documents, and other attachments referenced in this Agreement are part of this Agreement. The parties will sign other documents and take other actions reasonably necessary to further effect and evidence this Agreement. Time is of the essence with respect to Contractor's performance of its obligations under this Agreement. All notices or other communications required or permitted by this Agreement must be in writing, must be delivered to the parties at the addresses set forth above, or any other address that a party may designate by notice to the other party, and are considered delivered upon actual receipt if delivered personally, by fax or email transmission (with electronic confirmation of delivery), or by a nationally recognized overnight delivery service, or at the end of the third business day after the date of deposit if deposited in the United States mail, postage pre-paid, certified, return receipt requested.

6.5 Waiver; Entire Agreement. No provision of this Agreement may be modified, waived, or discharged unless such waiver, modification, or discharge is agreed to in writing by City and Contractor. No waiver of either party at any time of the breach of, or lack of compliance with, any conditions or provisions of this Agreement will be deemed a waiver of other provisions or conditions hereof. This Agreement contains the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and contains all the terms and conditions of the parties' agreement and supersedes any other oral or written negotiations, discussions, representations, or agreements. Contractor has not relied on any promises, statements, representations, or warranties except as set forth expressly in this Agreement.

6.6 Person; Interpretation; Execution. For purposes of this Agreement, the term "person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity. All pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not

exclusive. The words "include," "includes," and "including" are not limiting. The titles, captions, or headings of the sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. The parties may execute this Agreement in separate counterparts, each of which when executed and delivered will be an original, but all of which together will constitute one and the same instrument. Facsimile or email transmission of any signed original document will be the same as delivery of an original. At the request of either party, the parties will confirm facsimile or email transmitted signatures by signing and delivering an original document.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed and made effective for all purposes as of the Effective Date.

CITY:
City of La Pine,
an Oregon municipal corporation

CONTRACTOR:

By: Cory Misley
Its: City Manager

By:
Its:

Schedule 1.1
Forest Fuel Reduction Services

[attached]

Schedule 1.2
Schedule of Services

[attached]

Exhibit A
The Plans

[attached]

Exhibit B
Contractor's Proposal

[attached]