

ITEM A-9-24 HERBICIDE APPLICATION FOR VEGETATION CONTROL

DATED: JANUARY 2024

CONTRACT PERIOD: 3/31/2024- 3/30/2025

INTENT

The County of Montgomery, NY ("County") is seeking qualified vendors to provide, at minimum, the material and quality requirements for the treatment of noxious vegetation under guide rails, around sign posts, utility poles, and other designated areas as outlined in the specifications or as directed by the Montgomery County Commissioner of Public Works (or his designee) on various County highways and Post Closure Landfills.

SPECIFICATIONS

Herbicide spraying - the successful bidder (the "Vendor") shall furnish all necessary labor, supervision, equipment, signage and water to mix and apply a chemical solution for controlling vegetation under guide rails, around sign posts, utility poles and other designated areas on Montgomery County Highways and Post Closure Landfills.

MATERIALS

The Vendor shall perform all work in compliance with all applicable statutes. Laws, rules, regulations, codes and ordinances, including, but not limited to, Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA) and Federal Department of Transportation (USDOT) regulations regarding the transportation and/or application of pesticides. (OSHA 20 CFR 1910.132-1910.140; USDOT 49 CFR 172.101-172.300-172.504; EPA 40 CFR 263.3D c(1)-40 CFR 263-30c (2)-40 CFR 302.B(a).

A spray mixture which includes systemic, pre-and post-emergent non-selective herbicides, or an approved equal, is to be utilized. The Vendor is to select specific products, brands and dilution ratios based on conditions present at the time the work is performed, including, but not limited to, weed species, weather conditions, dust or any pollutants on the surface of targeted vegetation. This mixture must include a spray adjuvant to reduce drift, off-target damage, etc. The proposed mixture must be consistent with generally accepted Integrated Vegetation Management principles and take into account the issue of herbicide resistance.

The rate of application shall be determined by the Vendor. This application rate shall guarantee acceptable results (90% minimum control) as determined by the Commissioner of Public Works and/or His Designee.

The proposed herbicide solution, rates of application and labels and current Safety Data Sheets (SDS) of proposed herbicides to be utilized must be submitted with this bid for review by the Public Works Commissioner. County Commissioner of Public Works has sole discretion in approving the proposed

mixture in reliance upon the Vendor's evidence and expertise

All materials to be used by the bidder shall be in new containers fitted with tamper-proof seals. All containers shall be properly marked and labeled with the manufacturer's identification label as it is registered with the United States Environmental Protection Agency. Each container shall contain the full amount of the material indicated on the attached labels. Any containers that do not contain the full amount of material as per the labels shall be rejected.

The Vendor shall dispose of empty pesticide containers, and shall do so in compliance with any applicable statutes, laws, rules, regulations, requirements and ordinances.

PRE-CONSTRUCTION MEETING

A pre-construction conference shall be held at the office of the Public Works Commissioner prior to starting work. The Vendor shall be present at the conferences and shall present a proposed schedule of work, source of materials and be prepared to discuss the contract requirements and specifications.

After consultation with the Public Works Commissioner regarding areas to be treated and the level of treatment desired, the Vendor shall inspect areas discussed. The final method of treatment and treatment schedule shall then be discussed and agreed upon by the Vendor and the Public Works Commissioner. At that time, the Vendor will be supplied with the required maps and any additional contact numbers.

AREAS TO BE TREATED

The herbicide application is to be performed annually. The Vendor shall chemically treat all vegetation growing under guide rails, around sign posts, utility poles and any other designated areas within the roadsides as directed by the Public Works Commissioner. Vegetation control shall be performed by applying a swath of thirty-six (36) inch typical width, at the rates specified, centered on the guide rail. Sign and delineator posts and utility poles shall also be treated using a typical thirty-six (36) inch pattern. All designated areas within this scope shall be treated to obtain a minimum of 90% control as determined by the Public Works Commissioner. All work must be performed to the satisfaction of the Public Works Commissioner.

TIME OF OPERATION

All designated areas shall be treated as early as possible to ensure maximum control of all weeds, grasses and wild grape vine growing under and around guide railing. The Vendor shall notify the Public Works Commissioner at least seven (7) days prior to commencing work so that the parties may attend separate pre-construction conference(s). Thereafter, a final method of treatment and treatment schedule shall be approved by the Public Works Commissioner. The treatment shall be made as rapidly as possible on consecutive, uninterrupted working days to minimize the amount of time that the Vendor is working on and along the County roadways and Post Closure Landfills. Services shall be

performed Monday through Friday, 7:00 AM to 4:00 PM, excluding holidays and/or dates holidays are observed by the County.

EQUIPMENT

Bidder shall submit with its bid a descriptive list of all equipment owned, rented or leased by bidder that it intends on using in the performance of the work required by this bid on the Certification of Equipment provided in this bid. This description will include the make, model and year of all equipment.

Equipment used in the transportation and application of the chemical mixtures shall be modern, in good repair, and not be more than seven (7) years in age. Equipment shall be of such design and construction as to comply with all the requirements of the contract requirements and shall be sufficiently maintained at all times, properly licensed, rigged and marked so as to meet all requirements of federal, state and local rules, regulation, codes and laws that apply to such equipment and usage.

Each spray unit shall be equipped with a sequential flashing arrow panel, capable of flashing left to right, right to left, pass either side, or no passing. A strobe, visible in the front and rear, shall be in constant operation during application of chemical mixtures.

The equipment used in the application of chemical mixture shall be equipped with a spray boom capable of being mounted on either side of the front of the unit with adequate remote vertical control from inside the cab of the unit and manual or remote horizontal control to allow delivery of the spray solution to the specified area while keeping the amount of drift to an absolute minimum. The boom shall be composed of two (2) pressure actuated diaphragm check valves, or approved equal, used in conjunction with two (2) flat fan nozzles mounted eighteen (18) inches apart, one angled forward, the other aft, to prevent shadowing. These nozzles shall be capable of individual or simultaneous operation and of sufficient size to allow for the largest possible droplet size at a pressure not to exceed sixty (60) pounds per square inch, with a vehicle speed not to exceed ten (10) miles per hour, and apply the spray solution at the specified rate per acre.

The spraying equipment shall be truck mounted units each of which should have a liquid capacity of not less than five hundred (500) gallons. Each unit shall be powered with a pump capable of pressures ranging from twenty (20) to three hundred (300) pounds per square inch. Each spray unit shall be equipped with a permanently attached anti-siphoning device, or water brake air gap to prevent backflow into any water source. Nozzle-type spray gun and boom, as well as any other nozzle arrangement, shall be designed to apply a large droplet of spray with an absolute minimum of atomization or drift.

The spraying unit shall be equipped with an electronic computer based control system, capable of delivering the specified chemical application rate, on a per acre basis over variable pattern widths, independent of vehicle ground speed. The system shall consist of a cab mounted console control panel, a speed sensor unit, a flow meter, and a motorized control valve. The control

monitor shall also contain an automatic override switch to allow for manually controlling flow for system check out and spot spraying capability. The sprayer system shall be capable of monitoring the specified rate of spray solution applied per acre, independently of multiple operations, and automatically maintain the flow regardless of vehicle speed. Additionally, the computerized system shall be capable of monitoring the truck speed, total area covered based on the specified spray pattern width, and length traveled during application. The system unit shall have a distance measuring accuracy of plus minus fifty (50) feet per lineal mile.

The Public Works Commissioner reserves the right to inspect the Vendor's equipment for compliance with these Specifications prior to making an award. Bidders that do not possess equipment compliant with these Specifications shall be considered non-responsive.

MEASUREMENT AND PAYMENT

Application and payment on Montgomery County Highways: One (1) application consists of the placement of the herbicide solution to the required areas to the satisfaction of the Public Works Commissioner. No payment will be made for deadhead mileage to and from sections to be treated, or between sections to be treated where the Vendor is not required to treat said roadsides as described herein. Before payment is made, the Public Works Commissioner must be satisfied that the workmanship and results of such are satisfactory as outlined below, and in this regard his decision is final. Invoices for payment shall be issued to the Montgomery County Highway Department.

QUALIFICATIONS

No submitted bid will be considered responsive unless the bidder submitting such bid meets the following conditions:

- a. Each bidder shall submit with its bid the Bidder's Experience form provided in the bid indicating evidence that it has had at least five (5) years of satisfactory experience applying guide rail vegetation control herbicides in accordance with the specifications
- b. Each bidder shall submit with its bid evidence that employees operating the herbicide application equipment have had at least five (5) years of satisfactory experience, and have all necessary federal, state and local permits and certifications relating to (i) the operation of the equipment called for, and (ii) the use of the materials to be provided pursuant to these specifications, so that an acceptable and workmanlike job will result.
- c. Each bidder shall submit with its bid evidence that it has a responsible field complaint program in effect, as well as documented on-site chemical spill worker guidelines and a contingency plan for field operations. Copies of such must be included with each bid.
- d. Each bidder must submit with its bid a copy of the license issued by the New York State Department of Environmental Conservation, Bureau of

Pesticides, to apply pesticides. The license shall be current and valid. All pesticide applicators shall provide evidence that he/she is registered at the time of application.

- e. Each bidder must submit with its bid a copy of the chemical manufacturer's labels and material data safety sheets for the specified products
- f. Each bidder shall submit with its bid, as applicable to its business entity type, a copy of the appropriate documentation from the Secretary of State or County Clerk that it is properly registered and authorized to do business within the State of New York.

The Public Works Commissioner reserves the right to make any investigations or inquires necessary to determine the competence and ability of the bidder to properly perform the work. If after an investigation, the Public Works Commissioner is not satisfied that the bidder is properly qualified to meet all requirements contained herein and to perform all work in a satisfactory manner, he may determine that the bid is non-responsive.

COMPLIANCE WITH THE LAW

All materials used to perform work required under this bid shall be registered with the New York State Department of Environmental Conservation, Bureau of Pesticides. Vendor will comply with all aspects of the New York State Department of Environmental Conservation laws, rules, policies, procedures, directions and/or any other applicable federal, state or local codes, regulations, rules or laws that may apply to herbicides or the application of herbicides.

All spray crews shall consist of a minimum of two (2) persons. At least one (1) person on each vehicle engaged in the application of herbicides shall be certified by the New York State Department of Environmental Conservation as a Commercial Pesticide Applicator licensed in Category 6A.

All vehicles belonging to the Vendor must be licensed according to New York State laws to operate their vehicles and to perform the duties outlined in this specification.

In addition to the requirements already set forth regarding equipment, the Vendor shall comply with the Fair Labor Standards Act of 1938 and all Subsequent amendments, and with all the provisions of the New York State Labor Laws and all other laws, rule and regulations pertaining to the payment of wages, salaries and to all other matters applicable to the work performed under such contract.

DAILY RECORDS

The Montgomery County Highway Department shall be given daily reports at the completion of the services required under this Contract. These reports shall show for each road: (1) the date each road was treated, (2) starting/ending time sprayed, (3) any resistant species of weeds observed and the location(s) of such, (4) the miles traveled, (5) the materials utilized, including EPA

numbers, (6) the amount of materials applied and the rates at which such were applied, (7) the actual lineal feet treated, and (8) the weather conditions observed at time of treatment, including the direction and intensity of the wind at the time of such treatment.

MAINTENANCE AND PROTECTION OF TRAFFIC

The Vendor shall be required to perform maintenance and protection of traffic (M&PT) work as ordered by the Highway Superintendent. All work shall be performed as per Sections 619-1 of the New York State Department of Transportation Standard Specifications. Maintenance and Protection of Traffic shall be deemed included in the unit price per herbicide applications.

No work on the roadways shall be permitted without the prior approval of the Public Works Commissioner.

The Vendor shall follow the specifications for a slow moving operation, which can be found in the New York State Manual of Uniform Traffic Control Devices. It is mandatory that the Vendor use figure 302-19 of the MUTCD, which is Traffic Control at Mobile Pavement Marking Operations. The operation includes Construction signs from a mobile operation form Section 238.10 of the MUTCD under Item 619.02M. All of the required construction signs shall be used with the exception of the "Wet Paint" and "Do Not Pass" signs. It is suggested to also use "Road Work Ahead" signs.

ENVIRONMENTAL PROTECTION NOTES

No application of pesticide or off-target drift is permitted within New York State Department of Environmental Conservation (NYDEC) wetlands or the respective one hundred (100) foot adjacent areas. The County has NYSDEC wetland maps available for inspection.

Spraying over water bodies is strictly prohibited. To avoid unintentional applications over water or in NYSDEC wetlands, including the one hundred (100) foot adjacent areas, the Vendor shall inspect the application route ahead of time and define the limits of pesticide spraying along the roadside in relationship to all cross culverts, streams, wetlands and their adjacent areas.

The Vendor shall give particular attention and care to protect from damage all existing vegetation, including turf, trees, ornamental plantings, etc., that are not to be treated with the herbicide. If any vegetation is damaged by the Vendor due to negligence, the Vendor shall replace the vegetation at his own risk and with no additional cost to the County.

The following application restrictions shall apply:

- a) Shut off the sprayer at least twenty (20) linear feet from any road crossing of culverts or streams.
- b) Applications or off-target drift is prohibited in any open/standing water, including ditches.
- c) Shut off the sprayer at least one hundred (100) linear feet from a

dwelling, multiple dwelling, public building or Public Park, developed residential or commercial areas.

- d) No spraying shall take place within one hundred (100) linear feet of public water supplies.
- e) Herbicide application equipment or empty containers shall not be washed in streams, ponds or wetlands, and wash water shall not be allowed to flow into any surface waters including wetlands.
- f) Applications are prohibited in winds greater than ten (10) miles per hour (when there is more than gentle movement of leaves and small twigs on trees) during rain events or when the ground is saturated.
- g) All applications must conform with all label instructions and all applicable federal, state and local laws, rules, codes and regulations.

SUPERVISION

The Vendor shall supply qualified personnel to supervise all work to be performed. Supervisory personnel shall be other than those engaged in the actual application of chemicals and shall not number less than one (1) supervisor for each four (4) persons engaged in the actual spraying operation. The costs associated with any supervisory personnel are to be included in the unit pricing indicated in the bid proposal.

If at any time during the spraying operations the Public Works Commissioner requires the company of the supervisor for a joint inspection of the work, the supervisor shall be available for such inspection.

SAMPLES

At any time during the spraying operations, samples of the materials being used shall be furnished upon request of the Public Works Commissioner.

INSPECTION

Between thirty (30) to sixty (60) days after completion of the application of herbicides, the Public Works Commissioner shall inspect and make a determination of the acceptability of the areas treated. Any treated areas which in the sole opinion of the Public Works Commissioner is found to be unsatisfactory and whose level of control is less than 90%, the vendor will re-treat these said areas at no additional cost to the Public Works Commissioner.

Any weeds which escape initial control measures will be re-evaluated in order to assess the potential of herbicide resistance. The Vendor is required to report any results of potential resistance to the Public Works Commissioner within fourteen (14) days of initial inspection along with a written report of each area treated and the results observed.

Before any payments are made, the Public Works Commissioner must be satisfied that the workmanship and results of such are satisfactory, and in this regard his decision shall be final.

LIABILITY

The County shall not be liable to the Contractor for any special, indirect,

incidental, punitive, or consequential damages arising from or related to this Agreement, including bodily injury, death, loss of revenue, or profits or other benefits, and claims by any third party, even if the Contractor has been advised of the possibility of such damages. The foregoing limitation applies to all causes of action in the aggregate, including, without limitation, breach of contract, breach of warranty, negligence, strict liability, and any and all other torts.

HOLD HARMLESS

To the extent caused by the Contractor, the Contractor shall indemnify, defend, and hold harmless the County, its affiliates, agents, officers, directors, and employees from any and all claims, liability, demands, losses arising out of injury to property or persons, including death, any causes of action, damages, lawsuits judgments, and any claim based on any statute, law, ordinance, code, or regulation arising out of, relating to, or sustained in connection with the Contractor's provision of services under this Agreement. This includes any and all attorneys' fees costs and expenses associated with the foregoing.

THE RIGHT OF EXCLUSION & ADDITIONS

The Public Works Commissioner reserves the right to include or exclude any highway or portion of highway at any time under the terms and conditions of the contract.

ARTICLE 9 LABOR LAW COMPLIANCE

Vendor agrees:

- 1) that in the hiring of employees for the performance of work under the contract or any subcontract thereunder within the territorial limits of this state, no contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall by reason of race, creed, color, national origin, age, sex or disability, discriminate against any citizen of the of New York who is qualified and available to perform the work to which the employment relates;
- 2) that no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, color, national origin, age, sex or disability;
- 3) that there may be deducted from the amount payable to the contractor by the public agency under the contract a penalty of fifty dollars (\$50.00) for each person for each day during which such person was discriminated against or intimidated in violation of the provisions of the contract;
- 4) that the contract may be cancelled or terminated by the County, and all moneys due or to become due thereunder may be forfeited for a second or any subsequent violation of the terms or conditions of this section of the contract.

TERM

The County anticipates that the term of the Contract to be executed by the County and Contractor shall be for two (2) years. The County reserves the right to extend the contract for up to one (1) additional one (1) year period,

at the sole option of the County and under the terms and conditions of the original bid, unless alternate terms are specified in this bid and/or the contact for renewals/extensions.

PRICING & PREVAILING WAGE

- 1) The proposed scope and specifications are not a guarantee, were developed based on past or anticipated needs, and are as accurate as the County can ascertain at the time of issuance of this RFB. When an anticipated volume of services or other quantities are listed, these are either based upon a historical usage or anticipated need. The County in no way guarantees that the actual volume or quantities listed will be necessary or ordered, although every attempt is made to provide accurate information. When volume or quantities are listed, the Bidder should understand that the actual volume or quantities may be more or less, depending on the actual needs of the County. The Bidder shall hold the County harmless against any damages because of estimated volume or quantities. In the event quantities exceed the estimate, the County shall receive the price as listed in the Bid or, if a better price is available at that time, that price shall be passed on to the County.
- 2) The prices submitted shall be exclusive of federal and state sales taxes (or other taxes inapplicable to government entities) and must not include any tax for which the Bidder may claim exemption because of doing business with the County. Unless otherwise indicated in this RFB, prices shall be net, including any applicable transportation and delivery charges fully prepaid by the successful Contractor to the destination indicated in the Bid. No freight and/or handling and/or fuel surcharges will be accepted, unless otherwise agreed to in the Contract.
- 3) For contracts involving provision of goods, equipment or technology, at no time shall any increase in price or change in product specification for those items be permitted, except in the case where an item has been replaced by another item due to obsolescence. In this instance, the County must approve a change of product in a written change order for it to be valid. In the event a product substitution is approved, no change in price will be permitted except when the price will be equal to or lower than the originally awarded price.
- 4) Prevailing Wage Requirements

Prevailing Wage rates apply to this Contract and are specified in Prevailing Wage Schedule PRC # 2017900447 which is incorporated by reference. The Prevailing Wage Schedule and any supplements thereto may be found by entering the PRC# at: <http://wpp.labor.state.ny.us/wpp/showFindProject.do?method=showlt>. The successful Contractor is required to pay the prevailing hourly wage rates and supplements throughout the term of the Contract pursuant to New York State Labor Law.

Currently, the New York State Department of Labor typically issues revised Prevailing Wage Schedules each July. Bids for contracts that run beyond July of any year, or potentially for multiple years, should account for any increase

in Prevailing Wage rates as change orders due to increased Prevailing Wage rates shall not be permitted. Bidders are strongly encouraged to review archived Prevailing Wage Schedules at: <http://www.labor.state.ny.us/workerprotection/publicwork/ArchivedWageSchedules.shtm>, prior to bid submission, to ensure that their Bid pricing will be competitive. Notwithstanding the foregoing, Contractor shall be responsible for all Prevailing Wage and Supplement increases regardless of when or how often they are implemented at the prices submitted in Contractor's Bid.

Successful bidders shall pay not less than the prevailing wage rate established by the New York State Department of Labor, Bureau of Public Works. The Commissioner reserves the right to demand certified payroll from the contractor at any time during the course of operations.

PAYMENT

Payment shall be made in accordance with Sections 18 (Prevailing Wages) and 19 (Request for Payment) of the General Conditions, Article 9 (Payment) of the Public Improvement Contract, and any other applicable provisions of the contract requiring supporting documentation, forms, certifications, etc.

It is anticipated that any Public Improvement contract awarded will be on payment terms of 30 days. The County reserves the right to pay in less time under all circumstances or to negotiate payment terms of lesser time at the County's sole discretion. The County offers a credit card payment alternative for Contractors needing payment faster than thirty days but Contractor is responsible for any fees associated with such credit card payment between the credit card company and Contractor (County is not responsible for such fees).

Bidders are reminded that New York State Labor Law requires contractors to submit certified payrolls indicating payment of Prevailing Wage Rates with each invoice involving labor, prior to payment by the County.

Payment under this item shall be for: the tons of material used as indicated on the weight slip(s). The per net ton mile(s) when hauled by the supplier, tons as indicated on the weight slip, miles from plant to job site as determined by the County; paver rental, the actual number of days and or half-days the paver is used to place materials; roller rental, the actual number of days and/or half-days the roller(s) are used to compact materials.

INSURANCE

When bidder's equipment is rented, before the actual commencement of work, the bidder shall file with the Commissioner, liability insurance policies, with limits not less than the following amounts as indicated:

Types of Policies

- a. Contractor's Liability Insurance
- b. Contractor's Protective Liability Insurance
- c. Completed Operations Liability Insurance
- d. Protective Liability Insurance for the County

e. Owner, Landlords and Tenants Liability Insurance

Minimum Limits

<u>Bodily Injury Liability</u>		<u>Property Damage Liability</u>	
Each Person	Each Accident	Each Accident	Aggregate
\$500,000.00	\$1,000,000.00	\$500,000.00	\$1,000,000.00

OTHER MUNICIPALITIES

All provisions of this specification and the ensuing contract, including insurance, shall be extended to all municipalities in the County of Montgomery, and work ordered by them, shall be furnished according to their needs at the prices and terms of the contract.

PROPOSAL

Each proposal must be submitted on the official form that is furnished within these specifications. In executing their proposal, the bidder shall indicate on the proposal form: unit bid price for each item, price per net ton mile supplier hauling from plant to job site, daily and half day, 4 hours or less, paver rental w/operator and screed man, daily and half day, 4 hours or less, roller rental w/operator. Each bidder must include with their proposal certification that all materials to be supplied meet the respective requirements as stated in the New York State Department of Transportation Standard Specifications, Construction and Materials, dated January 2, 1990, including addenda.

**PROPOSAL FORM FOR ITEM A-9-24
HERBICIDE APPLICATION FOR VEGETATION CONTROL
Sheet 1 of 2**

Deliver Proposals to: Montgomery County Purchasing Agent
P.O. Box 1500
Fonda, NY 12068-1500

Sir:

The undersigned as read and understands the Information and Instructions to Bidders and the specifications for the furnishing of Item A-9-24 Herbicide Application for Vegetation Control and proposes to furnish the items at the cost shown on the attached sheet.

This proposal is subject to acceptance within forty-five (45) days of the time set for the opening of bids.

FIRM NAME: _____

ADDRESS: _____

TELEPHONE: _____

SIGNATURE OF AUTHORIZED REPRESENTATIVE: _____

NAME AND TITLE: _____

DATE: _____

BIDDERS FEDERAL ID NO.
OR SOCIAL SECURITY NO.: _____

IS FIRM INCORPORATED? _____

IS FIRM MINORITY OWNED? _____

(Minority ownership refers to ethnic origin NOT gender)

PROPOSAL FORM FOR ITEM A-9-24
HERBICIDE APPLICATION FOR VEGETATION CONTROL
Sheet 2 of 2

PROPOSAL OF: _____

HIGHWAY: furnish and apply herbicide under guide rails, around sign posts, utility poles, other designated areas and include M & P of traffic

\$ _____

Unit Price Per Mile (one side)

FACILITIES: furnish and apply herbicide along fencing and vent pipes

\$ _____

Unit Price Per lineal foot