



6010 Campus Delivery
Purchasing Department
555 S. Howes Street
Fort Collins, CO 80523

970-491-5105

Purchase Order		
Purchase Order Date	PO/Reference No.	Revision No.
8/21/2012	348218	0
Purchaser Information		
Requestor Name	Valerie A Heady	
Requestor Email	Valerie.Heady@ColoState.EDU	
Requestor Phone	+1 (970) 491-6303	

Order acceptance instructions:

Purchase Order Terms and Conditions

<http://www.purchasing.colostate.edu/pages/pdf/potermconditions.pdf>

Supplier Information	Delivery Information
Precision Felling Inc	Delivery Address
Address 1067 S Hover St E-213	Colorado State University
City/State/Zip Longmont, CO 80501	Name Heady, Valerie A
Fax +1 (970) 491-5523	ContactEmail Valerie.Heady@ColoState.EDU
F.O.B.	Phone 970-491-6303
Payment Terms	Building Thomas B. Borden State Forestry Building - Rm 0
	5060-1
	200 West Lake Street
	5060 Campus Delivery
	Fort Collins, CO 80523-5060
	United States
	ShipTo Address Code 5060-1
	Delivery Information
	Delivery
	Expedite No
	Ship Via Best Carrier-Best Way

Shipping Instructions

Note to Supplier (1) Attn: Justin Kennymore/Precision Felling -- Thank you for supporting the contract requirements for CSFS. Please NOTE THE PO# on all invoices for most efficient payment at Net 0. Diana Selby/CSFS FC contact for project to complete by 3/31/13.

Attachments for supplier
PrecFell_8-12ISC.PDF (1,718k)

Supplier Terms and Conditions

Line No.	Product Description	Catalog No.	Size / Packaging	Unit Price	Quantity	Ext. Price
1 of 1	Meadow Creek SL Fuels Reduction project per attached contract for completion by 3/31/13.		LOT	4,275.00 USD	1 LOT	4,275.00 USD
	Taxable No					
	Capital Expense No					
	PO Clauses Refer below					
Total						4,275.00 USD

Purchasing Information		Billing Address	
Contract	no value	Company	COLORADO STATE UNIVERSITY
Quote number		Phone	970-491-1429
Purchasing Agent	no value	ACCOUNTS PAYABLE	
970-491-5105	no value	6003 CAMPUS DELIVERY	
		FORT COLLINS, CO 80523-6003	
		United States	
PO Terms			
There are no clauses associated with this Purchase Order.			

INDEPENDENT SERVICES CONTRACT

I. PARTIES

The Parties to this Contract are: the Board of Governors of the Colorado State University System, acting by and through Colorado State University, a body corporate and an institution of higher education of the state of Colorado, for the use and benefit of Colorado State Forest Service, Fort Collins District (hereinafter called the "University" or "CSU"); and Precision Felling, Inc. (hereinafter called "Contractor"), a corporation existing under the laws of the state of Colorado (collectively, the "Parties").

II. RECITALS

WHEREAS, authority to enter into this Contract arises from CRS Sec.23-30-102, 23-30-120, and 23-31-101, *et seq.*; funds have been budgeted, appropriated and otherwise made available; and a sufficient unencumbered balance thereof remains available for payment of this Contract in fund number 5308420-14; and

WHEREAS, the Contractor was selected pursuant to Purchasing Agent Discretion number [n/a].

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the Parties agree to all recitals, terms, conditions and provisions contained herein.

III. TERM

Effective Date:

This Contract shall commence on the Effective Date, which shall be the later of the date that it is signed by the Colorado State University Controller or the Controller's authorized delegate or Insert Date or N/A. This Contract shall not be effective or enforceable and the University shall not be liable to pay the Contractor for performance hereunder until it is approved and signed by the Colorado State University Controller or authorized designee. The Contractor shall not begin work before receiving a fully executed Contract and instructions to proceed.

Initial Term:

The Initial Term of this Contract shall commence on the Effective Date and shall terminate on March 31, 2013, unless sooner terminated or further extended as specified elsewhere herein.

Option to Extend:

☐ By Mutual Agreement: The Parties may, upon mutual written agreement, extend this Contract for an additional term of Insert number of years or months (the "Renewal Term").

☐ Automatic Renewal: Upon expiration of the Initial Term this Contract shall automatically renew for Insert number and length of renewal terms.

The total duration of this Contract, including any Renewal Term(s), shall not exceed Insert time period--max. 5 years

IV. PURPOSE/SCOPE OF WORK

Purpose:

The purpose of this Contract is cutting trees to reduce fuel loading.

Scope of Work:

Contractor shall complete its obligations as described in the Scope of Work attached hereto as **Exhibit A** on or before the end of the Initial Term or such other date(s) for completion of the Scope of Work or portions of the Scope of Work as may be specified in **Exhibit A**. Contractor shall procure goods and services necessary to complete the Scope of Work. Such procurement shall be accomplished using the contract funds paid hereunder and shall not increase the maximum amount payable by the University unless otherwise specifically authorized in the Scope of Work.

V. PAYMENT TERMS

☒ This is a fixed-price contract.

Payment for all services performed by Contractor under this Contract shall be in the fixed sum of \$4,275 payable upon invoice after satisfactory completion of the work, except insofar as a payment schedule or other terms and conditions are set forth in **Exhibit B**, which, if applicable, is attached hereto and incorporated by this reference.

☐ This is not a fixed price contract.

The price is to be determined according to time and materials or other method of calculation as more fully described in **Exhibit B**, which is attached and incorporated by this reference. The total amount to be paid to Contractor shall not exceed \$[enter dollar amount] and the basis for all charges shall be clearly identified on Contractor's invoice(s). No payment shall be made for services or deliverables except as specified in this Contract unless further agreed and approved in writing.

Advance Payments: Any advance payments required under this Contract shall only be allowed if specially authorized by the Colorado State University Controller or delegate in compliance with the Colorado State University System Fiscal Rules.

Advance Payment Approval: the undersigned represents that he or she is duly authorized to approve the advance payment to Contractor as required under this Contract, in the amount of \$[enter dollar amount] and that an adequate basis for approval exists pursuant to Colorado State University System Fiscal Rule 2.1, and, if applicable, the delegate's specific written delegation conditions.

By: _____

Name: _____

Date: _____

VI. REPRESENTATIVES AND NOTICES

The individuals identified below are the designated representatives of the Parties. All notices required to be given hereunder shall be hand delivered with receipt required OR sent by certified or registered mail to such Party's designated representative at the address set forth below. In

addition to, but not in lieu of a hard-copy notice, notice also may be sent via (i) e-mail to the e-mail addresses, or (ii) fax to the Party's fax number, if any, set forth below. Either Party may from time to time designate substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt. A fax notice is invalid unless the Party sending the fax receives written confirmation of its receipt from the receiving Party (not merely a confirmation of transmission from the faxing Party's own machine).

UNIVERSITY: Joe Duda Colorado State Forest Service Foothills 5060 Campus Delivery Colorado State University Fort Collins, CO 80523-5060 E-mail: joseph.duda@colostate.edu Telephone: 970-491-6303 Fax: 970-491-7736 With a copy to: Director, Contracting Services 6010 Campus Delivery Colorado State University Fort Collins, CO 80523-6010 Email: contracts@colostate.edu Tel: 970-491-6166 Fax: 970-491-5523	CONTRACTOR: Justin Kennymore Precision Felling, Inc. 1067 S. Hover Unit E-213 Longmont, CO 80501 E-mail: Email Telephone: (720)201-9630 Fax: Fax #
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VII. EXHIBITS

If checked, the following exhibits are attached and hereby made a part of this Contract:

- ☒ **Exhibit A:** Statement of Work
- ☒ **Exhibit B:** Price, Cost and Payment Provisions
- ☒ **Exhibit C:** Federal Funds Addendum
- ☒ **Exhibit D:** Contractor Disclosure Statement
- ☐ **Other (Please specify):** _____

VIII. GENERAL TERMS AND CONDITIONS

(1) Independent Contractor: Contractor, and all persons employed or engaged by Contractor to perform under the attached Scope of Work, shall perform as an independent contractor and not an employee or agent of the University. The means and methods of performance are to be determined by the Contractor in order to achieve the results required under the Statement of Work. Contractor shall perform its obligations hereunder in accordance with the highest standards of care, skill and diligence in Contractor's industry, trade, or profession and in the sequence and manner set forth in this Contract. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits shall be available to Contractor and its employees

and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall not have authorization, express or implied, to bind the University to any contract, liability or understanding, except as expressly set forth herein. Contractor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

(2) Inspection/Monitoring: The University reserves the right to inspect Contractor's performance at all reasonable times and places during the term of this Contract, including any extensions or renewals. If Contractor's performance fails to conform to the requirements of this Contract, the University may require Contractor promptly to come into conformance at Contractor's sole expense. If Contractor's performance cannot be brought into conformance by such corrective measures, the University may exercise any or all of the remedies available under this Contract, at law or in equity. Contractor shall permit the University, the federal government, and governmental agencies having jurisdiction, in their sole discretion, to monitor all activities conducted by Contractor pursuant to the terms of this Contract using any reasonable procedure.

(3) Late Payments/Interest: The University shall pay each invoice within 30 days of receipt thereof, for the work performed by Contractor and accepted by the University. If the University contests any amount invoiced, it shall pay the uncontested amount and provide a written statement of the reason(s) for withholding the remaining amount together with such partial payment. Uncontested amounts not paid by the University within 45 days after due date shall bear interest on the unpaid balance beginning on the 46th day at a rate not to exceed one (1.0%) percent per month until paid in full; provided, however, that interest shall not accrue on unpaid amounts that are subject to a good faith dispute. Contractor shall invoice the University separately for accrued interest on delinquent amounts. The billing shall reference the delinquent payment, the number of days interest to be paid, and the interest rate.

(4) Fund Availability: Financial obligations of the University payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. If federal funds are used to fund this Contract, in whole or in part, the University's performance hereunder is contingent upon the continuing availability of such funds and **Exhibit C** attached hereto is incorporated herein by this reference. If such funds are not appropriated, or otherwise become unavailable, the University may terminate this Contract immediately, in whole or in part, without further liability in accordance with the provisions hereof and shall remit payment to the Contractor for its performance prior to termination. If the amount due cannot readily be determined from the Contract, then the amount shall be calculated on a pro rata basis according to the percentage of the entire Scope of the Work that was completed and accepted by University.

(5) Contractor Records: Contractor shall make, keep and maintain a complete file of all records, communications and documents pertaining in any manner to its performance hereunder. Contractor shall maintain such records for a period of at least three years until the last to occur of: (i) the date this Contract expires or is sooner terminated, (ii) final payment is made hereunder, (iii) the resolution of any pending Contract matters, or (iv) if an audit is occurring, or Contractor has received notice that an audit is pending, until such audit has been completed and its findings

have been resolved (collectively, the "Record Retention Period"). Contractor shall permit the University (and, if federal funds are used in the payment of this Contract, the federal government), and any duly authorized agent of either, to audit and inspect Contractor's records during the Record Retention Period to assure compliance with the terms hereof or to evaluate performance hereunder.

(6) Confidential Information: Confidential Information (or "CI") as used in this Contract, shall include any and all documents, materials, data or information disclosed by one Party (the "Disclosing Party") to the other Party (the "Recipient") that (i) is clearly identified as CI at the time of disclosure, or (ii) the Recipient knows to be CI of the Disclosing Party. CI shall not include any information which at the time of disclosure is in the public domain, or which after disclosure is published or otherwise becomes part of the public domain in any manner other than by violation of this Contract; or was in the possession of the Recipient at the time of disclosure. CI shall not include information required to be disclosed pursuant to the Colorado Open Records Act, CRS Sec.24-72-101, et seq. ("CORA"). The Parties shall keep all CI secret at all times and comply with all laws and regulations concerning confidentiality of such information. Any request or demand by a third party for CI shall be immediately forwarded to the Disclosing Party's designated representative. If disclosure of the CI is required pursuant to CORA or to any lawful subpoena, court order, or other legal process, it shall be the sole responsibility of the Disclosing Party to initiate and prosecute a legal action to prevent, limit or prohibit the disclosure, at its own expense. The Recipient shall reasonably cooperate with the Disclosing Party with respect to any such legal action, but shall always have the right to proceed as it believes, in its sole discretion and judgment, to be required in accordance with the law.

(7) Licenses, Permits and Other Authorizations: Contractor represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have and maintain, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorizations required by law to perform its obligations hereunder. Contractor, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain a business registration with the Colorado Secretary of State and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Contractor to properly perform the terms of this Contract is a material breach by Contractor and constitutes grounds for termination of this Contract.

(8) Insurance:

A. The Contractor shall obtain, and maintain at all times during the term of this Contract, insurance in the following kinds and amounts:

1) Workers' Compensation Insurance as required by state statute, and Employer's Liability Insurance covering all of Contractor's employees acting within the course and scope of their employment.

2) Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- a. \$1,000,000 each occurrence;
- b. \$1,000,000 general aggregate;

- c. \$1,000,000 products and completed operations aggregate; and
- d. \$50,000 any one fire.

If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, the Contractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish to the University a certificate or other document satisfactory to the University showing compliance with this provision. Notwithstanding this subsection A, if the Contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act CRS 24-10-101, et seq., as amended ("Act"), the Contractor shall at all times during the term of this Contract maintain such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. Upon request by the University, the Contractor shall show proof of such insurance satisfactory to the University.

3) Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit as follows: \$1,000,000 each accident combined single limit.

4) (only if checked ☐) Professional liability insurance with minimum limits of liability of not less than \$1,000,000.

5) (only if checked ☐) Crime/Employee Dishonesty insurance with minimum limits of liability of not less than \$1,000,000.

B. The Board of Governors of the Colorado State University System acting by and through Colorado State University, a division of the State of Colorado, shall be named as additional insured on the Commercial General Liability and Automobile Liability Insurance policies (leases and construction contracts will require the additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent). Coverage required of the Contract will be primary over any insurance or self-insurance program carried by the State of Colorado.

C. Contractor shall notify University at least 45 days prior to cancellation or non-renewal of the required insurance coverage.

D. The Contractor will require all insurance policies in any way related to the Contract and secured and maintained by the Contractor to include clauses stating that each carrier will waive all rights of recovery, under subrogation or otherwise, against the State of Colorado, its agencies, institutions, organizations, officers, agents, employees and volunteers.

E. All policies evidencing the insurance coverage required hereunder shall be issued by insurance companies satisfactory to the University.

F. The Contractor shall provide certificates showing insurance coverage required by this Contract to the University upon execution of this Contract. No later than 15 days prior to the expiration date of any such coverage, the Contractor shall deliver to the University certificates of insurance evidencing renewals thereof. At any time during the term of this Contract, the University may request in writing, and the Contractor shall thereupon within 10 days supply to the University, evidence satisfactory to the University of compliance with the provisions of this section.

G. Self-insurance programs do not meet the State's or the University's insurance requirements unless the Contractor provides satisfactory evidence of a loss reserve fund of not

less than the minimum coverage amount specified herein, plus excess liability coverage as appropriate to the industry; financial statements of the business; and proof of Department of Labor certification of self-insurance program for worker's compensation.

(9) Default: The failure of either Party to perform any of its material obligations hereunder in whole or in part or in a timely or satisfactory manner constitutes an event of default. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute an event of default. In the event of a default, notice shall be given in writing by the non-defaulting Party to the defaulting Party. If such default is not cured within 30 days of receipt of written notice, or if a cure cannot reasonably be expected to be completed within 30 days, or if cure has not begun within 30 days and pursued with due diligence, then the defaulting Party shall be in breach of this Contract, and the non-defaulting Party may exercise any of the remedies set forth below. Notwithstanding anything to the contrary herein, the University, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Contract in whole or in part if reasonably necessary to preserve public safety or to prevent immediate and/or irreparable harm.

(10) Remedies for Default - Termination: The University may terminate this Contract in whole or in part. Exercise by the University of this right shall not be a breach of its obligations hereunder. Contractor shall continue performance of this Contract to the extent not terminated, if any and may incur obligations as are necessary to do so within this Contract's terms. To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. Upon termination, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor in which the University has an interest. All materials owned by the University in the possession of Contractor shall be immediately returned to the University. Any completed deliverables, at the option of the University, shall be delivered by Contractor to the University and shall become the University's property. The University shall remunerate Contractor only for accepted performance up to the date of termination.

Notwithstanding any other remedial action by the University, Contractor shall remain liable to the University for any damages sustained by the University by virtue of any default under this Contract by Contractor and the University may withhold any payment to Contractor for the purpose of mitigating the University's damages, until such time as the exact amount of damages due to the University from Contractor is determined. Contractor shall be liable for excess costs incurred by the University in procuring from third parties replacement goods and services as cover.

(11) Remedies for Default – Not Involving Termination: The University, in its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

A) Suspend Contractor's performance with respect to all or any portion of this Contract pending necessary corrective action as specified by the University without entitling Contractor to an adjustment in price/cost or performance schedule. Contractor shall promptly cease performance and incurring costs in accordance with the University's directive and the

University shall not be liable for costs incurred by Contractor after the suspension of performance under this provision.

B) Withhold payment to Contractor until corrections in Contractor's performance are satisfactorily made and completed.

C) Deny payment for those obligations not performed, that due to Contractor's actions or inactions, cannot be performed or, if performed, would be of no value to the University; provided, that any denial of payment shall be reasonably related to the value to the University of the obligations not performed.

D) Notwithstanding any other provision herein, the University may demand immediate removal of any of Contractor's employees, agents, or subcontractors whom the University deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Contract is deemed to be contrary to the public interest or the University's best interest.

(12) Intellectual Property Infringement: If Contractor infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Contract, Contractor shall, at the University's option (i) obtain for the University or Contractor the right to use such products and services; (ii) replace any goods, services, or other product involved with non-infringing products or modify them so that they become non-infringing; or (iii) if neither of the foregoing alternatives are reasonably available, remove any infringing goods, services, or products and refund the price paid thereof to the University.

(13) Termination for Convenience: The University is entering into this Contract for the purpose of carrying out the public policy of the State, as determined by its Governor, General Assembly, and/or Courts and by the Board of Governors of the Colorado State University System, acting by and through its authorized representatives for the University. If, in the sole discretion and judgment of the University, this Contract ceases to further the public policy of the State, the University may terminate this Contract in whole or in part upon not less than 30 days written notice. Exercise by the University of this right shall not constitute a breach of the University's obligations hereunder.

(14) Work Product/Rights in Data, Documents and Computer Software: Any software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials, or deliverables of any type, including drafts, prepared by Contractor in the performance of its obligations under this Contract ("Work Product") shall be the exclusive property of the University and all Work Product shall be delivered to the University by Contractor upon completion or termination hereof. The University's exclusive rights in such Work Product shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works. Contractor shall not use, willingly allow, cause or permit such Work Product to be used for any purpose other than the performance of Contractor's obligations hereunder without the prior written consent of the University.

(15) University Liability/Governmental Immunity: Liability for claims for injuries to persons or property arising from the negligence of the University, its departments, Board, officials, and employees is at all times herein strictly controlled and limited by the provisions of the CGIA, as now and hereafter amended. Nothing in this Contract shall be deemed or applied as a waiver of such immunities. In no event will the University or the State of Colorado be liable for any special, indirect, or consequential damages, even if the University or the State has been advised

of the possibility thereof. As an institution of the State of Colorado, the University is not authorized to indemnify any party, public or private, as against the claims and demands of third parties and any such indemnification provision in this Contract shall be null and void.

(16) Contractor Indemnification: Contractor shall indemnify, save, and hold harmless the State of Colorado, the University, and their employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this Contract. If Contractor is a public entity, then provisions hereof shall be applicable to the extent authorized by law, and not construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the Colorado Governmental Immunity Act, CRS Sec.24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., as applicable, as now or hereafter amended.

(17) Assignment and Subcontracts: Contractor's rights and obligations hereunder are personal and may not be transferred, assigned or subcontracted without the prior, written consent of the University. Any attempt at assignment, transfer, subcontracting without such consent shall be void. All assignments, subcontracts, or subcontractors approved by Contractor or the University are subject to all of the provisions hereof including insurance requirements. Contractor shall be solely responsible for all aspects of subcontracting arrangements and performance. Copies of any and all subcontracts entered into by Contractor to perform its obligations hereunder shall be submitted to the University or its designated representative upon request by the University. Any and all subcontracts entered into by Contractor related to its performance hereunder shall comply with all applicable federal and state laws and shall provide that such subcontracts be governed by the laws of the State of Colorado.

(18) Complete Agreement: This Contract represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein. All provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and permitted assigns. The captions and headings in this Contract are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

(19) Amendments: Except as specifically provided in this Contract, modifications of this Contract shall not be effective unless agreed to in writing by both Parties in an amendment to this Contract, properly executed and approved in accordance with applicable Colorado state laws, regulations and Colorado State University System Fiscal Rules. This Contract is subject to such modifications as may be required by changes in federal or Colorado state law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Contract on the effective date of such change, as if fully set forth herein.

(20) Severability/Waiver: Provided this Contract can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof, provided that the Parties can continue to perform their

obligations under this Contract in accordance with its intent. Waiver of any breach under a term, provision, or requirement of this Contract, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

(21) Choice of Law, Venue and Jurisdiction: Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Contract, to the extent capable of execution. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado District Court, and exclusive venue shall be in the County of Larimer. The University does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Contract or incorporated herein by reference shall be null and void.

(22) Third Party Beneficiaries: Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to the Contract, and do not create any rights for such third parties.

(23) Software Piracy Prohibition (Governor's Executive Order D 002 00): University or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the University determines that Contractor is in violation of this provision, the University may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

(24) Employee Financial Interest (CRS 24-18-201; 24-50-507): The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

(25) Vendor Offset (CRS. 24-30-201(1); 24-30-202.4: (Not applicable to intergovernmental agreements.) Subject to CRS Sec.24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS Sec.39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

(26) Public Contracts for Services (CRS 8-17.5-101): *(Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services.)* Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who shall perform work under this Contract and shall confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program or the State program established pursuant to CRS Sec.8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this Contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS Sec.8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the State program, Contractor shall deliver to the University a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Contractor fails to comply with any requirement of this provision or CRS Sec.8-17.5-101 et seq., the University may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.

(27) Work outside Colorado or United States (CRS 24-102-206): If Contractor anticipates that services under this Contract or any subcontract hereunder shall be performed outside the State of Colorado or outside of the United States, the Contract must complete the Contractor Disclosure Statement, **Exhibit D** attached hereto.

(28) Public Contracts with Natural Persons (CRS 24-76.5-101): Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS Sec.24-76.5-101 et seq., and (c) has produced one form of identification required by CRS Sec.24-76.5-103 prior to the effective date of this Contract.

(29) Signing Authority. Contractor warrants that it possesses the legal authority to enter into this Contract and that it has taken all actions required by its procedures, and by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Contract, or any part thereof, and to bind Contractor to its terms. If requested by the University, Contractor shall provide the University with proof of Contractor's authority to enter into this Contract within 15 days of receiving such request. This Contract may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

***Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that Colorado State University is relying on their representations to that effect and accept personal responsibility for any and all damages the University may incur for any errors in such representation.**

CONTRACTOR:

Precision Felling, Inc.

By: [Signature]
*Signature

Name: Justin Kennymore

Title: Vice President

Date: 8/6/2012

STATE OF COLORADO

John W. Hickenlooper GOVERNOR

Board of Governors of the Colorado State University
System, acting by and through Colorado State University
Dr. Anthony A. Frank, President

[Signature]
Linda Meserve, Supervising Purchasing Agent

Date: 8/21/12

REQUIRED APPROVALS:

By: [Signature]
*Signature

Name: Mary Atella

Title: CFO

for [Dean, Director or Dept. Head]

Date: 8/16/12

Account No: _____

LEGAL REVIEW

John W. Suthers, Attorney General

By: NIR
Donna W. Aurand, JD Director, Contracting Services
and Special Assistant Attorney General for
Colorado State University

Date: _____

ALL EXPENDITURE CONTRACTS REQUIRE APPROVAL BY THE UNIVERSITY CONTROLLER

CRS §24-30-202 and University policy require the University Controller to approve all expenditure contracts. This Amendment is not valid until signed and dated below by the University Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the University is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

COLORADO STATE UNIVERSITY CONTROLLER

By: [Signature]
*Signature

Name: KATHLEEN LAFOLLETTE

Date: 8.21.2012

EXHIBIT A TO INDEPENDENT SERVICES CONTRACT STATEMENT OF WORK

GENERAL DESCRIPTION:

Meadow Creek State Land
2012 Fuels Reduction Project

Purpose:

The project has several primary objectives:

- Decrease hazardous fuels
- Increase overall forest health
- Increase forest resistance to insects and disease

General Description of Work:

Work involves felling of dead and mountain pine beetle infested ponderosa pine trees with a chainsaw and piling or chipping materials and slash. A mandatory site inspection is required for this project.

Legal Description and Location:

Meadow Creek State Land is located in Larimer County about 45 miles northwest of Fort Collins, CO. To reach Meadow Creek, travel north on Highway 287 to the Cherokee Park Road turn (80C). At this junction, turn left (west) and drive about 14 miles to the Cherokee Meadows subdivision. Take a left into the subdivision on Cherokee Meadows Road and proceed west until the road appears to fork. Turn right (north) and follow Wild Pony Way through private gate. Project is located in the southwest quarter of Section 36, Township 11 North, Range 72 West. Land ownership is state land board; however, best access for equipment is gained through private lands.

Unit Descriptions:

Each unit is described in the table below:

Unit Number	Acreage	Number of Trees	Species
1	5.4	201	Ponderosa pine
2	4	84	Ponderosa pine
Total	9.4	285	

Project is described and/or marked as follows: Unit boundaries corners are flagged in blue. All trees to be removed are marked at DBH with blue paint dots on a north and south orientation.

Tree sizes range from 2-16"+ DBH with the majority under 12". Contractor may remove and utilize any materials of choice that are designated for treatment. If Contractor chooses not to remove materials, logs shall be limbed, cut to 12'6" lengths and stacked where standard four wheel drive vehicles can access materials. Slash will be broadcast chipped back on to site or piled. For all activities, no materials shall be left where they are obstructing roads or trails.

Treatment Types & Equipment Recommendations:

Unit Number	
1,2	Chainsaw, chipper, and/or masticating equipment

General Prescriptions:

- Cut and remove or treat all marked ponderosa pine.
- Wherever practicable, contractor will cut stumps to as close to ground level as possible. Where slope, rocks, or other features prohibit, then a maximum of 4" on the uphill side will be acceptable.



- Slash may be broadcast chipped back onto the site or will be piled for easy access; however, will not obstruct road or trails.
- If slash is chipped or masticated, chips will be broadcast and no deeper than 2" in any location.
- Materials that are piled for burning will include only limbs, slash and logs under 6 inches in diameter. Piles should be located in openings, meadows or rock outcrops and should be at least 5 feet away from adjacent tree trunks and away from overhanging tree branches as well as downed logs on the ground. Piles will be constructed according to Larimer County recommendations outlined here. Pile construction will include piling branches and tops with butt ends toward the outside of the pile, and overlapping so as to form dense layers piled upon each other. Pile size should be approximately 8 feet across and 6 feet in height and materials should be kept as compact as possible.
- Dead trees greater than 18" DBH are unmarked and will be retained as wildlife snags unless Contractor chooses to remove all materials for utilization. Healthy, unmarked trees within the units shall not be removed.

Contract Period and Operational Period:

Project period runs from June 11, 2012 through March 1, 2013. The daily operational period is limited to 7:00 a.m. to dusk. Due to funding constraints, no contract extensions will be allowed. Mountain pine beetle mitigation efforts will be determined based on timing of project implementation.

Additional Performance Standards:

- Access to site is through private roads and private property. Contractor will be vigilant about driving carefully, following speed limits, and respecting private landowners' privacy and property.
- All gates will be left how they are found after every entry and exit from the property (ie. All closed gates must be closed behind vehicles/personnel; all open gates should be left open).
- Soil disturbance will be as minimal as possible. Ruts or depressions in the soil caused by Contractor equipment will be less than six inches deep. In areas where machines have used a path repeatedly, water-bars will be installed by the Contractor if the Contract Administrator deems necessary.
- Fuel, hydraulic fluid or other chemical spills will be reported to the Contract Administrator immediately. Soil contaminated by loss of fuel, oil, grease, hydraulic fluid, coolant, or other fluids shall either be removed and placed in covered drums or other acceptable containers for proper disposal by the Contractor or left in place and mixed with an encapsulating product such as RamSorb I, depending on the amount of contamination.
- The Contract Administrator may require the Contractor to cut leave trees that have been significantly damaged (broken top, multiple scars, scarring in excess of 12" x 6" on the trunk, or an area encompassing more than two-thirds of the trunk circumference) by the Contractor. The Contractor must minimize damage to residual trees.
- Damaged gates, fences, structures or signs will be repaired or replaced by the Contractor, at the discretion of the Contract Administrator.
- Smoking will only be allowed in vehicles. Each vehicle must have a properly serviced Class A, 2.5 pound fire extinguisher and a minimum of one fire tool per cutting crew member.
- Neither trash nor litter will be left by the Contractor anywhere on the property. Daily hauling of any trash generated by the Contractor is the Contractor's responsibility.
- It is the responsibility of the Contractor to follow all rules and regulations established for Meadow Creek State Land.
- The project site should be left in a safe manner at the end of every work day including no hung trees, safe storage of fuel containers and equipment parked off of main access roads.
- No rootballs should be created; however, any exposed rootballs created during this project will be tipped back into an upright position by Contractor.
- The Contract Administrator may suspend or limit operations if excess damage is occurring due to mud, snow, extreme fire danger, etc., or due to the following situation(s): failure to meet contract specifications.
- Improvements and Roads:

R.V.P.

- a. Roads must remain passable. Any significant accumulations of slash or material on roads shall be removed on a daily basis.
- b. Roads shall be maintained to prevent erosion throughout the term of the project.
- c. At the end of the project and prior to the final acceptance by the Contract Administrator, roads will be repaired to the same condition as found prior to the start of work.

Administration:

- Contractor shall notify the Contract Administrator prior to moving any equipment into the project area and also prior to the start of work. No work will begin without the presence of the Contract Administrator.
- The use of sub-contractors must be approved in writing by CSFS prior to contract signing and bid approval.
- Restrictions: The Contract Administrator may suspend or limit operations in cases of extreme fire danger, excessive soil rutting, excessive or potential damage due to muddy or snowy conditions, excessive residual tree damage, road damage, or failure to meet contract specifications.

Damage Penalty:

The Contractor shall conduct all operations in a timely manner and shall take all necessary precautions to protect the remaining forest stand, soils, and any improvements. Excessive damage to the remaining forest stand (broken tops caused by felling operations, etc.), or the removal of undesignated products will be paid for at the rate of \$50.00 per tree. All damaged trees may be designated for removal by the Contract Administrator. Penalties may also be assessed for damages to soils, structures, power lines, and other improvements. Determination of damage is at the sole discretion of the Contract Administrator.

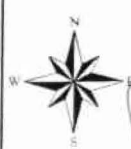
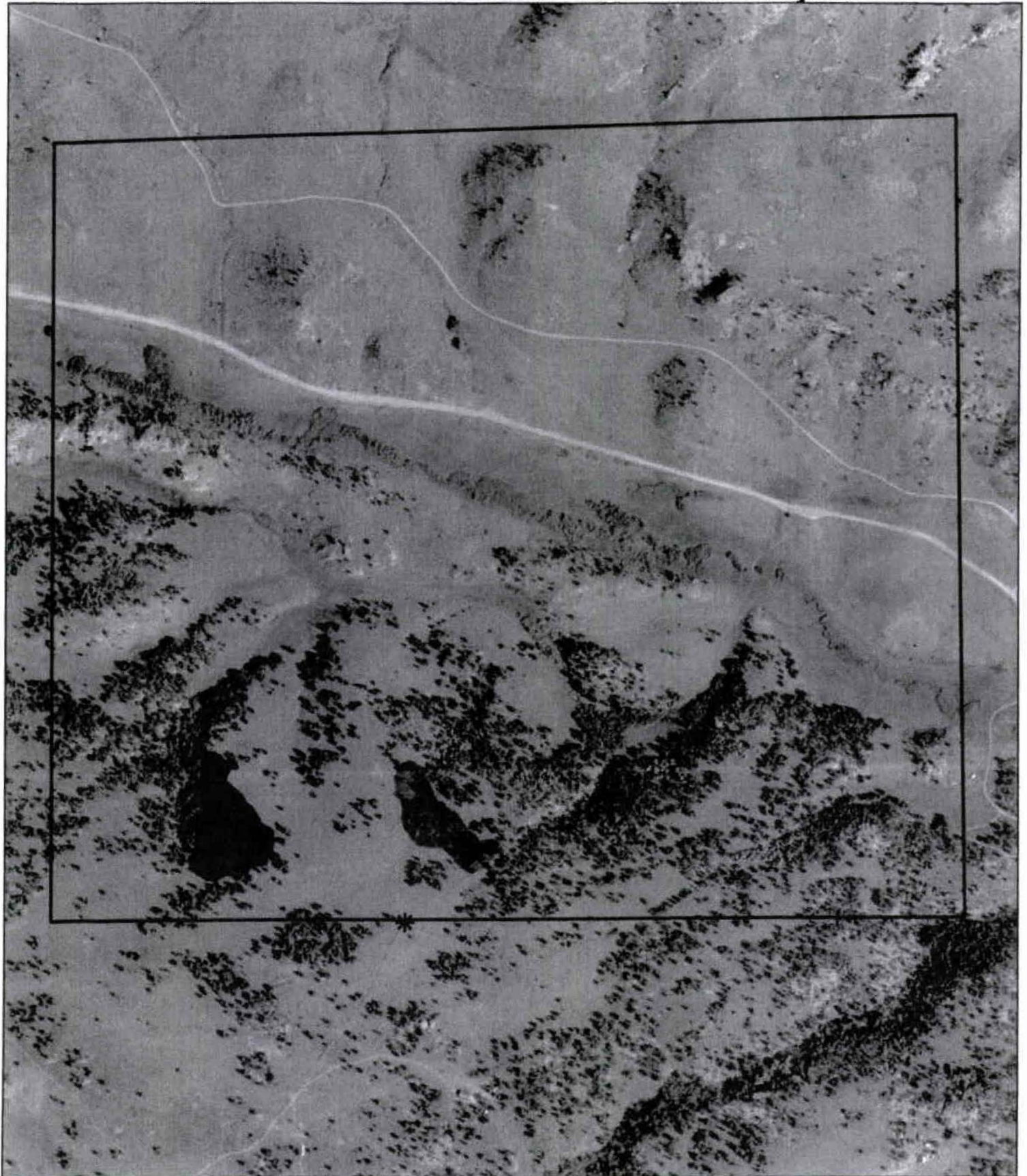
Damage Deposit:

A Damage Deposit in the amount of \$500 shall be deposited by the Contractor upon signing of this contract. The deposit shall be in the form of cash or certified check. Any damage penalties and charges for damages to soils, improvements or other elements of the forest stand not repaired or corrected by the Contractor shall be deducted from the Damage Deposit. If at any time during the performance of this agreement the Damage Deposit balance falls below \$250.00, it shall be brought back to the original full amount through additional payments by Contractor.

Any remaining deposit balances will be released to Contractor promptly upon satisfactory completion of this agreement.



Meadow Creek State Land 2012 Fuels Project



0 390 780 1,560 2,340 Feet

Prepared By:
Colorado State Forest Service
Fort Collins District
April 19, 2012



MeadowCreek_Revised

Meadow Creek Unit 1 - 54 acres (201 trees)

Meadow Creek Unit 2 - 4 acres (84 trees)



**EXHIBIT B TO INDEPENDENT SERVICES CONTRACT
PRICE, COST AND PAYMENT PROVISIONS**

Full payment will be made upon completion of project per scope of work.

PAYMENT PROVISIONS.

- i. ☒ [Fixed Price] The contract price is \$4,275. Payments shall be made as follows:

DATE, EVENT or DELIVERABLE	AMOUNT PAYABLE
Completion of Project Per Scope of Work	\$4,275

ii. ☐ Time and material/hourly labor contracts. (Optional—check here if required) The University shall pay the Contractor at the rate of \$_____ per hour for labor, plus cost of materials, with total charges not to exceed a ceiling price of \$enter dollar amount. The Contractor shall successfully complete the contracted services in accordance with contract requirements within the ceiling price specified herein. The Contractor shall submit invoices monthly, together with proof of time and costs, no later than the 10th day of the month. Payments will be made within 30 days after invoice.

iii. ☐ Cost reimbursement. (Optional—check here if required) The University shall reimburse the Contractor's actual, reasonable, and allowable costs, as defined herein, not exceeding \$enter dollar amount. The Contractor shall submit invoices monthly no later than the 10th day of the month. Payments will be made within 30 days after invoice.

ACCOUNTING AND PAYMENT:

A. Incorrect payments. Incorrect payments by the University to the Contractor due to omission, error, fraud, or defalcation shall be recovered from the Contractor by deduction from subsequent payments under this contract or other contracts between the University and the Contractor.

B. Invoices / Payments.

i. Invoices shall be sent to: Colorado State Forest Service, Fort Collins District, 5060 Campus Delivery, Fort Collins, CO 80523-5060 phone: 970-491-8660

ii. Payments shall be sent to: Precision Felling, Inc., address, phone

C. Maximum Amount Payable. Unless otherwise provided by a signed Amendment, the maximum amount payable by the University to Contractor during each University fiscal year of this Contract shall be:

\$	in FY
\$	in FY
\$	in FY



\$	in FY
\$	in FY

- D. Inclusions.** Except as otherwise set forth in this exhibit, the above rates shall include all fees, costs and expenses, including, but not limited to, labor costs, travel expenses, parts, service, repair, removal, replacement, mileage charges, supplies, mailing charges, installation, testing, communications, order and order tracking, reporting, debugging, analysis, delivery charges and other expenses.



EXHIBIT C TO INDEPENDENT SERVICES CONTRACT FEDERAL FUNDS ADDENDUM

Should federal funds be used for payment by University under the Contract, the following provisions shall be deemed incorporated and made a part of the Contract:

1. Equal Employment Opportunity – Contractor shall comply with E.O. 11246, "Equal Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

2. Copeland "Anti-Kickback" Act (18 U.S.C 874 and 40 U.S.C 276c) (*Applicable to contracts in excess of \$2000 for construction or repair*) – Contractor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or sub-recipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the University.

3. Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7) (*Applicable to construction contracts of more than \$2000*) – Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provision Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the University.

4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) (*Applicable to construction contracts of more than \$2000 and other contracts involving the employment of mechanics or laborers in excess of \$2500*) – Contractor must comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.



5. Rights to Inventions Made Under a Contract or Agreement – Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Governmental Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

6. Clean Air Act 942 U.S.C 7401 et. seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended (*Applicable to Contracts and sub-grants of amounts greater than \$100,000*) – Contractor must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C 1251 et seq.). Violations shall be reported to the University and the Regional Office of the Environmental Protection Agency (EPA).

7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the University.

8. Debarment and Suspension (E.O.s 12549 and 12689) – No contract shall be made to parties listed on the general Services Administration's List of Parties Excluded from Federal Procurement of Nonprocurement Programs in accordance with E.O.s 125449 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

9. Combating Trafficking in Persons (22 U.S.C. 7101) – The United States Government has adopted a zero tolerance policy regarding Contractors and Contractor employees that engage in or support severe forms of trafficking in persons, procurement of commercial sex acts, or use of forced labor. During the performance of this Contract, Contractor shall ensure that its employees do not violate this policy. Should University become aware that Contractor has violated this policy, University may terminate the contract for breach in accordance with the termination clause herein.



EXHIBIT D TO INDEPENDENT SERVICES CONTRACT
CONTRACTOR DISCLOSURE STATEMENT
Contract Performance Outside the United States or Colorado

If services provided under this Contract are to be performed outside the State of Colorado or the United States, this Statement must be completed and signed by Contractor.

1. Are any services under the contract or any subcontracts anticipated to be performed outside the United States or Colorado?

Yes ☐ No ☐

If "Yes", please complete the following three questions:

2. Where will the services be performed under the contract, including any subcontracts?
List country(ies) and/or state(s).

3. Explain why it is necessary or advantageous to go outside of the United States or the State of Colorado to perform the contract or any subcontracts.

4. Contractor Name: _____
Signature: _____
Date: _____

Not required for contracts to which the State is a party under:

- Medicare
- The "Colorado Medical Assistance Act", Articles 4 to 6 of Title 25.5 CRS
- The "Children's Basic Health Plan Act", Article 8 of Title 25.5, CRS
- The "Colorado Indigent Care Program", Part I of Article 4 of Title 25.5, CRS

