

AVIATION PRICE AGREEMENT

Between the Montana Department of Natural Resources and Conservation Forestry
Division, 2705 Spurgin Road, Missoula Montana, 59804 and
Fletcher Flying Service Inc.

PO Box 1272
Labelle FL 33875

AGREEMENT NUMBER: DNRC-FIRE2020-1050-004

1. PURPOSE

The purpose of this Price Agreement (Agreement) is to establish general terms and conditions for aviation equipment and services in connection with fire suppression activities by the Montana Department of Natural Resources & Conservation (DNRC).

2. FULLY OPERATED

Vendor, except as otherwise provided in this agreement, will furnish the aviation equipment and services in accordance with the specifications, terms and conditions of this agreement and at the applicable accepted bid schedule prices, the aircraft, pilots, other personnel, repairs, operating supplies, service facilities, and incidentals necessary to the operations of the aircraft. Vendor must furnish the aircraft, pilots, and other personnel, repairs, operating supplies, service facilities, equipment, services, and personnel and incidentals as described in the bid submittal at the price quoted for that period. The flight rate will be considered a dry rate. The vendor will be reimbursed by the state for aircraft fuel and airport incidentals such as landing fees. Documentation of fuel and incidentals is required for payment. In addition, overnight cost for personnel will be reimbursed by the State at the federal government per diem rate as described in Section 3.1.6 - Remain Overnight Allowance. This agreement requires that the Vendor's operations be conducted within FAA civil authorities and not as a Public Use Aircraft. The Vendor shall remain the operator of the aircraft at all times.

3. HOLD HARMLESS/INDEMNIFICATION

The Vendor agrees to protect, defend, and save the State of Montana, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Vendor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Vendor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State of Montana, under this agreement.

4. REQUIRED INSURANCE

The minimum liability insurance coverage as following:

4.2.1 General Requirements. The Vendor shall maintain for the duration of the agreement, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Vendor, its agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission. The State must be listed as the certificate holder and also as an additional insured.

DNRC to demand such certificate(s) or other evidence of full compliance with these insurance requirements or failure of the DNRC to identify a deficiency from evidence that is provided shall not be construed as a waiver of Vendor's obligation to maintain such insurance. Failure to maintain the required insurance may result in termination of this agreement.

4.2.8 Compliance with the Workers' Compensation Act. Vendor is required to comply with the provisions of the *Montana Workers' Compensation Act* while performing work for the State of Montana in accordance with sections 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent Vendor's exemption, or documentation of corporate officer status. Neither the Vendor nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the contract. A renewal document must be sent to the Department of Natural Resources and Conservation, 2705 Spurgin Road, Missoula, MT 59804, upon expiration.

4.2.9 Subcontractor Insurance. The Vendor shall require all subcontractors utilized in performance of this agreement to provide certificates of insurance to the DNRC evidencing insurance coverage with the required additional insured endorsements as set forth in the preceding paragraphs.

4.2.10 No Warranty Regarding Insurance Limits. By requiring insurance herein, the DNRC does not represent that coverage and limits will necessarily be adequate to protect Vendor and such coverage and limits shall not be deemed as a limitation on Vendor's liability under the indemnities granted to the State of Montana in this agreement.

5. LIABILITY FOR DAMAGE TO EQUIPMENT

5.1. Security of the aircraft and Vendor-owned equipment shall be the responsibility of the Vendor regardless of whether the aircraft is operating from a remote alternate base point or the designated base point.

5.2. Any claim for damage, loss or destruction of any item of equipment accepted under this agreement that occurs while said item of equipment is being used on authorized work will be considered under applicable laws and regulations. Under no circumstances will a claim be approved for damage, loss or destruction of said equipment due to ordinary wear and tear or to which negligence on the part of the Vendor, his agent or employees contributed.

6. OFFICIALS, AGENTS AND EMPLOYEES OF THE STATE NOT PERSONALLY LIABLE

In no event shall any official, officer, employee or agent of the State of Montana be in any way personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement. This section shall not apply to any remedies in law or at equity against any person or entity that exist by reason of fraud, misrepresentation, or outside the terms of this agreement.

4.7.1 Withholding of Payment. DNRC may withhold payments to the Vendor if the Vendor has not performed in accordance with this agreement. Such withholding cannot be greater than the additional costs to the DNRC caused by the lack of performance.

4.7.2 Method of Measurement and Basis of Payment for Flight.
Compensation for flight time will be paid at the bid flight rate.

Flight time will be measured in hours and tenths of hours, recorded by a direct reading, electronically-driven hour meter in each aircraft. If the hour meter becomes inoperative or inaccurate, the Pilot in Charge will use clock time of each takeoff and landing.

All flights will be recorded on a Daily Invoice; start and stop times must be recorded. Hour meter readings will be recorded in hours and tenths. Clock times must be converted to hours and hundredths. The Daily Invoice must be approved by a Aviation Manager at the conclusion of each day.

On days when the aircraft is flown, the pilot will be responsible for recording on the Daily Invoice the following:

1. Flight date.
2. Contract number/name.
3. FAA registration.
4. Contractor name.
5. Incident number and name.
6. Name of pilot.
7. Number of passengers, gallons of water dropped, and pounds of cargo delivered.
8. Location from which flight time for the day commenced and beginning of time.
9. Location at which flight time for the day ended and time flight ended
10. Flight rate
11. Any other items pertinent to the establishing the net sum earned by the Contractor (per diem, etc.)

Each Daily Invoice shall be completed and signed by the Pilot in Charge and the Aircraft Manager. Any erasures or other corrections shall be initialed by the Pilot in charge or the Aircraft Manager as appropriate. To process payment, all approved invoices must be mailed to the Contracting Officer. The mailing address is the Fire Protection Bureau, 2705 Spurgin Road, Missoula, MT 59804.

11. COMPLIANCE WITH LAWS

The Vendor must, in performance of work under this contract, fully comply with all applicable Federal, State, or local laws, rules, and regulations, including, but not limited to, the *Montana Human Rights Act*, the *Civil Rights Act of 1964*, the *Age Discrimination Act of 1975*, the *Americans with Disabilities Act of 1990*, and *Section 504 of the Rehabilitation Act of 1973*. Any subletting or subcontracting by the Vendor subjects subcontractors to the same provision. In accordance with *Section 49-3-207, MCA*, the Vendor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

STATE OF MONTANA DEPARTMENT OF NATURAL
RESOURCES
2020 AVIATION PRICE AGREEMENT

The undersigned, having read all the agreements, together with any and all special provisions and specifications set forth, do agree thereto in every particular and will furnish the above at the prices stated. Further, the undersigned understands that this document shall constitute the entire price agreement between the undersigned and the Montana Department of Natural Resources and Conservation.

Date: June 3, 2020


Company: Fletcher Flying Service Inc.

Phone: (863) 612-0080 or (870) 672-2089 cell

Fax:

Mailing Address: PO Box 1272, Labelle FL 33975

Authorized Signature:



ACCEPTED BY:

MONTANA DEPARTMENT OF NATURAL
RESOURCES & CONSERVATION

Date: 09/23/20

By: John P. Monzio

Title: Deputy Chief

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