

Department of Natural Resources and Environmental Control

Division of Fish & Wildlife

CONTRACT FOR PROFESSIONAL SERVICES

Contract No. NAT13101-MIDLANDS_THIN

Midlands Wildlife Area Pulpwood Thinning Timber Sale

January 2013

State Funds

THIS CONTRACT made and executed on the 9th day of January 2013, by and between J & T Logging ("BUYER") and the Department of Natural Resources and Environmental Control, Division of Fish & Wildlife ("DIVISION"), as follows:

1. Service Contract.

BUYER agrees to provide and furnish all the necessary labor and equipment to perform and complete this Contract and all Specifications and Proposals issued by the DIVISION within the Invitation to Bid - Contract No. NAT13101- MIDLANDS_THIN dated January 9, 2013 and agrees to pay the DIVISION for all pulpwood timber removed from the DIVISION'S property.

Scope of Services.

The DIVISION will contract with the BUYER to thin pulpwood timber located on the Midlands Wildlife Area subject to terms listed within the Invitation To Bid (ITB) document entitled "Department of Natural Resources and Environmental Control, Division of Fish and Wildlife Invitation To Bid, Midlands Wildlife Area – Pulpwood Thinning Timber Sale Contract No. NAT13101-MIDLANDS_THIN," and specified within ITB Section D, Clauses 1 – 11 entitled in order: Duration of Contract, Acreage, Tonnage, Methodology, Payments to Agency, Assignment of Contract, Security, Binding, Indemnification, Termination for Cause, and Required Bid Submission Materials.

2. Data Furnished to BUYER.

DIVISION will provide the BUYER with a map of the Midlands Wildlife Area indicating timber to be harvested and the DIVISION shall reasonably cooperate with BUYER in carrying out the timber sale.

3. Personnel.

A. BUYER agrees to secure at its own expense all personnel required in performing the services under this Contract.

B. BUYER, or persons under BUYER'S supervision, shall perform all of the services required by this Contract and all personnel engaged in the work shall be fully qualified and shall be authorized to perform such services.

C. BUYER shall not subcontract any of the work or services covered by this Contract without the prior written approval of DIVISION.

4. Duration of Contract.

The BUYER'S contract shall be valid for two (2) years from date the Contract for Professional Services is executed. Any requests for extension of time beyond the two (2) year initial contract term shall be made at least thirty (30) days in advance of contract expiration date. The request for extension must be in writing from the BUYER to the Director of the Delaware Division of Fish & Wildlife, 89 Kings Hwy, Dover, DE 19901. Any extensions to the contract may be limited by regulations as specified in the Delaware Code.

5. Acreage – The BUYER shall retain the right to thin pulpwood timber from Midlands Wildlife Area as designated in the Invitation to Bid documentation. Total acreage of stands

to be thinned as listed within the Invitation to Bid (ITB) was 611 acres. Note: Stand #43 is excluded from this sale thereby reducing the total acreage to 547 acres (Notification of acreage reduction prior to Bid Opening included in Appendix).

6. Tonnage – The acreages advertised do not provide an estimate of tonnage. Tonnage volumes have not been calculated.
7. Methodology of Work to Be Performed – will specifically follow the methodology as listed within the ITB Section D, Section 4 in its entirety to insure that harvests are performed to comply with forestry prescription and to follow Best Management Practices and comply with all applicable federal and state regulations. No work can commence without an approved Erosion and Sediment Control Permit [Title 3, Chapter 10, Subchapter VI, Delaware’s Forestry Practices Erosion and Sediment (E & S) Control Law). BUYER agrees to follow said permit requirements. Any restoration work needed on site as result of the Buyer’s operations will be the sole responsibility of the BUYER.
8. Payments to Agency – payments are to be made on a weekly basis accompanied by haul/weight slips. Checks shall be made payable to the Delaware Division of Fish and Wildlife and will be treated as program income under T-10-HM1.
9. Assignment of Contract – The BUYER may not assign his interest in this contract without prior written consent of the Director of the Division of Fish and Wildlife.
10. Security – The BUYER covenants and agrees that he will in no way interfere with the security of the property or in the State’s ability to carry out its mission on the property.
11. Binding – this agreement is binding upon the parties hereto, their heirs, successors, administrators and assignees.
12. Indemnification of Buyer – BUYER and its employees shall indemnify, save and hold harmless and defend the DIVISION, its directors, employees, representatives or agents against any and all liability suits, actions, or claims, together with all costs, expenses or attorney’s fees arising from the negligence or other tortuous acts or omissions by the Buyer, his or her agent, and employees regardless of whether suits, actions, claims, or liabilities are also based on acts or failure to act attributable to the State of Delaware, DIVISION, their agents or employees.
13. Indemnification of Subcontractor - BUYER shall require each and every contractor or subcontractor for the project to indemnify, save and hold harmless and defend the DIVISION, its directors, employees, representatives or agents against any and all liability suits, actions, or claims, together with all costs, expenses or attorney’s fees arising from the negligence or other tortuous acts or omissions by the Buyer, his or her agent, and employees regardless of whether suits, actions, claims, or liabilities are also based on acts or failure to act attributable to the State of Delaware, DIVISION, their agents or employees.
14. Termination of Contract for Cause - If, for any reasons or through any cause, the BUYER fails to fulfill in timely and proper manner his obligations under this Contract, or if the BUYER violates any of the covenants, agreements, or stipulations of this Contract, the DIVISION shall thereupon have the right to terminate this Contract by giving written notice to the BUYER of such termination and specifying the effective date thereof, at least 5 days before the effective date of such termination. At the time of notification all harvesting would cease and the DIVISION will be paid for all cut timber at time of termination.
15. Interest of BUYER - BUYER covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. BUYER further covenants that in the performance of this Contract, no person having any such interest shall be employed.
16. DIVISION’S Responsibilities - DIVISION shall:
 - a. Work with the Department of Agriculture, Delaware Forest Service to ensure that the BUYER is complying with the CONTRACT and to render to BUYER in writing

findings and decisions pertaining thereto within a reasonable time so as not to delay the services of BUYER.

- b. Give prompt written notice to BUYER whenever DIVISION observes or otherwise becomes aware of any action that affects the scope or timing of CONTRACTOR'S services.

17. The Parties Agree:

- c. The laws of the State of Delaware shall apply to the construction and operation of this Contract.
- d. This Contract is the entire agreement between the BUYER and the DIVISION and supersedes any prior agreement, whether oral or written, between the BUYER or any predecessor of the BUYER and the DIVISION. It may be altered only by a written agreement signed by the BUYER and the DIVISION. The BUYER's rights and obligations under this agreement will be binding on the BUYER's successors and assigns.
- e. The BUYER shall not assign any interest in this Contract, and shall not transfer any interest in it, without the prior written consent of the DIVISION.
- f. The Contractor shall comply with 30 DE Code Chapter 23 regarding business licenses throughout the term of this agreement.

STATE OF DELAWARE

**DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL**

Collin P. O'Mara, Secretary

J & T Logging Company

By: Timothy I. Hopper
Title: Owner