

Attachment D- Mowing Permit

KANSAS DEPARTMENT OF TRANSPORTATION
Bureau of Maintenance

HIGHWAY PERMIT LITTER REMOVAL AND MOWING OF RIGHT OF WAY

THIS AGREEMENT is made and entered into between the Secretary of Transportation of the State of Kansas (the "Secretary") and _____ [City or County] _____ (the "Petitioner").

The Secretary has jurisdiction over highway rights-of-way within the State Highway System of Kansas and believes it is in the interest of the citizens of the State of Kansas to permit the Petitioner to remove litter and mow on and along certain portions of highway rights-of-way.

The Petitioner requests permission and authority from the Secretary to perform litter removal and mowing on and along State Highway System rights-of-way under the jurisdiction of the Kansas Department of Transportation (KDOT) ("KDOT right-of-way"), as further described in paragraph 1, below.

The Secretary has delegated full and complete authority to the KDOT District Engineers to execute Highway Permit Agreements ("Permits") for and on the Secretary's behalf.

In consideration of the permission granted by the Secretary to remove litter and mow on and along KDOT right-of-way, the following terms and conditions are mutually agreed to by the Petitioner and the Secretary:

1. Grant of Permission; Location of Right-of-Way. The Secretary hereby grants Petitioner permission to remove litter from and mow the KDOT right-of-way shown on the diagram in Exhibit A, which is attached and incorporated into this Permit by reference.
2. Equipment; Labor. The Petitioner shall furnish all equipment, labor, and material necessary to complete the work described in this Permit.
3. Term. This Permit shall be valid upon signature of the KDOT District Engineer and shall remain valid until [Date] _____.
4. Initiation and Completion of Work. Petitioner shall notify the KDOT Area Office at [Phone # or Email] _____ before any litter removal or mowing is initiated and again when such litter removal or mowing is completed.
5. Contracts by Petitioner with Contractors. The provisions of this Permit are applicable to the Petitioner and any employee, agents, contractors or subcontractors (collectively "Contractors") of Petitioner. **This Permit shall be attached to and incorporated by reference into any contract entered into by the Petitioner with a Contractor to perform mowing or litter removal on KDOT right-of-way.** The Petitioner is responsible for ensuring that any Contractor hired for mowing operations to be performed on KDOT right-of-way has the requisite experience and qualifications to properly and safely perform such work. A copy of the Permit must be in the possession of mowing and litter crews and available for inspection by KDOT personnel at any time that mowing or litter crews are operating on KDOT right-of-way.
6. Roadside Mowing Requirements.
 - A. Mowing by the Petitioner or Petitioner's Contractor shall be performed only within those areas defined in Paragraph 1, and incorporated Exhibits, of this Permit.

- B. The Petitioner or Petitioner's Contractor shall not mow KDOT right-of-way below a height of four (4) inches.
- C. It is the sole responsibility of the Petitioner to perform weed-eating and to spot mow to maintain a safe and neat appearance in the designated mowing areas. This includes weed-eating and spot mowing around highway features on KDOT right-of-way, including, but not limited to: drainage facilities, signs, guardrail, fencing, trees or other landscaping. KDOT reserves the right to direct the Petitioner to mow areas within the designated routes that have been neglected or are causing sight distance or drainage issues.
- D. The Petitioner or Petitioner's Contractor shall not leave any mowing equipment overnight on KDOT right-of-way. Any equipment parked on the right-of-way for short periods, such as lunch breaks, shall be parked outside of the clear zone.
- E. If any area to be mowed is on access-controlled right-of-way, the Petitioner shall work with KDOT to determine where the mowing equipment should enter the area.
- F. Petitioner or Petitioner's Contractor shall not mow 3:1 or steeper slopes without special equipment. If the operator of mowing equipment will be endangered or if the slope may be damaged by spinning or sliding tires, the Petitioner or the Petitioner's Contractor shall not mow the slope.
- G. No mowing should be done in areas with wet or sandy soil which cannot support equipment without rutting or damage to the area.
- H. No general spraying for weed control or other purposes is allowed on KDOT right-of-way; spot spraying only is allowed.

7. Native Plants and Wildflower Areas.

- A. Native Plants: Redbud Trees and Native Sumac, Sand Plum, Grey Dogwood, Choke Cherry, or Elderberry Shrubs, shall not be mowed unless it is a potential safety hazard. Mowing of these plantings shall not occur without consultation with and approval of KDOT.
- B. Wildflower and Milkweed: Mowing is strictly prohibited within any wildflower or milkweed enhancement areas developed by KDOT or others through local partnerships and which are marked with the standard wildflower logo sign. The Petitioner shall annually monitor these areas for invasion by noxious or other weeds, including smooth brome and tall fescue, and treat in accordance with the latest recommendations by the KDOT Environmental Section, the Kansas State Extension Service, NRCS, or other qualified Agronomy Specialist. Only spot spray is allowed within these areas.

8. Safety. The Petitioner shall ensure that all employees, agents, or Contractors of the Petitioner are properly trained to perform mowing and litter removal on KDOT right-of-way. Minimal safety measures include the following:

A. Mowing activities:

1. Use flashing or revolving lights when operating mowing equipment on or adjacent to the travel way.
2. Display slow moving vehicle placards.
3. Seatbelts must be worn at all times when operating equipment on KDOT right-of-way.
4. ANSI Class II or III Safety vests must be worn at all times by those on KDOT right-of-way.
5. Be alert for holes or soft spots which may cause equipment to roll when operating on slopes.
6. Mow in such a manner that cuttings and debris are ejected away from the travel way. Mowers may be operated against the direction of traffic only when necessary to accomplish this.
7. Mowing shall be performed only during daylight hours.
8. Use caution when equipment is moved across lanes of traffic to mow medians.
9. Mowing operators should avoid having mowing equipment on highway shoulders. Turning movements should occur within the mowing area, and not on highway shoulders. Caution should be used whenever equipment is near or on the highway shoulders.
10. Mowing should not be performed during inclement weather.

11. Mowing and weed-eating activities cannot interfere with the safe operation of the highway, including interference with vehicles in the travel lanes of the highway or vehicular use of shoulders.
12. Mowing operators cannot stop or direct traffic.
13. Avoid mowing near maintenance or construction activities.

B. Litter Removal:

1. ANSI Class II or III Safety vests must be worn at all times.
2. Litter removal should be conducted prior to mowing operations.
3. All litter removal activities must be accomplished during daytime hours.
4. Litter removal personnel should face oncoming traffic and be prepared to move out of the way of vehicles in an emergency situation.
5. Trash bags must be a bright color, be placed off the paved surface, and removed within 24 hours.
6. Trash bags cannot be placed around road signs.
7. Litter removal personnel cannot interfere with, stop, or direct traffic.
8. All vehicles used by litter removal personnel must have flashing or revolving lights.
9. Use caution when crossing traveled sections of roadway.
10. Do not pick up litter on bridges, underpasses, or overpasses.
11. Litter crew personnel should not use headphones or cell phones while on the right of way.
12. Stay clear of any maintenance or construction activities.

9. Damage to KDOT Property. Petitioner shall indemnify the Secretary from any damage to KDOT property, including but not limited to signs, guardrail, fencing, and drainage structures, arising out of acts or omissions of the Petitioner, its employees, agents, or Contractors. The Secretary is not responsible for any physical injury or property damage suffered by the Petitioner, its employees, agents, or Contractors, resulting from defects or obstacles that may exist on KDOT right-of-way. The Petitioner and its employees, agents and Contractors assume all risk for personal injury or property damage arising out of work performed under this Permit.

10. Indemnification. To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act as applicable, the Petitioner expressly agrees and covenants it will defend, indemnify, hold harmless, and save the Secretary, the Federal Highway Administration (FHWA), and the Secretary's and FHWA's authorized representatives, agents, assigns, and employees, from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property, or claims of any nature whatsoever arising out of or in connection with the provisions of or work performed under this Agreement by Petitioner, Petitioner's agents, employees, or Contractors, or use or maintenance of the highway right-of-way by any person. Petitioner shall not be required to defend, indemnify, hold harmless and save the Secretary for negligent acts or omissions of the Secretary or the Secretary's authorized representatives, agents, assigns, or employees.

11. Insurance. Any contract entered into between the Petitioner and a Contractor for work to be performed under this Permit shall require the Contractor to carry "General Liability" insurance under an occurrence policy that has a minimum combined single limit of \$2,000,000.00 for personal injury and property damage and that contains the following coverage: Comprehensive Form, Premises-Operation, Underground Hazard, Products/Completed Operations Hazard, Contractual Insurance, Broad Form Property Damage, Independent Contractors, and Personal Injury. Petitioner's Contractor shall carry "Worker's Compensation and Employer's Liability" insurance that complies with Kansas Statutes. Petitioner's Contractor shall carry "Automobile Liability" insurance under an occurrence policy that has a minimum combined single limit of \$1,000,000.00 for personal injury and property damage and that contains the following coverage: Comprehensive Form, Owned, Hired, and Non-Owned. The Secretary of Transportation for the State of Kansas, the Kansas Department of Transportation, and the Federal Highway Administration must be listed as additional insureds on any insurance, such that any and all coverage available to the Petitioner's Contractor is applicable to the additional insureds. This Permit shall not take effect unless the Petitioner provides the Secretary a "Certificate of Insurance" confirming the Petitioner's Contractor carries insurance in the amounts and type this Paragraph requires. Petitioner's Contractor shall obtain

insurance only from insurers authorized by the Kansas Commissioner of Insurance. The "Certificate of Insurance" shall include a clause requiring the insurer to notify the Secretary thirty (30) calendar days in advance of a change in, or cancellation of, the insurance contracts. The Petitioner's Contractor shall maintain the insurance required by this Paragraph as long as this Permit is in effect.

12. Environmental Liability and Indemnification. Petitioner shall comply with all applicable federal, state, and local statutes, regulations, and ordinances relating to environmental protection, and health and safety in Petitioner's acts on KDOT right-of-way. Petitioner assumes all risk and liability for, or resulting from, any environmental condition caused by or arising out of Petitioner's acts or omissions on the highway right-of-way. Petitioner shall indemnify and hold harmless the Secretary against all liability, cost, expense, and fines incurred by, or levied against, the Secretary under any federal, state, or local environmental law, regulation, or ordinance resulting from Petitioner's breach of this Paragraph or as a result of Petitioner's acts or occupation of the highway right-of-way pursuant to this Permit.

13. Violations. Violations of any term of this Permit may result in revocation of the Permit and denial of any future mowing Permit.

This Permit is hereby accepted and its provisions agreed to by the Parties as of the date signed by the KDOT District Engineer below.

PETITIONER:

KANSAS DEPARTMENT OF TRANSPORTATION:

CITY/COUNTY OF _____

RECOMMENDED BY:

By: _____
Signature

Signature

Printed Name

Printed Name and Title

Title

PERMIT APPROVAL:

BY: _____
District Engineer

Contact Email

Date