

March 20, 2024

### **NOTICE TO CONTRACTORS**

Sealed bids will be received by the South Dakota Department of Transportation until **1:30 pm, Friday, April 5, 2024** at which time they will be opened for the following project(s):

Project Number	PCN	County	Type of Work	Area Engineer
000i-171 000n-171 000p-171	i7G1 i7G2 i7G3	Brookings	Weed Spraying	Matt Brey (605-882-5166)
000i-172 000n-172 000p-172	i7GH i7GJ i7GK	Roberts		
000i-171 000i-172	i7e9 i7ea	Deuel, Moody & Roberts	Vegetation Management of Pollinator Plots	Matt Brey (605-882-5166)
000p-191 000n-191	i7eu i7ev	Beadle	Weed Spraying	Brad Letcher (605-353-7140)

Should you have questions you are encouraged to contact Area Engineer listed for the project.

### **AVAILABILITY OF PLANS AND PROPOSALS:**

Specifications and proposal forms are available at the Watertown Area Office and at the following website:  
<https://apps.sd.gov/hc65bidletting/RegionDefault.aspx>

The DOT-123 form provided within the proposal document is for information only. Do not use for bidding purposes. Bids submitted on the enclosed DOT-123 form will be considered void and will not be accepted by the department. Please email the Aberdeen Area office for the DOT-123 form that can be used for bidding purposes to the following:

[Scott.Schneider@state.sd.us](mailto:Scott.Schneider@state.sd.us) and [Michael.Welch@state.sd.us](mailto:Michael.Welch@state.sd.us)

The email request for the DOT-123 form shall include the following information, so that the SDDOT can maintain a list of prospective bidders for this project and to maintain a contact list for future region lettings:

**Company Name**  
**Mailing Address**  
**Phone Number**

Addendums, if any, will be made available on-line at the above website, no later than **48 hours** prior to opening bids. It will be the Contractor's responsibility to check for addendums prior to submitting bids.

### **CONTENT OF PROPOSALS:**

Returned Proposals shall include the following items all signed in ink:

1. A notarized Contract Proposal (DOT-123). Non-signature items shall be typed or completed in ink.

Bids shall be in sealed envelopes and clearly marked on the outside as to the content when delivered to the Regional Office by the time indicated for Opening. Proposals faxed to the office will not be accepted.

<i>If hand delivering or using a package delivery service, address the envelope:</i>	<i>If using the US Postal Service, address the envelope:</i>
<b>Mark Peterson, Region Engineer Department of Transportation 2735 West Highway 12 Aberdeen, SD 57401</b>	<b>Mark Peterson, Region Engineer Department of Transportation P.O. Box 1767 Aberdeen, SD 57402-1767</b>

Bidders will be required to fill out the blank spaces in the proposal form correctly. The bidder must fill in a unit price for each bid item shown on the proposal form. Bidders will also be required to carry out extensions and determine the "Total or Gross Sum Bid" as indicated in the proposal. The total of any proposal, as determined by the bidder, will be used only for a comparison when bids are publicly opened and read, and any errors noted in extensions or totals will be corrected to determine the "Total or Gross Sum Bid" of any proposal.

Failure to properly carry out any of the above requirements is deemed as sufficient reason to reject any proposal.

**BONDING & INSURANCE:**

A **bid bond** will not be required.

A **performance bond** will not be required.

**MISCELLANEOUS:**

Any person engaged in highway construction work in the State of South Dakota must obtain a motor fuel highway contractor tax license.

The Department of Transportation in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religion, national origin, sex, age or disability in consideration for an award.

**The Contractor, by signing and submitting a bid or proposal, agrees to provide services in compliance with the Americans with Disabilities Act of 1990.**

The Department of Transportation reserves the right to reject any and all bids.

Sincerely,

DEPARTMENT OF TRANSPORTATION

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Mark Peterson  
Aberdeen Region Engineer

cc:  
C. Bennett  
[M. Brey](#)  
[B. Letcher](#)  
File

## **NOTICE TO ALL BIDDERS**

**TO REPORT BID RIGGING ACTIVITIES, CALL: 1-800-424-9071**

THE U.S. DEPARTMENT OF TRANSPORTATION (DOT) OPERATES THE ABOVE TOLL-FREE "HOTLINE" MONDAY THROUGH FRIDAY, 8:00 A.M. TO 5:00 P.M., EASTERN TIME. ANYONE WITH KNOWLEDGE OF POSSIBLE BID RIGGING, BIDDER COLLUSION, OR OTHER FRAUDULENT ACTIVITIES SHOULD USE THE "HOTLINE" TO REPORT SUCH ACTIVITIES.

THE "HOTLINE" IS PART OF THE DOT'S CONTINUING EFFORT TO IDENTIFY AND INVESTIGATE HIGHWAY CONSTRUCTION CONTRACT FRAUD AND ABUSE AND IS OPERATED UNDER THE DIRECTION OF THE DOT INSPECTOR GENERAL.

ALL INFORMATION WILL BE TREATED CONFIDENTIALLY AND CALLER ANONYMITY WILL BE RESPECTED.

\* \* \* \*

**SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION  
CONTRACT PROPOSAL**

DOT-123  
February 2021  
1 of 2

CODE	PROJECT			MAINT UNIT	CONTROL REFERENCE	AFE	FUNCTION	BEGIN MRM	END MRM
	PRE	ROUTE	AGR						
		000i		171		i7E9	2305		
		000i		172		i7EA	2305		

CITY AND/OR COUNTY: Deuel, Moody & Roberts

BUDGET SOURCE: FY24 Contract Maintenance

REGION MATERIALS CERTIFICATION REQUIRED:

☐ YES

☒ NO

WIP #:

CERTIFIED INSPECTORS/TESTERS REQUIRED:

☐ YES

☒ NO

TO BE INSTALLED ON CM&P:

☒ YES

☐ NO

TYPE, PURPOSE AND LOCATION OF WORK: Control undesirable vegetation at the 5 Pollinator Habitat locations

located in the Rest Areas along I-29, per the attached 11 page specification document.

**ESTIMATE OF QUANTITIES AND COST for 000i-171, PCN i7E9**

BID ITEM NUMBER	ITEM	QUANTITY	UNIT	UNIT PRICE	AMOUNT
009E0197	Mobilization 1 (Hidewood NB & SB)	7	Each		
009E0198	Mobilization 2 (Ward)	6	Each		
910E0030	Round Up	30	OZ		
910E0050	Plateau	220	OZ		
910E0082	Perspective	40	OZ		
910E0085	Milestone	100	OZ		
910E0112	Arsenal	5	OZ		
910E0197	Surfactant	100	OZ		
910E1050	ATV/Sprayer	40	Hour		
910E1060	Labor	50	Hour		
<b>TOTAL</b>					

**ESTIMATE OF QUANTITIES AND COST for 000i-172, PCN i7EA**

BID ITEM NUMBER	ITEM	QUANTITY	UNIT	UNIT PRICE	AMOUNT
009E0199	Mobilization 3 (Glacial Lakes & Wilmot)	7	Each		
910E0030	Round Up	20	OZ		
910E0050	Plateau	130	OZ		
910E0082	Perspective	40	OZ		
910E0085	Milestone	100	OZ		
910E0112	Arsenal	5	OZ		
910E0197	Surfactant	100	OZ		
910E1050	ATV/Sprayer	30	Hour		
910E1060	Labor	40	Hour		
<b>TOTAL</b>					

**TOTAL FOR BOTH PROJECTS**

**SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION  
CONTRACT PROPOSAL**

DOT-123  
February 2021  
2 of 2

CODE	PROJECT			MAINT UNIT	CONTROL REFERENCE	AFE	FUNCTION	BEGIN MRM	END MRM
	PRE	ROUTE	AGR						
		000i		171		i7E9	2305		
		000i		172		i7EA	2305		

**CONTRACTOR'S PROPOSAL STATEMENT**

The undersigned agrees to offer the labor and material in the quantities, at the unit price, for the purpose, in the place, and in accordance with attached provisions. The Contractor will provide services in compliance with the Americans with Disabilities Act of 1990 and any amendments.

SUBSTANTIAL COMPLETION DATE N/A PROPOSED START DATE \_\_\_\_\_  
FIELD WORK COMPLETION DATE November 22, 2024 SIGNATURE \_\_\_\_\_  
SUBSCRIBED AND SWORN TO BEFORE ME THE \_\_\_\_\_ PRINTED NAME \_\_\_\_\_  
DAY OF \_\_\_\_\_, 20\_\_ COMPANY \_\_\_\_\_  
NOTARY \_\_\_\_\_ STR. ADDRESS \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_ CITY, STATE, ZIP \_\_\_\_\_  
DATE \_\_\_\_\_ (SEAL) PHONE NUMBER \_\_\_\_\_  
FEDERAL TAX ID NUMBER \_\_\_\_\_

**TO BE FILLED OUT BY STATE PERSONNEL:**

The parties agree that the Department of Transportation may execute this contract by electronic signature.

**RECOMMENDED FOR APPROVAL:**

_____	_____	CONSTRUCTION & MAINTENANCE ENGINEER	DATE
AREA / REGION / OPS ENGINEER	DATE	DIRECTOR OF OPERATIONS	DATE
_____	_____	INTERNAL SERVICES / AUDITS	DATE

**ACCEPTED BY SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION**

NAME \_\_\_\_\_ TITLE \_\_\_\_\_ DATE \_\_\_\_\_  
IF FEDERAL FUNDS WILL BE EXPENDED UNDER THIS AGREEMENT, ACCEPTANCE BY PROJECT DEVELOPMENT IS REQUIRED  
PROJECT DEVELOPMENT ENGINEER \_\_\_\_\_ DATE \_\_\_\_\_

**REV. 1/31/24**

**INDEX OF SPECIAL PROVISIONS**

**PROJECT(S):** 000i-171, 000i-172 **PCN i7E9, i7EA**

**COUNTY(IES):** Deuel, Moody, & Roberts

**TYPE OF WORK:** POLLINATOR HABITAT MAINTENANCE

**THE FOLLOWING ITEMS ARE INCLUDED IN THIS PROPOSAL FORM:**

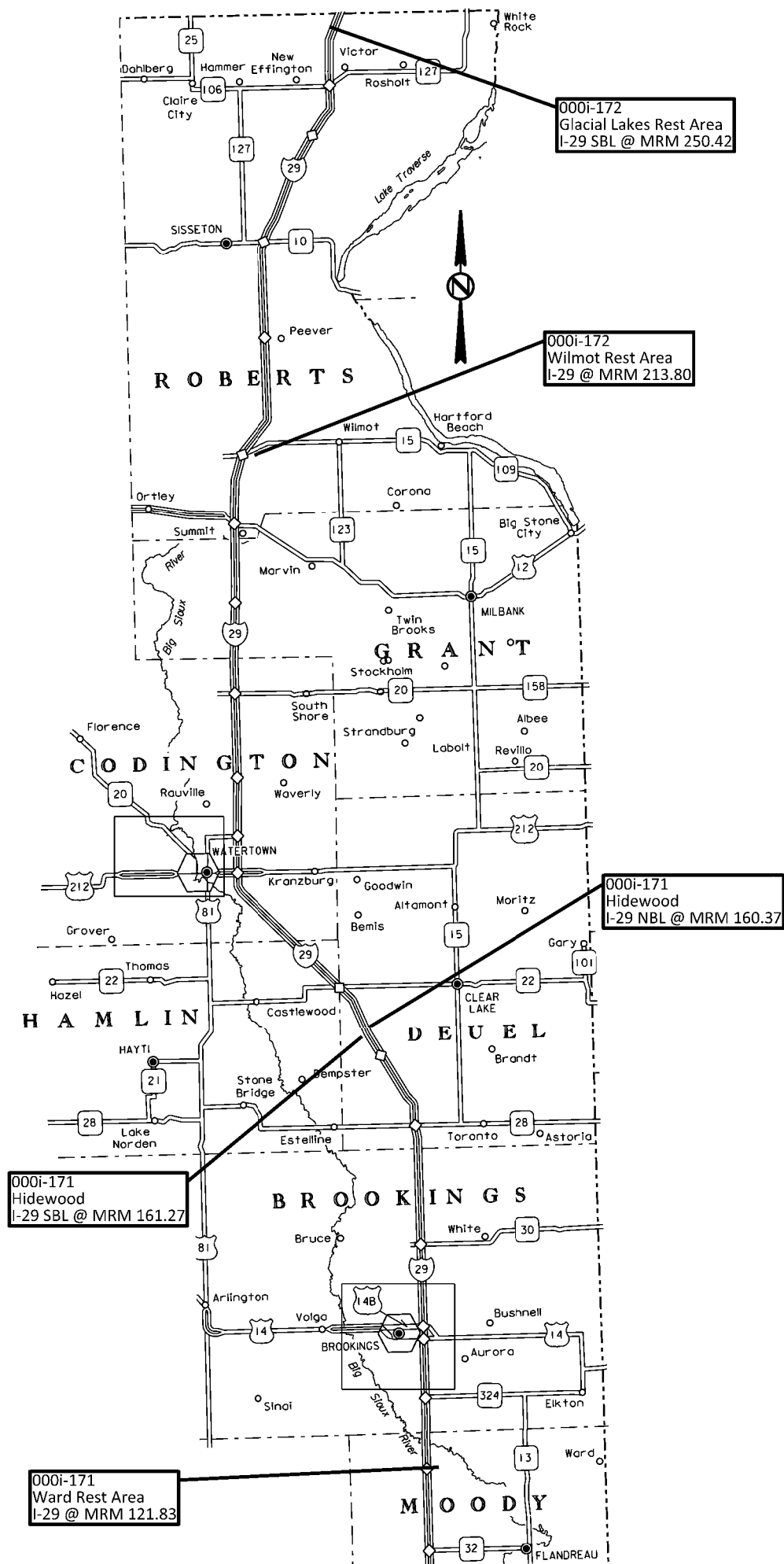
**Plans for Project – Sheets 1 thru 11.**

Special Provision for Acknowledgement and Certification Regarding Article 3, Section 12 of the South Dakota Constitution, dated 8/24/23.

Special Provision for Liability Insurance, dated 4/21/22.

Special Provision for Responsibility for Damage Claims, dated 4/21/22.

\* \* \* \*



## TABLE OF INFORMATIONAL QUANTITIES FOR POLLINATOR HABITAT VEGETATION CONTROL

### 000i-171, PCN i7E9, Deuel & Moody Counties, Hidewood NB & SB and Ward Rest Areas Estimate of Quantities

BID ITEM NUMBER	ITEM	QUANTITY	UNIT
009E0197	Mobilization 1	7	Each
009E0198	Mobilization 2	6	Each
910E0030	Round Up	30	Oz
910E0050	Plateau	220	Oz
910E0082	Perspective	40	Oz
910E0085	Milestone	100	Oz
910E0112	Arsenal	5	Oz
910E0197	Surfactant	100	Oz
910E1050	ATV/Sprayer	40	Hour
910E1060	Labor	50	Hour

### 000i-172, PCN i7EA, Roberts County, Wilmot and Glacial Lakes Rest Areas Estimate of Quantities

BID ITEM NUMBER	ITEM	QUANTITY	UNIT
009E0199	Mobilization 3	7	Each
910E0030	Round Up	20	Oz
910E0050	Plateau	130	Oz
910E0082	Perspective	40	Oz
910E0085	Milestone	100	Oz
910E0112	Arsenal	5	Oz
910E0197	Surfactant	100	Oz
910E1050	ATV/Sprayer	30	Hour
910E1060	Labor	40	Hour



# Pollinator Habitat Maintenance Specifications

## Scope of Work

The work will consist of controlling undesirable vegetation at 5 locations along I-29. The 5 locations are Interstate Rest Areas. Refer to title sheet for the 5 locations. Pollinator Habitat was planted at these 5 locations in 2018 and vegetation control via the application of herbicides is required to control undesirable vegetation.

Herbicides application may be required several times during the growing season.

- An early season application of Plateau prior to May 15 will be required at the Glacial Lakes and Wilmot Rest Areas. This application will generally be along the perimeters of the pollinator habitat area, around shelter belts, and other locations noted on the spring herbicide application maps.
- An early season application of Plateau prior to May 1 will be required at the Hidewood Northbound Rest Area, Hidewood Southbound Rest Area, and Ward Rest Area. This application will generally be along the perimeters of the pollinator habitat area, around shelter belts, and other locations noted on the spring herbicide application maps.
- Application of herbicides can be anticipated to be required to control weeds throughout the growing season.

Hand trimming (weed eating) may be required. Typically this work will be required along fence lines. The SDDOT Area Engineer or SDDOT Maintenance Supervisor will decide if hand trimming will be done by SDDOT forces or by the Contractor.

The SDDOT has retained the services of a Consulting Landscape Architect, who performs inspections of the 5 locations. The requirements for herbicide application and the type of application will be determined via these periodic inspections.

The periodic inspection reports will be furnished to the Contractor via email. The Contractor will be available to make a timely application of herbicides and the application will be completed within 10 calendar days of notification. If mowing is required before application of herbicide, the Contractor will be notified of when the mowing is anticipated to be completed. Mowing will be done by SDDOT forces. Refer to Attachment A for a typical map that will be prepared by the Consulting Landscape Architect following the inspections. The Attachment A maps indicate the 2024 Spring Maintenance that will be required.

The Contractor does hereby agree to furnish the necessary equipment, materials and labor to control the growth of undesirable vegetation. 4 types of herbicide application are required via this contract. Spot Hand Spraying, Spot Hand Wicking, Boom Spraying, and Boom Wicking may be required as part of this contract.

## Herbicides

The following is the expected herbicides and the expected uses. This list should not be considered to include all uses for herbicide application.

Plateau herbicide is expected to be used at all 5 locations in the spring to control smooth brome grass and thistles, and may be used again in the fall to control leafy spurge.

Milestone herbicide is expected to be used in the fall to control weeds such as thistles.

Other herbicides have been included in the contract with small quantities to establish a contract unit price for these items, should their use be required on this contract.

The Contractor may use an approved equal to the brand names listed in the estimate of quantities. The approved equal must have the same active ingredients, and the labeled instructions must be followed.

# Pollinator Habitat Maintenance Specifications

## **Spraying/Wicking**

The spraying/wicking will consist of spot treatments and will be accomplished by using the herbicides specified on the contract with applicable rates as recommended by the manufacturer. If a herbicide is needed that is not on this contract, the type and price will be negotiated and added by Change Order, prior to use of the herbicide.

The Contractor agrees to indemnify, save, and hold harmless the Department and all its employees and agents, from any and all claims, demands, actions or cause of action of whatsoever nature or character arising out of, or by reason of, the execution of performance of the work provided for under the contract whether or not the Contractor itself is negligent or otherwise culpable. The Contractor further agrees to defend at its own sole cost and expense any action or proceeding commenced for the purpose of asserting any claim on whatsoever nature or character arising under this contract whether or not the Contractor is itself negligent or otherwise culpable. This section does not require the Contractor to be responsible for or defend against claims or damages arising solely from acts or omissions of the State, its officers or employees.

The spraying/wicking will be accomplished by personnel properly licensed by the South Dakota Department of Agriculture and Natural Resources.

The Contractor will advise the local Maintenance Supervisor of the intent to apply herbicides, 48 hours prior to doing so. The Maintenance Supervisor for the Ward and Hidewood Rest Areas is Calvin Esche (605-881-7163). The Maintenance Supervisor for the Wilmot and Glacial Lakes Rest Areas is Brian Chase (605-881-7183).

The Contractor will complete the attached daily form (DOT 820) "Contract Daily Pesticide Application Record" (Exhibit B), furnished by the Department, after each day of herbicide application. Each of the 5 locations will be separately tracked and documented.

The Contractor will provide the Area Engineer Matt Brey ([Matt.Brey@state.sd.us](mailto:Matt.Brey@state.sd.us)) with a complete copy of the daily form (DOT 820) at the end of herbicide application.

The Contractor will submit an invoice for payment to the Area Engineer. The invoice will be accompanied by the completed original daily form(s) DOT 820. Separate invoices may be submitted for the various herbicide applications, if the Contractor desires to do so.

Equipment used for spraying/wicking will be equipped with a flashing amber light. The light will be turned on and used at all times during application operation. Application will not interfere with the day to day operations of the rest area.

Herbicides will be applied uniformly with properly calibrated equipment.

## **Measurement and Payment**

The contract unit price will be nonnegotiable regardless of changes in contract quantity.

The Contractor will be paid by the contract item "Mobilization 1" each time the Contractor is called to complete work at the Hidewood Northbound and Hidewood Southbound Rest Area locations. This bid item will only be paid one time if work is required at the same time at both locations.

The Contractor will be paid by the contract item "Mobilization 2" each time the Contractor is called to complete work at the Ward Rest Area location.

The Contractor will be paid by the contract item "Mobilization 3" each time the Contractor is called to complete work at the Glacial Lakes and Wilmot Rest Area locations. This bid item will only be paid one time if work is required at the same time at both locations.

The Contractor will be paid by the contract item "ATV/Sprayer" when Boom Spraying and/or Wicking is required.

The Contract item "Labor" will be measured and paid for when doing hand trimming, hand spray/wicking and/or when operating motorized spraying equipment.

# Pollinator Habitat Maintenance Specifications

## **Contractor Qualifications**

The bidder on this contract will meet all the following minimum requirements:

1. Be a South Dakota Licensed Applicator.
2. Have at least 3 years of experience of native vegetation management or ecological restoration.
3. Have a degree in biology, ecology, conservation management, landscape architecture, or equivalent natural resource degree.

The bidder will submit this proof documentation with the bid. Failure to provide documentation or not meeting the aforementioned qualifications may be grounds for rejecting of bids.

The applicator must meet the above 3 requirements or be directly on site supervised by someone who meets the above 3 requirements.

"Contract" Daily Pesticide Application Record

Date: \_\_\_\_\_ Contact No: \_\_\_\_\_

Customer: \_\_\_\_\_

Contractor: \_\_\_\_\_

SPRAYING ON THIS DATE WAS ACCOMPLISHED ON:    INDICATE WHICH DITCH

Highway No: \_\_\_\_\_ From MRM \_\_\_\_\_ To MRM \_\_\_\_\_ N S E W OR MEDIAN

Highway No: \_\_\_\_\_ From MRM \_\_\_\_\_ To MRM \_\_\_\_\_ N S E W OR MEDIAN

Highway No: \_\_\_\_\_ From MRM \_\_\_\_\_ To MRM \_\_\_\_\_ N S E W OR MEDIAN

Highway No.	Type of Pesticide	Amount Used	Cost/Unit	Cost
_____	_____	_____ X	_____ =	_____
_____	_____	_____ X	_____ =	_____
_____	_____	_____ X	_____ =	_____

Highway No.	Employee Name	Hours Worked	Rate	Cost
_____	_____	_____ X	_____ =	_____
_____	_____	_____ X	_____ =	_____
_____	_____	_____ X	_____ =	_____

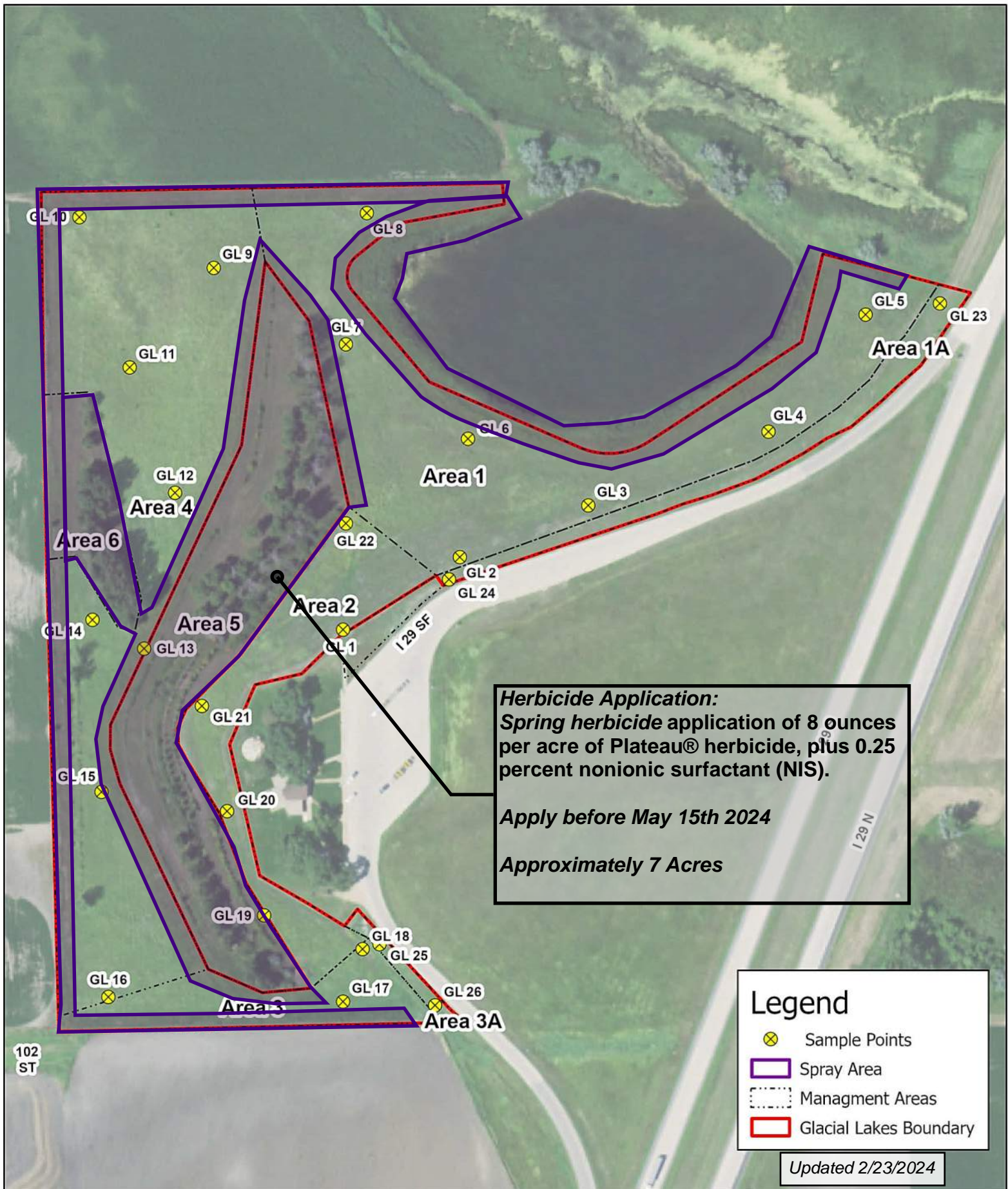
  

Highway No.	Equipment	Miles or Hours Worked	Rate	Cost
_____	_____	_____ X	_____ =	_____
_____	_____	_____ X	_____ =	_____
_____	_____	_____ X	_____ =	_____
			Total Cost	_____ = _____

\_\_\_\_\_  
Sprayer Operator Signature

D.O.A. License Number: \_\_\_\_\_

THIS FORM WILL BE COMPLETED IN TRIPLICATE. ONE COPY WILL BE FORWARDED TO THE LOCAL MAINTENANCE UNIT FOREMAN, ONE TO BE RETAINED ON FILE BY THE COUNTY, AND ONE (ORIGINAL) TO ACCOMPANY THE COUNTY'S INVOICE TO THE STATE FOR PAYMENT.



Convention Center Plaza  
 1410 West Russell Street  
 Sioux Falls, SD 57104-1328  
 Phone: (605) 331-2505  
 Fax: (605) 331-2602

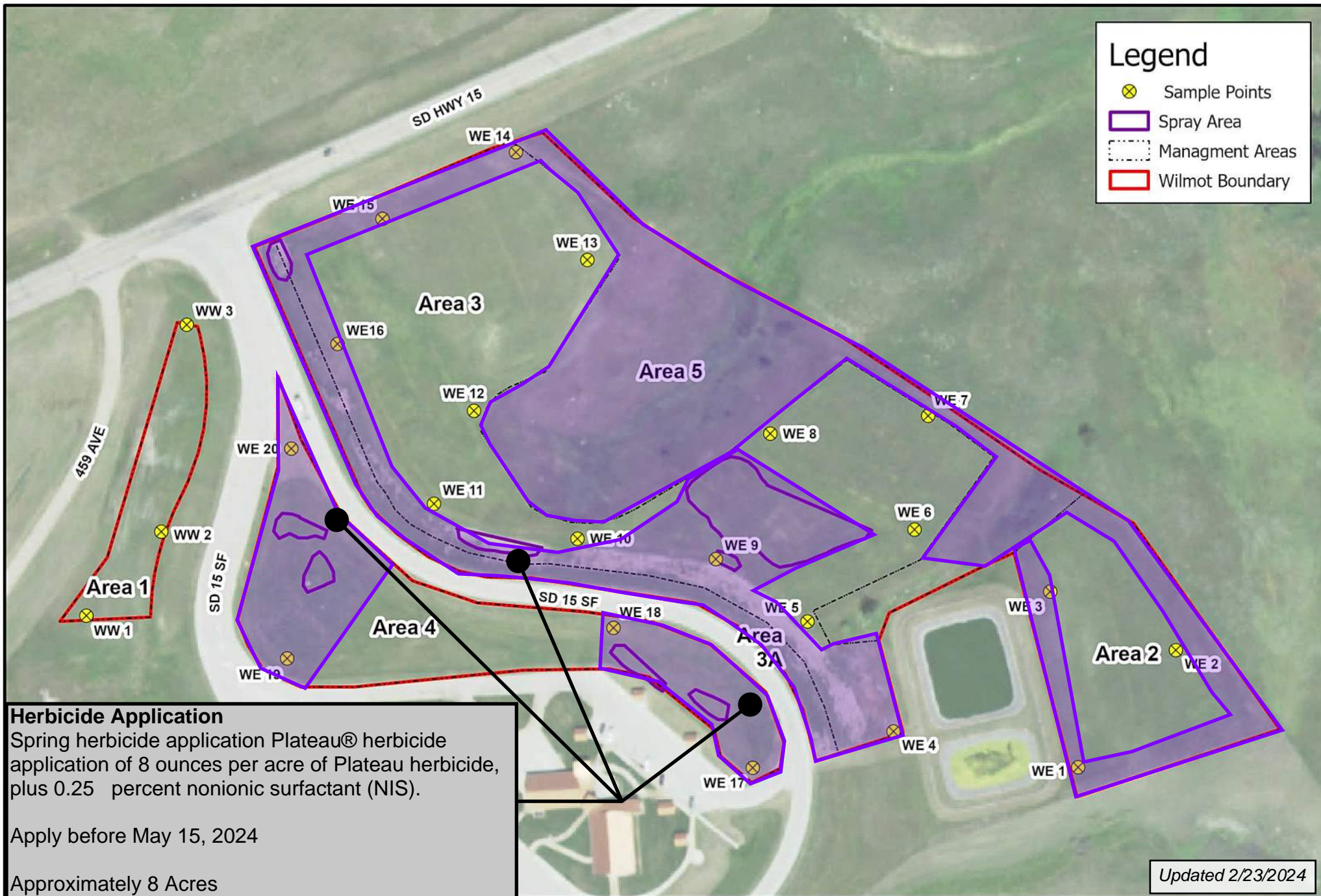
### Map 1c: Glacial Lakes Rest Area

Spring Herbicide Application



2022 Orthophotography  
 Project: 23002332.01  
 Date: 11/22/2023  
 Created By: R. Wetzel





Convention Center Plaza  
 1410 West Russell Street  
 Sioux Falls, SD 57104-1328  
 Phone: (605) 331-2505  
 Fax: (605) 331-2602

0 100 200 400 Feet



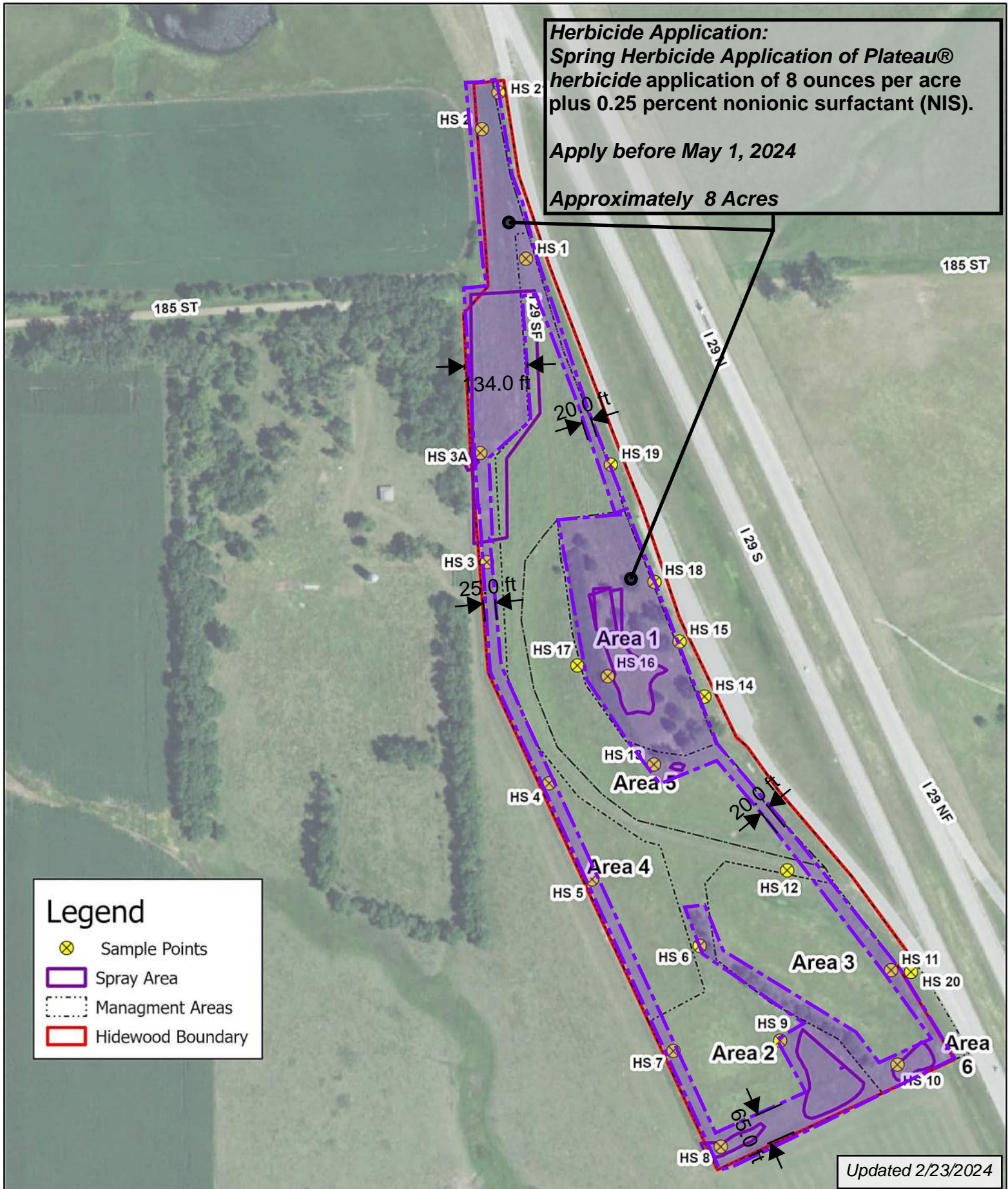
2022 Orthophotography  
 Project: 23002332.02  
 Date: 11/22/2023  
 Created By: R. Wetzel



**Herbicide Application:**  
**Spring Herbicide Application of Plateau®**  
 herbicide application of 8 ounces per acre  
 plus 0.25 percent nonionic surfactant (NIS).

**Apply before May 1, 2024**

**Approximately 8 Acres**



Updated 2/23/2024



Convention Center Plaza  
 1410 West Russell Street  
 Sioux Falls, SD 57104-1328  
 Phone: (605) 331-2505  
 Fax: (605) 331-2602

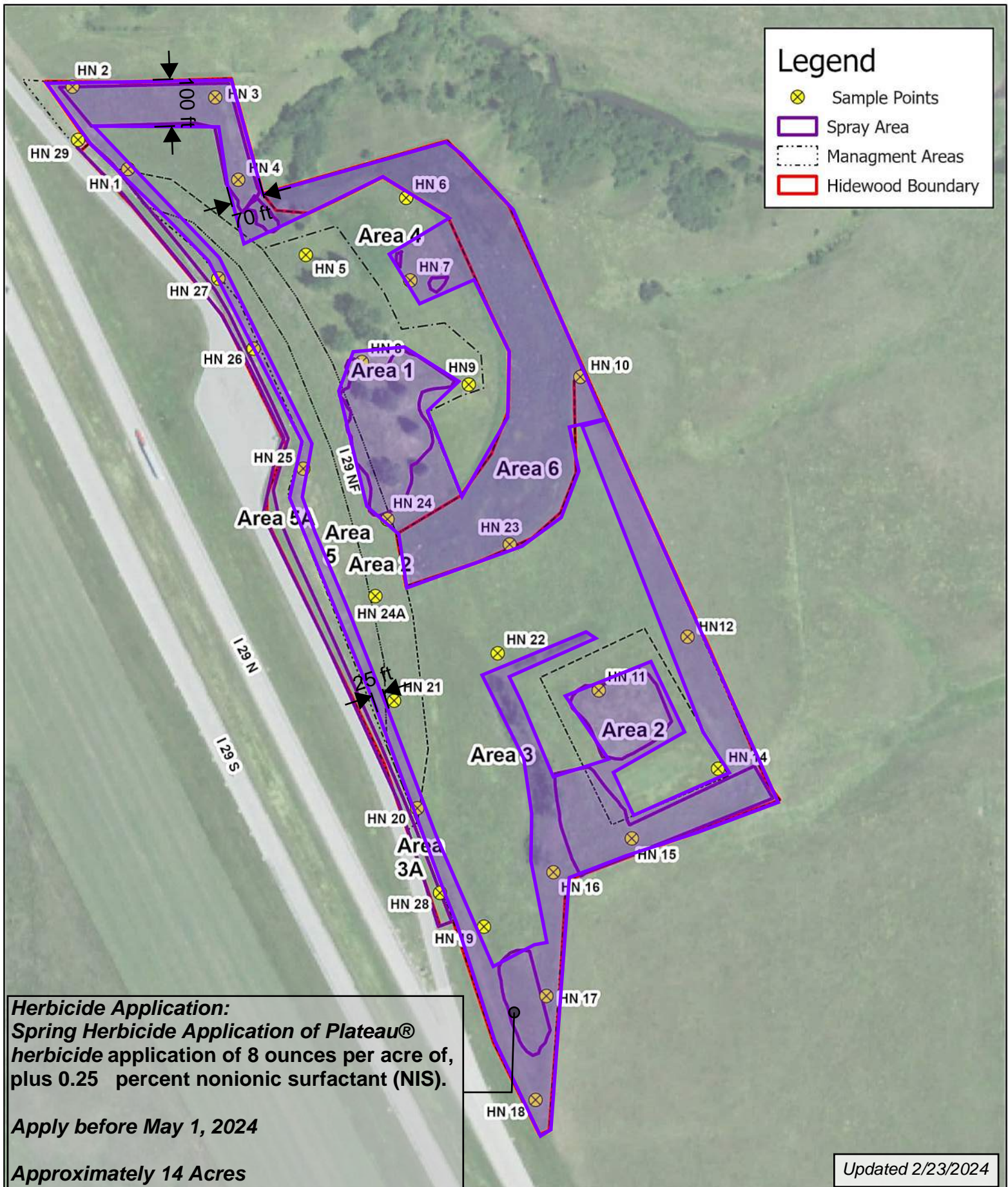
### Map 3c: Hidewood Southbound Rest Area Spring Herbicide Application

0 100 200 400 Feet



2022 Orthophotography  
 Project: 23002332.03  
 Date: 11/22/2023  
 Created By: R. Wetzel





Convention Center Plaza  
 1410 West Russell Street  
 Sioux Falls, SD 57104-1328  
 Phone: (605) 331-2505  
 Fax: (605) 331-2602

### Map 4c: Hidewood Northbound Rest Area Spring Herbicide Application

0 100 200 400 Feet

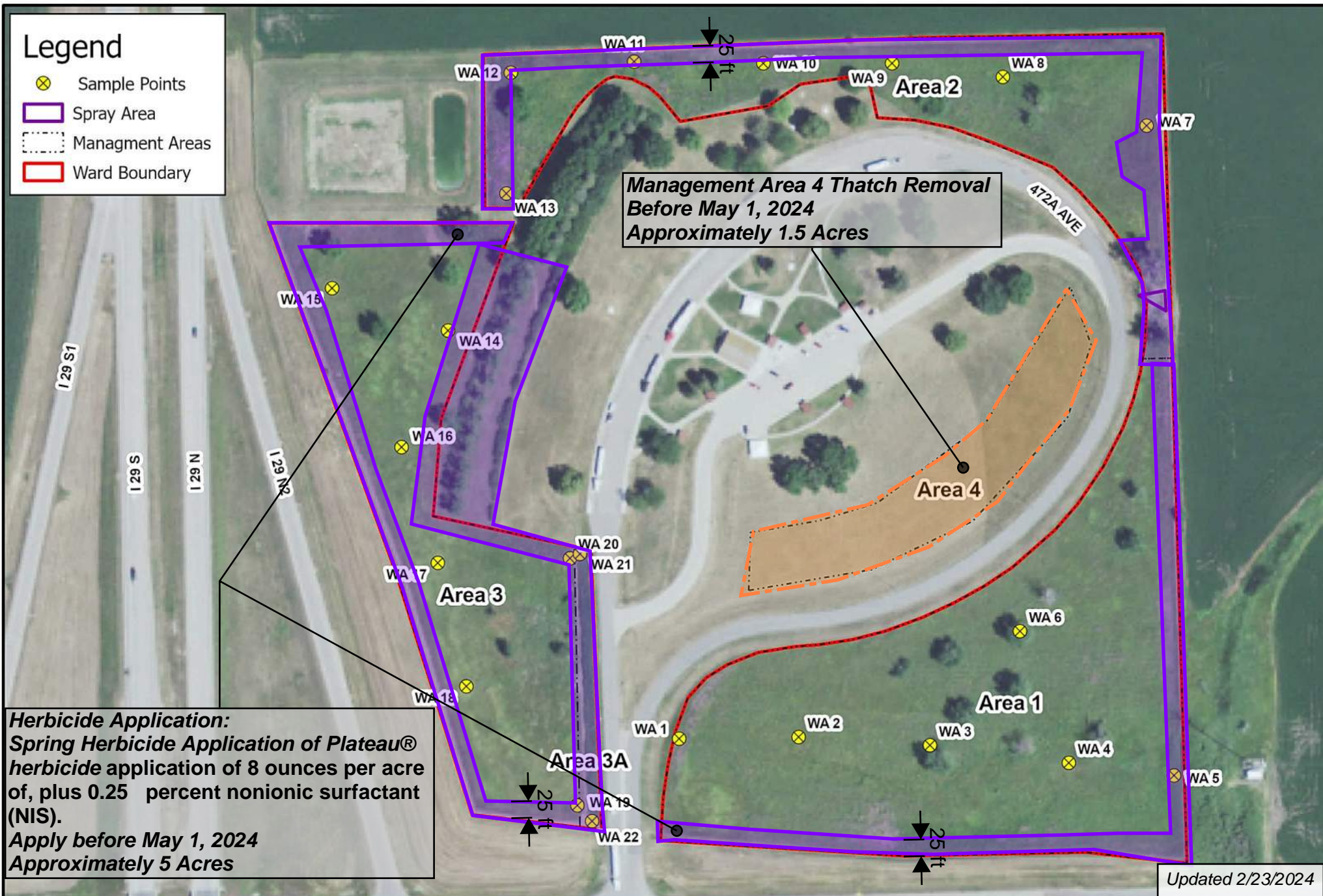


2022 Orthophotography  
 Project: 23002332.04  
 Date: 11/22/2023  
 Created By: R. Wetzel



# Legend

- Sample Points
- Spray Area
- Managment Areas
- Ward Boundary



Convention Center Plaza  
 1410 West Russell Street  
 Sioux Falls, SD 57104-1328  
 Phone: (605) 331-2505  
 Fax: (605) 331-2602

## Map 5b: Ward Rest Area Spring Herbicide Application



2022 Orthophotography  
 Project: 23002332.05  
 Date: 11/22/2023  
 Created By: R. Wetzel

**STATE OF SOUTH DAKOTA  
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION  
FOR  
ACKNOWLEDGEMENT AND CERTIFICATION REGARDING  
ARTICLE 3, SECTION 12  
OF THE SOUTH DAKOTA CONSTITUTION**

**AUGUST 24, 2023**

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In accordance with the State of South Dakota Office of the Governor Executive Order 2023-13, the following will apply to all contracts:

The Contractor acknowledges and certifies that the following information is correct:

**CERTIFICATION OF NO STATE LEGISLATOR INTEREST:**

Contractor (i) understands neither a state legislator nor a business in which a state legislator has an ownership interest may be directly or indirectly interested in any contract with the State that was authorized by any law passed during the term for which that legislator was elected, or within one year thereafter, and (ii) has read South Dakota Constitution Article 3, Section 12 and has had the opportunity to seek independent legal advice on the applicability of that provision to this contract. By signing this contract, Contractor hereby certifies that this contract is not made in violation of the South Dakota Constitution Article 3, Section 12.

It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the Department to terminate the contract.

The Contractor further agrees to provide immediate written notice to the Department if during the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination.

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**STATE OF SOUTH DAKOTA  
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION  
FOR  
LIABILITY INSURANCE**

**APRIL 21, 2022**

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**Section 7.15 – Page 50 – Delete and replace with the following:**

**7.15 LIABILITY INSURANCE** - The Contractor will procure and maintain at the Contractor's expense, during duration of the contract, liability insurance with an insurance company authorized to do business in the state of South Dakota, for damages imposed by law. The insurance will cover all operations under the contract, whether performed by the Contractor or by subcontractors, and will name the State of South Dakota, the Department, and the Department's officers and employees as additional insureds, but liability coverage is limited to claims not barred by sovereign immunity. The State of South Dakota, the Department, and the Department's officers and employees do not hereby waive sovereign immunity for discretionary conduct as provided by law. Before commencing the work, the Contractor will furnish certificates of insurance, certifying that the policies will not be changed or cancelled until 30 calendar days' written notice has been given to the Department.

The certificates of insurance will provide evidence that the Contractor carries sufficient liability insurance to protect the public from injuries sustained by reason of pursuing the work, and that Workers' Compensation Insurance meets the requirements of the South Dakota Workers' Compensation Law.

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**STATE OF SOUTH DAKOTA  
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION  
FOR  
RESPONSIBILITY FOR DAMAGE CLAIMS**

**APRIL 21, 2022**

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**Section 7.14 – Page 50 – Delete and replace with the following:**

**7.14 RESPONSIBILITY FOR DAMAGE CLAIMS** - The Contractor will indemnify the State of South Dakota, the Department, and the State's officers and employees, from all suits, actions, or claims of any character, including suits in which the State, Department, or the State's officers and employees are sued, brought because of any injuries or damages received or sustained by any person, persons, or property arising at least in part from the Contractor's operations; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in constructing the work; or because of any act or omission, neglect, or misconduct of said Contractor; or because of any claims or amounts recovered from any infringements of patent, trademark, or copyright; or from any claims or amounts arising or recovered under the "Workers' Compensation Act", or any other law, ordinance, order, or decree. The Contractor's obligation to indemnify will include the payment of reasonable attorney fees and other costs of defense. So much of the money due the Contractor under and by virtue of the contract as may be considered necessary by the Department for such purpose may be retained for the use of the State; or in case no money is due, the Contractor's surety may be held until such suit or suits, action or actions, claim or claims for injuries or damages as aforesaid will have been settled and suitable evidence to that effect furnished to the Department. Money due the Contractor will not be withheld when the Contractor produces satisfactory written confirmation from the Contractor's insurer that adequate public liability insurance and property damage insurance providing coverage for such particular claims as may be made is in force, and the Contractor provides evidence the claim has been submitted to the Contractor's insurer. A copy of a certificate of insurance, without further confirmation of coverage for the particular claim being made, will not be sufficient to satisfy the requirement of written confirmation.

\* \* \* \* \*