

**GENERAL SERVICES AGREEMENT BETWEEN
MARGOLIS COMPANIES
AND THE CITY OF ANN ARBOR
FOR STREET TREE PLANTING**

The City of Ann Arbor, a Michigan municipal corporation, having its offices at 301 E. Huron St. Ann Arbor, Michigan 48104 ("City"), and Margolis Companies ("Contractor"), a(n) Michigan Corporation with its address at 9600 Cherry Hill Rd. Ypsilanti, Michigan 48198 agree as follows:

The Contractor agrees to provide services to the City under the following terms and conditions:

I. DEFINITIONS

Administering Service Area/Unit means Public Services Area, Public Works Unit

Contract Administrator means Tiffany Giacobazzi, Public Works Unit acting personally or through any assistants authorized by the Administrator/Manager of the Administering Service Area/Unit.

Deliverables means all Plans, Specifications, Reports, Recommendations, and other materials developed for and delivered to City by Contractor under this Agreement.

Project means "***The City of Ann Arbor Fall 2019/Spring 2020 Street Tree Purchase and Planting Project***"

II. DURATION

Contractor shall commence performance on July 15, 2019, ("Commencement Date"). This Agreement shall remain in effect until satisfactory completion of the Services specified below unless terminated as provided for in Article XII. The terms and conditions of this Agreement shall apply to the earlier of the Effective Date or Commencement Date.

III. SERVICES

- A. The Contractor agrees to provide street tree purchase and planting ("Services") and to furnish all materials, equipment and labor necessary and to abide by all the duties and responsibilities applicable to it for the Project in accordance with the requirements and provisions of the following documents, including all written modifications incorporated into any of the documents, which are incorporated as part of this Agreement:

Contract and Exhibits
Invitation to Bid No. 4578 and all Addendum thereto (if any)
Bid Proposal of Contractor, dated April 19, 2019, and restated and attached
as Exhibit A.

The contract documents are complementary and what is called for by any one shall be binding. The intention of the documents is to include all labor and materials, equipment and transportation necessary for the proper execution of the Project. Materials or work described in words that so applied have a well-known technical or trade meaning have the meaning of those recognized standards.

In case of a conflict among the contract documents listed above in any requirement(s), the requirement(s) of the document listed first shall prevail over any conflicting requirement(s) of a document listed later.

The City retains the right to make changes to the quantities of service within the general scope of the Agreement at any time by a written order. If the changes add to or deduct from the extent of the services, the contract sum shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement.

- B. Quality of Services under this Agreement shall be of the level of quality performed by persons regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.
- C. The Contractor shall perform its Services for the Project in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.
- D. The Contractor may rely upon the accuracy of reports and surveys provided to it by the City (if any) except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

IV. INDEPENDENT CONTRACTOR

The Parties agree that at all times and for all purposes under the terms of this Agreement each Party's relationship to any other Party shall be that of an independent contractor. Each Party will be solely responsible for the acts of its own employees, agents, and servants. No liability, right, or benefit arising out of any employer/employee relationship, either express or implied, shall arise or accrue to any Party as a result of this Agreement.

Contractor does not have any authority to execute any contract or agreement on behalf of the City, and is not granted any authority to assume or create any obligation or liability on the City's behalf, or to bind the City in any way.

V. COMPENSATION OF CONTRACTOR

- A. The Contractor shall be paid on the basis of the bid price restated in Exhibit B The total fee to be paid the Contractor for the Services shall not exceed three hundred twenty-one thousand, five hundred and fifty dollars (**\$321,550.00**). Payment shall be made

monthly, unless another payment term is specified in Exhibit B, following receipt of invoices submitted by the Contractor, and approved by the Contract Administrator.

- B. The Contractor will be compensated for Services performed in addition to the Services described in Article III, only when the scope of and compensation for those additional Services have received prior written approval of the Contract Administrator.
- C. The Contractor shall keep complete records of work performed (e.g. tasks performed/hours allocated) so that the City may verify invoices submitted by the Contractor. Such records shall be made available to the City upon request and submitted in summary form with each invoice.

VI. INSURANCE/INDEMNIFICATION

- A. The Contractor shall procure and maintain from the Effective Date or Commencement Date of this Agreement (whichever is earlier) through the conclusion of this Agreement, such insurance policies, including those set forth in Exhibit C, as will protect itself and the City from all claims for bodily injuries, death, or property damage which may arise under this contract; whether the act(s) or omission(s) giving rise to the claim were made by the Contractor, any subcontractor, or anyone employed by them directly or indirectly. Prior to commencement of work under this Agreement, Contractor shall provide to the City documentation satisfactory to the City, through City-approved means (currently myCOI), demonstrating it has obtained the policies and endorsements required by Exhibit C. Contractor shall add registration@mycoitracking.com to its safe sender's list so that it will receive necessary communication from myCOI. When requested, Contractor shall provide the same documentation for its subcontractor(s) (if any).
- B. Any insurance provider of Contractor shall be authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-admitted insurance companies are not acceptable unless approved in writing by the City.
- C. To the fullest extent permitted by law, Contractor shall indemnify, defend and hold the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses, including attorney's fees, resulting or alleged to result, from any acts or omissions by Contractor or its employees and agents occurring in the performance of or breach in this Agreement, except to the extent that any suit, claim, judgment or expense are finally judicially determined to have resulted from the City's negligence or willful misconduct or its failure to comply with any of its material obligations set forth in this Agreement.

VII. WAGE REQUIREMENTS

Under this Contract, the Contractor shall conform to Chapter 14 of Title I of the Code of the City of Ann Arbor as amended; which in part states "...that all craftsmen, mechanics and laborers employed directly on the site in connection with said improvements, including said employees of subcontractors, shall receive the prevailing wage for the corresponding classes of craftsmen, mechanics and laborers, as determined by statistics for the Ann Arbor area compiled by the United States Department of Labor. At the request of the City, any contractor or subcontractor shall provide satisfactory proof of compliance with the contract provisions required by the Section."

Where the Contract and the Ann Arbor City Ordinance are silent as to definitions of terms required in determining contract compliance with regard to prevailing wages, the definitions provided in the Davis-Bacon Act as amended (40 U.S.C. 278-a to 276-a-7) for the terms shall be used.

If the Contractor is a "covered employer" as defined in Chapter 23 of the Ann Arbor City Code, the Contractor agrees to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. The Contractor agrees to pay those employees providing Services to the City under this Agreement a "living wage," as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Agreement are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23.

Contractor agrees that all subcontracts entered into by the Contractor shall contain similar wage provision covering subcontractor's employees who perform work on this contract.

VIII. NON-DISCRIMINATION

The Contractor agrees to comply, and to require its subcontractor(s) to comply, with the nondiscrimination provisions of MCL 37.2209. The Contractor further agrees to comply with the provisions of Section 9:158 of Chapter 112 of Title IX of the Ann Arbor City Code, and to assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity.

IX. REPRESENTATIONS AND WARRANTIES BY THE CONTRACTOR

- A. The Contractor warrants that the quality of its Services under this Agreement shall conform to the level of quality performed by persons regularly rendering this type of service.
- B. The Contractor warrants that it has all the skills, experience and licenses (if applicable) necessary to perform the Services it is to provide pursuant to this Agreement.
- C. The Contractor warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the Services it is to provide pursuant to this Agreement.
- D. The Contractor certifies that it has no personal or financial interest in the Project other than the fee it is to receive under this Agreement. The Contractor further certifies that it shall not acquire any such interest, direct or indirect, which would conflict in any manner with the performance of the Services it is to provide pursuant to this Agreement. Further Contractor agrees and certifies that it does not and will not employ or engage any person with a personal or financial interest in this Agreement.
- E. The Contractor certifies that it is not, and shall not become overdue or in default to the City for any contract, debt, or any other obligation to the City including real and personal property taxes. Further Contractor agrees that the City shall have the right to set off any such debt against compensation awarded for Services under this Agreement.

- F. The Contractor warrants that its bid was made in good faith, it arrived at the costs of its bid independently, without consultation, communication or agreement, for the purpose of restricting completion as to any matter relating to such fees with any competitor for these Services; and no attempt has been made or shall be made by the Contractor to induce any other perform or firm to submit or not to submit a bid for the purpose of restricting competition.

X. OBLIGATIONS OF THE CITY

- A. The City agrees to give the Contractor access to the Project area and other City-owned properties as required to perform the necessary Services under this Agreement.
- B. The City shall notify the Contractor of any defects in the Services of which the Contract Administrator has actual notice.

XI. ASSIGNMENT

- A. The Contractor shall not subcontract or assign any portion of any right or obligation under this Agreement without prior written consent from the City. Notwithstanding any consent by the City to any assignment, Contractor shall at all times remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as are required of it under the Agreement unless specifically released from the requirement, in writing, by the City.
- B. The Contractor shall retain the right to pledge payment(s) due and payable under this Agreement to third parties.

XII. TERMINATION OF AGREEMENT

- A. If either party is in breach of this Agreement for a period of fifteen (15) days following receipt of notice from the non-breaching party with respect to a breach, the non-breaching party may pursue any remedies available to it against the breaching party under applicable law, including but not limited to, the right to terminate this Agreement without further notice. The waiver of any breach by any party to this Agreement shall not waive any subsequent breach by any party.
- B. The City may terminate this Agreement, on at least thirty (30) days advance notice, for any reason, including convenience, without incurring any penalty, expense or liability to Contractor, except the obligation to pay for Services actually performed under the Agreement before the termination date.
- C. Contractor acknowledges that, if this Agreement extends for several fiscal years, continuation of this Agreement is subject to appropriation of funds for this Project. If funds to enable the City to effect continued payment under this Agreement are not appropriated or otherwise made available, the City shall have the right to terminate this Agreement without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The Contract Administrator shall give Contractor written notice of such non-appropriation within thirty (30) days after it receives notice of such non-appropriation.

- D. The provisions of Articles VI and IX shall survive the expiration or earlier termination of this Agreement for any reason. The expiration or termination of this Agreement, for any reason, shall not release either party from any obligation or liability to the other party, including any payment obligation that has already accrued and Contractor's obligation to deliver all Deliverables due as of the date of termination of the Agreement.

XIII. REMEDIES

- A. This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory and/or other legal right, privilege, power, obligation, duty or immunity of the Parties.
- B. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any agreement between the parties or otherwise.
- C. Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently effect its right to require strict performance of this Agreement.

XIV. NOTICE

All notices and submissions required under this Agreement shall be delivered to the respective party in the manner described herein to the address stated in this Agreement or such other address as either party may designate by prior written notice to the other. Notices given under this Agreement shall be in writing and shall be personally delivered, sent by next day express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent next day express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

If Notice is sent to the CONTRACTOR, it shall be addressed and sent to:

Merrill Bumstead
9600 Cherry Hill
Ypsilanti, MI 48198

If Notice is sent to the CITY, it shall be addressed and sent to:

City of Ann Arbor
Tiffany Giacobazzi
(insert name of Administering Service Area Administrator)

301 E. Huron St.
Ann Arbor, Michigan 48104

With a copy to: The City of Ann Arbor
ATTN: Office of the City Attorney
301 East Huron Street, 3rd Floor
Ann Arbor, Michigan 48104

XV. CHOICE OF LAW AND FORUM

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction, excepting the principles of conflicts of law. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

XVI. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this Agreement, all documents (i.e., Deliverables) prepared by or obtained by the Contractor as provided under the terms of this Agreement shall be delivered to and become the property of the City. Original basic survey notes, sketches, charts, drawings, partially completed drawings, computations, quantities and other data shall remain in the possession of the Contractor as instruments of service unless specifically incorporated in a deliverable, but shall be made available, upon request, to the City without restriction or limitation on their use.

XVII. SEVERABILITY OF PROVISIONS

Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties and circumstances.

XVIII. EXTENT OF AGREEMENT

This Agreement, together with any affixed exhibits, schedules or other documentation, constitutes the entire understanding between the City and the Contractor with respect to the subject matter of the Agreement and it supersedes, unless otherwise incorporated by reference herein, all prior representations, negotiations, agreements or understandings whether written or oral. Neither party has relied on any prior representations, of any kind or nature, in entering into this Agreement. No terms or conditions of either party's invoice, purchase order or other administrative document shall modify the terms and conditions of this Agreement, regardless of the other party's failure to object to such form. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and their permitted successors and permitted assigns and nothing in this Agreement, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may only be altered, amended or modified by written amendment signed by the Contractor and the City. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

XIX. ELECTRONIC TRANSACTION

The parties agree that signatures on this Agreement may be delivered electronically in lieu of an original signature and agree to treat electronic signatures as original signatures that bind them to this Agreement.

XX. EFFECTIVE DATE

This Agreement will become effective when all parties have signed it. The Effective Date of this Agreement will be the date this Agreement is signed by the last party to sign it.

FOR CONTRACTOR

By _____

Its _____

FOR THE CITY OF ANN ARBOR

By _____
Christopher Taylor, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to substance

Craig Hupy, Public Services Service Area
Administrator

By _____
Howard S. Lazarus, City Administrator

Approved as to form and content

By _____
Stephen K. Postema, City Attorney

**EXHIBIT A
CONTRACT SUMMARY**

FALL 2019			SPRING 2020		
Common Name	Latin Name	B&B Price per Tree Planted	Common Name	Latin Name	B&B Price per Tree Planted
Paperbark Maple (small)	<i>Acer griseum</i>	\$ 260.00	Paperbark Maple (small)	<i>Acer griseum</i>	\$ 6,500.00
Miyabei Maple (medium)	<i>Acer miyabei</i>	\$ 260.00	Serviceberry (small)	<i>Amelanchier sp.</i>	\$ 3,900.00
Serviceberry (small)	<i>Amelanchier sp.</i>	\$ 260.00	American Hornbeam (medium)	<i>Carpinus caroliniana</i>	\$ 6,500.00
American Hornbeam (medium)	<i>Carpinus caroliniana</i>	\$ 260.00	Hackberry (large)	<i>Celtis occidentalis</i>	\$ 7,000.00
Hackberry (large)	<i>Celtis occidentalis</i>	\$ 280.00	Katsura (large)	<i>Cercidiphyllum japonicum</i>	\$ 7,375.00
Katsura (large)	<i>Cercidiphyllum japonicum</i>	\$ 295.00	Yellowwood (medium)	<i>Cladrastis lutea</i>	\$ 6,750.00
Redbud (small)	<i>Cercis canadensis</i>	\$ 235.00	Ginkgo (Large)	<i>Ginkgo biloba</i>	\$ 9,800.00
Yellowwood (medium)	<i>Cladrastis lutea</i>	\$ 270.00	Kentucky Coffeetree (large)	<i>Gymnocladus dioicus</i>	\$ 6,875.00
Ginkgo- male only (large)	<i>Ginkgo biloba</i>	\$ 280.00	Tuliptree (large)	<i>Liriodendron tulipifera</i>	\$ 5,875.00
Kentucky Coffeetree (large)	<i>Gymnocladus dioicus</i>	\$ 275.00	Crabapple (small)	<i>Malus spp.</i>	\$ 5,625.00
Tuliptree (large)	<i>Liriodendron tulipifera</i>	\$ 235.00	Dawn Redwood (large)	<i>Metasequoia glyptostroboides</i>	\$ 2,600.00
Sweetgum (large)	<i>Liquidambar styruciflua</i>	\$ 235.00	Blackgum (Tupelo) (medium)	<i>Nyssa sylvatica</i>	\$ 7,000.00
Crabapple (small)	<i>Malus spp.</i>	\$ 225.00	Hophornbeam (medium)	<i>Ostrya virginiana</i>	\$ 7,000.00
Dawn Redwood (large)	<i>Metasequoia glyptostroboides</i>	\$ 260.00	London Planetree (large)	<i>Platanus x acerifolia</i>	\$ 7,050.00
Blackgum (Tupelo) (medium)	<i>Nyssa sylvatica</i>	\$ 280.00	Ornamental Cherry (small)	<i>Prunus spp</i>	\$ 4,700.00
Hophornbeam (medium)	<i>Ostrya virginiana</i>	\$ 280.00	Swamp White Oak (large)	<i>Quercus bicolor</i>	\$ 6,500.00
London Planetree (large)	<i>Platanus x acerifolia</i>	\$ 235.00	Burr Oak (large)	<i>Quercus macrocarpa</i>	\$ 6,500.00
Ornamental Cherry (small)	<i>Prunus spp.</i>	\$ 235.00	Northern Red Oak (large)	<i>Quercus rubra</i>	\$ 6,500.00
White Oak (large)	<i>Quercus alba</i>	\$ 260.00	Japanese Tree Lilac (small)	<i>Syringa reticulata</i>	\$ 9,625.00
Swamp White Oak (large)	<i>Quercus bicolor</i>	\$ 260.00	Accolade Elm (large)	<i>Ulmus x 'Accolade'</i>	\$ 5,200.00
Burr Oak (large)	<i>Quercus macrocarpa</i>	\$ 260.00	American Elm (large)	<i>Ulmus americana</i>	\$ 2,600.00
English Oak (medium)	<i>Quercus robur</i>	\$ 275.00			
Northern Red Oak (large)	<i>Quercus rubra</i>	\$ 260.00			
Japanese Tree Lilac (small)	<i>Syringa reticulata</i>	\$ 275.00			
Bald Cypress (large)	<i>Taxodium distichum</i>	\$ 260.00			
Accolade Elm (large)	<i>Ulmus x 'Accolade'</i>	\$ 260.00			
American Elm (large)	<i>Ulmus americana</i>	\$ 260.00			
Price per watering, per tree (bi-weekly - up to 12 waterings)		\$ 5.00	Price per watering, per tree (bi-weekly - up to 12 waterings)		\$ 5.00
Plant 500 trees Fall 2019 selecting from the species above.			Plant 500 trees Fall 2019 selecting from the species above.		
Total Contract amount not to exceed \$321,550.00					

**EXHIBIT B:
DETAILED SPECIFICATION**

SCOPE OF WORK

To provide all supervision, material, labor, equipment, service operations and expertise required to acquire, deliver, plant, maintain and guarantee for one year, street trees, as specified herein. These specifications, including drawings, tree locations and plant materials lists, apply to those items necessary for and incidental to the execution and completion of tree purchase, delivery, and planting. Contractor has responsibility to:

- A. Furnish, transport and plant trees.
- B. Contact Miss Dig/local utility for verification of all underground utility lines in the area of the work prior to the planting of any street trees.
- C. Exercise reasonable care during excavation, tree delivery, planting, filling, grading, and cleanup, to protect from damage all existing trees, shrubs, vegetation, and other site features, improvements, structures, and utilities.
- D. Work safely and adhere to all applicable standards and permit requirements.
Note: Permissible working hours for all activities within this bid are 7:00 a.m. to 7:00 p.m. Monday through Friday. Contractor shall notify the City of intended work hours prior to commencement of work. Saturday work will not be permitted unless prior authorization is granted by the city. Sunday or holiday work is not permitted.
- E. Take all precautions to ensure the safety of the public.
- F. Interact with the public in a professional and courteous manner.
- G. Any work incidental to above.

SPECIFICATIONS

Section 1: Materials

A complete list of trees, including species and sizes, is included on the Bid Forms.

The Contractor shall furnish a written list of the proposed sources (i.e. grower, not broker) of nursery stock. City may reject a proposed source if their stock is grown in a hardiness zone greater than USDA Zone 5.

Hardiness zones provide the average annual low temperature for the area and are used to assist in plant selection based on a plant's cold hardiness. The Hardiness Zones in Tennessee, Kentucky and North Carolina (6b, 7a, 7b and 8a) all have an average low temperature higher than Ann Arbor, which may lead to trees that are unable to tolerate the winter/early spring climate of Ann Arbor. Stock from Tennessee, North Carolina and Kentucky will not be permitted.

All plant material shall conform to **American Standard for Nursery Stock**. Plants shall be true to species and variety specified and nursery grown in accordance with good horticultural practices under climatic conditions similar to those in the locality of the project for at least 2 years. They shall have been freshly dug (during the most recent favorable harvest season). Plants shall be so trained in development and appearance as to be unquestionably superior in form, compactness, and symmetry. They shall be sound, healthy, vigorous, well branched and densely foliated when in leaf, and free of disease and insect adults eggs, pupae or larvae. They shall have healthy, well-developed root systems and shall be free from physical damage or other conditions that would prevent thriving growth.

- A.** Trees with multiple leaders, unless specified, will be rejected. Trees with a damaged, cut, or crooked leader, included bark, abrasion of bark, sunscald, disfiguring knots, insect damage, mold, prematurely opened buds, or cuts of limbs over 3/4 inch (2 cm) diameter that are not completely callused are cause for rejection.
- B.** Root collar/trunk flare shall be visible or within the top one-inch (1") of the soil ball. Trees may be rejected if root collar/trunk flare is buried and/or not visible.
- C.** Balled and burlapped trees shall be dug with solid balls of standard size, the balls securely wrapped with non-synthetic, untreated, biodegradable burlap, and tightly bound with non-synthetic, biodegradable rope or twine. Alternatively they may be placed in wire basket lined with non-synthetic, untreated, biodegradable burlap and tightly bound with non-synthetic, biodegradable rope or twine.
- D.** Bare root trees shall have a healthy, well branched root system characteristic of the species and with adequate spread.
- E.** Bare root and balled and burlapped trees in full leaf prior to planting may be rejected by the City.
- F.** Plants shall conform to the measurements specified, except that plants larger than those specified may be used if approved by the City. Use of larger plants shall not increase the contract price nor allow the Contractor to use smaller than specified material on other plants. If larger plants are approved, the root ball, root spread, or container shall be increased in proportion to the size of the plant.
- G.** Caliper measurements shall be taken on the trunk 6 inches (15 cm) above the root collar for trees up to 4 inches (10 cm) in caliper, and 12 inches (30 cm) above the root collar for trees over 4 inches (10 cm) in caliper. Height and spread dimensions specified refer to the main body of the plant and not from branch tip to branch tip. Plants shall be measured when branches are in their normal position. If a range of size is given, no plant shall be less than the minimum size, and no less than 50 percent of the plants shall be as large as the maximum size specified. Plants that meet measurements but do not possess a normal balance between height and spread shall be rejected.
- H.** Substitutions of plant materials will not be permitted unless authorized in writing by the City. If proof is submitted, substantiated in writing, that a plant specified is not obtainable, consideration will be given to the nearest available size or similar variety, with a corresponding adjustment of the contract price.
- I.** All plants shall be labeled by size and scientific plant name. Labels shall be attached securely to all plants, bundles, and containers of plant materials when delivered. Plant labels shall be durable and legible, with information given in weather-resistant ink or embossed process lettering.
- J.** Mulching material shall consist of aged or composted wood chips or shredded bark and shall be free of material injurious to plant growth. Mulch will be placed on the soil surface over the rootball of the tree, but not directly adjacent to the tree trunk. The mulch depth is to be no less than 3" and no more than 4".
- K.** Water shall be provided by the Contractor and be suitable for irrigation and free from ingredients harmful to plant life. Trees shall be thoroughly watered at the time of installation. A minimum of twenty gallons of water shall be applied to installed trees at time of planting and then every-other week throughout growing season. Growing season is approximately

mid-April to mid-November.

Based on growing season, it is estimated that trees would be watered 16 times from April-November. Watering schedule shall begin no later than May 15. Exact start and end dates of watering schedule will be dependent on weather conditions and will be determined by City. Watering bags (ex: Gator bags) may be used to accomplish watering; however, they must be removed at the end of the growing season.

- L. No trunk wrapping material shall remain on the tree after planting.
- M. Staking and guying materials, if specified, shall be as follows: Stakes shall be 6' to 8' long sections of unflanged metal or 2" x 2" hardwood. Support ties shall be 2-3" wide bands of polypropylene, elasticized or webbed strapping. All staking materials must be removed after one (1) year unless discussed with and authorized by the City.

Section 2: Certification

All plant materials, shipments, and deliveries shall comply with state and federal laws and regulations governing the inspection, shipping, selling, and handling of plant stock. A certificate of inspection, or a copy thereof, for injurious insects, plant diseases, and other plant pests shall accompany each shipment or delivery of plant material. The certificate shall bear the name and address of the source of the stock.

Section 3: Selection and Tagging

Plants shall be subject to inspection for conformity to specification requirements and approval by the City.

Plants shall be inspected upon delivery, and the City reserves the right to reject any plants that do not meet the standards or that have been damaged during shipment. Such approval shall not impair the right of the City to inspect and reject plant material during progress of the work. A Contractor's representative shall be present at all inspections. The City shall be the sole judge of acceptability of stock at any time during the course of this contract.

Section 4: Digging and Handling Plant Materials

Balled-and-burlapped and bareroot stock shall be of sufficient depth to include fibrous and feeding roots. B&B stock shall be dug with firm, natural balls of earth of diameter not less than that recommended in the current edition of *American Standard for Nursery Stock*. **The root collar shall be visible or within the top one-inch (1") of the soil ball.** Balled and burlapped plants with manufactured balls or balls that are dry, cracked, or broken before or during planting operation will not be accepted.

Section 5: Transportation, Unloading and Storage of Plant Material

- A. Fresh dug material is given preference over plant material held in storage. Plant material held in storage will be rejected if excessive growth or dieback of branches has occurred in storage.
- B. Branches shall be tied with rope or twine only, and in such a manner that no damage will occur to the bark or branches.
- C. During transportation of plant material, the Contractor shall exercise care to prevent injury and drying out of the trees. Should the roots be dried out, large branches broken, balls of earth broken or loosened, or areas of bark torn, the City may reject the injured tree(s) and

order them replaced at no additional cost to the City.

- D. The root systems of each load of bare root stock sent from the storage facility shall be adequately covered with wet soil, sawdust, wood chips, moss, peat, straw, hay or other acceptable moisture-holding medium, and shall be covered with an open-mesh tarpaulin or canvas. Shredded newspaper is not an acceptable medium. Loads that are not protected in the above manner may be rejected. *Note: tight-woven tarps and canvas can cause a load of trees to overheat on a sunny day, resulting in serious damage.*
- E. Contractor is responsible for unloading delivered trees using Contractor equipment and labor. Care must be taken to prevent damage to any part of the tree including bark, roots, buds or branches during unloading and storage of trees.
- F. Plants must be protected at all times from sun or drying winds. Those that cannot be planted immediately upon delivery shall be kept in the shade, well protected with wood chips or other acceptable material, and kept well watered. Plants shall not be bound with wire or rope at any time so as to damage the bark or break branches. Plants shall be lifted and handled with suitable support of the soil ball to avoid damaging it.
- G. Trees and equipment may be staged in the City of Ann Arbor Nursery (1035 Ellsworth Rd, Ann Arbor) as arranged with Contract Administrator, for the duration of the planting project. Water and wood chips for storing trees, but not City equipment, are available for Contractor's use at this site. The Nursery gate is to remain locked whenever City Staff/Contractors are not present. A lock and chain must be provided by the Contractor.

Section 6: Delivery

- A. Bid prices shall include delivery to the City's receiving site located at 1035 Ellsworth Road, Ann Arbor, MI. All trees shall be delivered to the specified site at least one day before planting.
 - a. Delivery to the City Nursery at 1035 Ellsworth Road must occur between the hours of 7:30 a.m. to 1 p.m. A City representative and contractor representative must be present at delivery.
- A. Plant materials shall not be shipped C.O.D., and any shipment so made will be refused by the City.
- B. The Contractor shall give the City notice of delivery time 3 to 5 days prior to delivery.

Section 7: Excavation of Planting Areas

- A. Contractor is responsible for contacting Miss Dig/local utility for verification of all underground utility lines in the area of the work prior to the planting of any street trees. Contractor shall be responsible for all damage resulting from planting operations, neglect or failure to comply with this requirement.

NOTE: Gas lines often are buried under the extension between road and walk. These lines are much deeper than planting operations, with the exception of home service lines. It is the responsibility of the contractor to locate, by hand digging, marked gas lines.

- B. The Contractor will be held responsible for the preservation of all public and private property along and adjacent to the work area, and will be required to exercise due caution to avoid and prevent any damage or injury as a consequence of their work. All turf, trees, shrubs,

groundcovers, fences, irrigation systems utilities and other site amenities shall be adequately protected.

- C. Should any direct or indirect damage or injury result to any public or private property by or on account of any act, omission, neglect or conduct in the execution of the work of the Contractor or any employees or agents, such property shall be restored by, and at the expense of the Contractor, to the condition equivalent to that existing before the damage or injury occurred, by repairing or rebuilding the same or by otherwise making good such damage or injury in an acceptable manner.
- D. The Contractor shall excavate planting areas as shown on the City of Ann Arbor Tree Planting Detail (Appendix B). Excavation may be done by shovel, backhoe, stump grinder or soil auger. The glazing of the sides must be broken up and the surrounding soil loosened. Contractor is required to hand dig planting locations according to Miss Dig requirements.
- E. The soil pad on which the soil/root ball or bare root trees will be placed shall be of undisturbed soil. The depth of the pad shall correspond to the distance from the bottom of the soil ball or roots to the root collar, or slightly less. Glazed planting hole surfaces shall be sufficiently roughened prior to backfilling. *Note: The root collar is the area where the roots join the trunk. For most trees in native settings, the root collar is just below the soil surface, though it may be 1-5" lower for oak, hickory and pear. With bare root trees the root collar's location is obvious. With nursery grown B&B trees the root collar is rarely visible often being several inches below the surface of the soil ball. This depth can be determined by checking the depth in the nursery before the trees are harvested; or by using a wire and gently probing the ball to find the major roots; or by estimating, knowing that the roots will likely be about 4" below the swelling at the base of the trunk. This swelling is caused by either a graft union or cutting back of a rooted cutting. See Appendix H.*
- F. Excavated planting holes that will pose an immediate and considerable hazard to pedestrians or vehicles shall be adequately barricaded with appropriate warning devices. All excavated planting holes must be planted or filled the day they are excavated. No excavated planting hole shall be left open after the work day is complete.
- G. The Contractor shall notify the City in writing, of soil conditions or other obstructions the Contractor considers detrimental to tree growth. Such conditions shall be described, as well as suggestions for correcting them. Proper water drainage must be assured.
- H. Where soil conditions or below ground obstructions which cannot be remedied are encountered, the City shall designate alternate planting locations. The City shall bear any costs associated with such relocation.

Section 8: Planting Operations

- A. The City reserves the right to determine the tree species to be planted at each site.
- B. Plants must be protected from excessive vibrations. Plants shall not be thrown or bounced off a truck or loader to the ground. Plants shall not be dragged, lifted, or pulled by the trunk or foliage parts in a manner that will loosen the roots in the ball.
- C. Plants shall be set with the top of the root collar at or slightly above finished grade. Plants must be centered in the hole and set plumb. Plants shall be set so that they will be at the same depth 1 year after planting. *Note: planting depth is critical to long-term planting success. Research indicates that some species planted too deep will develop trunk*

diseases, girdling roots or be more susceptible to breakage in wind storms. These problems are not likely to develop until years after planting.

- D. Bare root plants shall have their roots spread into a natural position, free of bunching, kinking, or circling. All broken or damaged roots shall be cut back to the point where they are clean and free of rot. No other root pruning shall be done.
- E. For plants in plastic, metal or biodegradable containers, the container shall be removed before planting. If roots are crowded or coiled on the bottom, sides, or surface of the root ball, they shall be gently separated from the edges or surface.
- F. For all plants moved with a tree spade, all holes and cavities between the ball and the surrounding soil shall be filled. Glazed planting hole surfaces shall be sufficiently roughened prior to backfilling. The ball shall be thoroughly soaked with water after planting.
- G. Remove ropes, strings, wire baskets, burlap, and other wrappings from the root balls of B&B plants. After the plant has been set and one half of the backfilling completed to support the ball, ropes, strings, wire baskets, burlap, and other wrappings shall be removed from the top one-half of the ball. The balance of the wrappings may be left intact around the bottom half of the ball. After backfilling is complete, no portion of the ball wrapping shall be left exposed. If ball wrapping is waterproof, water repellent, or non-degradable it must be removed entirely from the ball. All removed ropes, strings, wire baskets, burlap and other materials must be disposed of properly by the Contractor. If the root collar is deep in the ball, remove excess soil away from the trunk using hands to avoid trunk injury.

Planting holes shall be backfilled with excavated soil. If excavated soil is unsuitable (i.e. rocky/gravelly, contains construction debris, too clayey or too sandy) clean topsoil may be used to backfill planting holes. When holes are approximately two-thirds full, they shall be thoroughly watered to eliminate air pockets. After this initial watering, excavated soil shall be installed to the top of the hole and watered. Prevent puddled soil conditions by avoiding compaction once the soil is wet.

- H. Planting areas shall be finish-graded to conform to drawings (refer to Appendix I- Tree Planting detail) after full settlement has occurred.
- I. All plants shall be mulched over the root system with a 3-4-inch layer of aged wood chips or bark immediately after planting. Mulch shall be kept away from the tree's trunk. Mulching material shall be pulled back no less than 3" and no more than 6" from the trunk.
- J. Plants shall be thoroughly watered immediately after planting.
- K. All twine, rope, transit guards or wrappings shall be removed after planting is completed and disposed of properly by the Contractor. Plant labels should remain secured to the tree and will be removed by the City.

Section 9: Guying, Staking, Wrapping, and Pruning

Only those plants designated by the City shall have trunk protection installed or be staked and/or guyed.

Only trees so designated by the City shall have approved trunk protection installed. The trunk protection shall be secured at the top and bottom of the trunk in a manner so as not to restrict or damage the bark). The Contractor will be responsible for removing trunk protection after a one year

period.

Only trees so designated shall be staked and guyed. Ties made of approved material shall be attached directly to the stakes or may be attached to stakes by wire. In no case shall the wire extend around the tree trunk. Ties should be attached loosely enough to allow a small amount of play in the trunk. For drooping stems, ties shall be placed at the point on the stem at which the top can stand up on its own. Stakes shall be driven outside the root ball. The Contractor will be responsible for removing all stakes and straps after a one year period. These stakes and straps will be the property of the Contractor and should be figured into the bid.

Double leaders, dead branches and any branches damaged or broken during the planting process shall be the pruned. This shall be the only pruning allowed at planting. Pruning shall conform to ***American National Standard for Tree Care Operations, ANSI A300.***

Section 10: Cleanup

Soil, sod, branches, binding and wrapping material, rejected plants, or other debris resulting from any tree planting activities shall be promptly cleaned up and removed from the City street or right-of-way and disposed of properly. The work area shall be kept safe and neat at all times until the cleanup operation is completed. Under no condition shall the accumulation of soil, branches, or other debris be allowed upon a public or private property in such a manner as to result in a public hazard.

Section 11: Guarantee Period, Replacement and Maintenance

- A. The Contractor shall guarantee all plants to be healthy and in flourishing condition for one year from the date of acceptance. Acceptable trees shall be sound, healthy, vigorous, with full crowns free of dead or dying branches and branch tips, and shall bear foliage of a normal density, size and color.
- B. The Contractor shall remove and replace, without cost, and as soon as weather conditions permit, and within a specified planting period, all trees determined by the City to be unacceptable at any time during the guarantee period. Replacements shall be subject to all requirements stated in this specification.
- C. The guarantee does not include vandalism, storm damage, or animal damage unrelated to contractor activities.
- D. The Contractor shall be responsible for all maintenance of the trees during the guarantee period. Maintenance shall begin immediately after each tree is planted and shall continue until Final Inspection and Acceptance.
- E. Maintenance shall consist of necessary watering, mulching, resetting of plants to proper grades or upright position, pruning or other items as are necessary to keep the plantings in thriving condition.

Section 12: Assignment of Work

The City will provide tree planting locations and work assignments utilizing the asset management software, CityWorks. The selected contractor(s) will be required to have or to purchase a tablet running either the Apple iOS or the Android platform (Windows Mobile is not supported) that has a cellular card and supports the CityWorks native mobile app, in order to review and complete work orders. The CityWorks native mobile app is available for free through the respective platform's app stores.

**EXHIBIT C:
CITY OF ANN ARBOR DECLARATION OF COMPLIANCE**

The "wage and employment requirements" of Section 1:320 of Chapter 14 of Title I of the Ann Arbor City Code mandates that the city not enter any contract, understanding or other arrangement for a public improvement for or on behalf of the city unless the contract provides that all craftsmen, mechanics and laborers employed directly on the site in connection with said improvements, including said employees of subcontractors, shall receive the prevailing wage for the corresponding classes of craftsmen, mechanics and laborers, as determined by statistics for the Ann Arbor area compiled by the United States Department of Labor. Where the contract and the Ann Arbor City Code are silent as to definitions of terms required in determining contract compliance with regard to prevailing wages, the definitions provided in the Davis-Bacon Act as amended (40 U.S.C. 278-a to 276-a-7) for the terms shall be used. Further, to the extent that any employees of the contractor providing services under this contract are not part of the class of craftsmen, mechanics and laborers who receive a prevailing wage in conformance with section 1:320 of Chapter 14 of Title I of the Code of the City of Ann Arbor, employees shall be paid a prescribed minimum level of compensation (i.e. Living Wage) for the time those employees perform work on the contract in conformance with section 1:815 of Chapter 23 of Title I of the Code of the City of Ann Arbor.

At the request of the city, any contractor or subcontractor shall provide satisfactory proof of compliance with this provision. The Contractor agrees:

- (a) To pay each of its employees whose wage level is required to comply with federal, state or local prevailing wage law, for work covered or funded by this contract with the City,
- (b) To require each subcontractor performing work covered or funded by this contract with the City to pay each of its employees the applicable prescribed wage level under the conditions stated in subsection (a) or (b) above.
- (c) To provide to the City payroll records or other documentation within ten (10) business days from the receipt of a request by the City.
- (d) To permit access to work sites to City representatives for the purposes of monitoring compliance, and investigating complaints or non-compliance.

The undersigned states that he/she has the requisite authority to act on behalf of his/her employer in these matters and has offered to provide the services in accordance with the terms of the wage and employment provisions of the Chapter 14 of the Ann Arbor City Code. The undersigned certifies that he/she has read and is familiar with the terms of Section 1:320 of Chapter 14 of the Ann Arbor City Code and by executing this Declaration of Compliance obligates his/her employer and any subcontractor employed by it to perform work on the contract to the wage and employment requirements stated herein. The undersigned further acknowledges and agrees that if it is found to be in violation of the wage and employment requirements of Section 1:320 of the Chapter 14 of the Ann Arbor City Code it shall have been deemed a material breach of the terms of the contract and grounds for termination of same by the City.

Company Name

Signature of Authorized Representative Date

Print Name and Title

Address, City, State, Zip

Phone/Email address

Questions about this form? Contact Procurement Office City of Ann Arbor Phone: 734/794-6500 9/25/15 Rev 0

PW

**EXHIBIT D:
CITY OF ANN ARBOR LIVING WAGE ORDINANCE DECLARATION OF COMPLIANCE**

The Ann Arbor Living Wage Ordinance (Section 1:811-1:821 of Chapter 23 of Title I of the Code) requires that an employer who is (a) a contractor providing services to or for the City for a value greater than \$10,000 for any twelve-month contract term, or (b) a recipient of federal, state, or local grant funding administered by the City for a value greater than \$10,000, or (c) a recipient of financial assistance awarded by the City for a value greater than \$10,000, shall pay its employees a prescribed minimum level of compensation (i.e., Living Wage) for the time those employees perform work on the contract or in connection with the grant or financial assistance. The Living Wage must be paid to these employees for the length of the contract/program.

Companies employing fewer than 5 persons and non-profits employing fewer than 10 persons are exempt from compliance with the Living Wage Ordinance. If this exemption applies to your company/non-profit agency please check here No. of employees

The Contractor or Grantee agrees:

- (a) To pay each of its employees whose wage level is not required to comply with federal, state or local prevailing wage law, for work covered or funded by a contract with or grant from the City, no less than the Living Wage. The current Living Wage is defined as \$13.61/hour for those employers that provide employee health care (as defined in the Ordinance at Section 1:815 Sec. 1 (a)), or no less than \$15.18/hour for those employers that do not provide health care. The Contractor or Grantor understands that the Living Wage is adjusted and established annually on April 30 in accordance with the Ordinance and covered employers shall be required to pay the adjusted amount thereafter to be in compliance (Section 1:815(3)).

Check the applicable box below which applies to your workforce

- Employees who are assigned to any covered City contract/grant will be paid at or above the applicable living wage without health benefits
- Employees who are assigned to any covered City contract/grant will be paid at or above the applicable living wage with health benefits

- (b) To post a notice approved by the City regarding the applicability of the Living Wage Ordinance in every work place or other location in which employees or other persons contracting for employment are working.
- (c) To provide to the City payroll records or other documentation within ten (10) business days from the receipt of a request by the City.
- (d) To permit access to work sites to City representatives for the purposes of monitoring compliance, and investigating complaints or non-compliance.
- (e) To take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee covered by the Living Wage Ordinance or any person contracted for employment and covered by the Living Wage Ordinance in order to pay the living wage required by the Living Wage Ordinance.

The undersigned states that he/she has the requisite authority to act on behalf of his/her employer in these matters and has offered to provide the services or agrees to accept financial assistance in accordance with the terms of the Living Wage Ordinance. The undersigned certifies that he/she has read and is familiar with the terms of the Living Wage Ordinance, obligates the Employer/Grantee to those terms and acknowledges that if his/her employer is found to be in violation of Ordinance it may be subject to civil penalties and termination of the awarded contract or grant of financial assistance.

Company Name

Street Address

Signature of Authorized Representative

Date

City, State, Zip

Print Name and Title

Phone/Email address



CITY OF ANN ARBOR LIVING WAGE ORDINANCE

RATE EFFECTIVE APRIL 30, 2018 - ENDING APRIL 29, 2019

\$13.22 per hour

If the employer provides health care benefits*

\$14.75 per hour

If the employer does **NOT** provide health care benefits*

Employers providing services to or for the City of Ann Arbor or recipients of grants or financial assistance from the City of Ann Arbor for a value of more than \$10,000 in a twelve-month period of time must pay those employees performing work on a City of Ann Arbor contract or grant, the above living wage.

ENFORCEMENT

The City of Ann Arbor may recover back wages either administratively or through court action for the employees that have been underpaid in violation of the law. Persons denied payment of the living wage have the right to bring a civil action for damages in addition to any action taken by the City.

Violation of this Ordinance is punishable by fines of not more than \$500/violation plus costs, with each day being considered a separate violation. Additionally, the City of Ann Arbor has the right to modify, terminate, cancel or suspend a contract in the event of a violation of the Ordinance.

* Health Care benefits include those paid for by the employer or making an employer contribution toward the purchase of health care. The employee contribution must not exceed \$.50 an hour for an average work week; and the employer cost or contribution must equal no less than \$1/hr for the average work week.

The Law Requires Employers to Display This Poster Where Employees Can Readily See It.

**For Additional Information or to File a Complaint
Contact: Colin Spencer at 734/794-6500 or
cspencer@a2gov.org**

**EXHIBIT E:
VENDOR CONFLICT OF INTERET DISCLOSURE FORM**

All vendors interested in conducting business with the City of Ann Arbor must complete and return the Vendor Conflict of Interest Disclosure Form in order to be eligible to be awarded a contract. Please note that all vendors are subject to comply with the City of Ann Arbor's conflict of interest policies as stated within the certification section below.

If a vendor has a relationship with a City of Ann Arbor official or employee, an immediate family member of a City of Ann Arbor official or employee, the vendor shall disclose the information required below.

1. No City official or employee or City employee's immediate family member has an ownership interest in vendor's company or is deriving personal financial gain from this contract.
2. No retired or separated City official or employee who has been retired or separated from the City for less than one (1) year has an ownership interest in vendor's Company.
3. No City employee is contemporaneously employed or prospectively to be employed with the vendor.
4. Vendor hereby declares it has not and will not provide gifts or hospitality of any dollar value or any other gratuities to any City employee or elected official to obtain or maintain a contract.
5. Please note any exceptions below:

Conflict of Interest Disclosure*	
Name of City of Ann Arbor employees, elected officials or immediate family members with whom there may be a potential conflict of interest.	() Relationship to employee
	() Interest in vendor's company
	() Other (please describe in box below)

*Disclosing a potential conflict of interest does not disqualify vendors. In the event vendors do not disclose potential conflicts of interest and they are detected by the City, vendor will be exempt from doing business with the City.

I certify that this Conflict of Interest Disclosure has been examined by me and that its contents are true and correct to my knowledge and belief and I have the authority to so certify on behalf of the Vendor by my signature below:		
Vendor Name		Vendor Phone Number
Signature of Vendor Authorized Representative	Date	Printed Name of Vendor Authorized Representative

Questions about this form? Contact Procurement Office City of Ann Arbor Phone: 734/794-6500, procurement@a2gov.org

