

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

This agreement ("Agreement") is between 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 Road, Ypsilanti, Michigan 48198. City and Contractor are referred to collectively herein as the "Parties." The Parties agree as follows:

**I. DEFINITIONS**

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

Contract Administrator means Tiffany Giacobazzi, 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 FALL 2021 / SPRING 2022 ELIZABETH DEAN FUND TREE PURCHASE AND PLANTING.

**II. DURATION**

Contractor shall commence performance on December 1, 2021 ("Commencement Date"). This Agreement shall remain in effect until June 30, 2022 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.

This Agreement may be extended by the City Administrator for two (2) additional one-year periods on the same terms and conditions provided both parties agree to the extension and subject to the annual appropriation of funds.

**III. SERVICES**

- A. The Contractor agrees to provide 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 ("Contract Documents"), including all written modifications incorporated into any of the documents, which are incorporated as part of this Agreement:

This Agreement and Exhibits  
Invitation to Bid No. 4692 and all Addendum thereto (if any)  
Bid Proposal of Contractor, dated September 1, 2021, 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, the requirement(s) of the document listed first above 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 compensation 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. The Contractor shall also comply with and be subject to the City of Ann Arbor policies applicable to independent contractors
- 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 fifty-five thousand (\$55,000.00). 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 Agreement; 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 Agreement, 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 Agreement and the Ann Arbor City Code of Ordinance are silent as to definitions of terms required in determining 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 Agreement.

#### **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 person or firm to submit or not to submit a bid for the purpose of restricting competition.
- G. The person signing this Agreement on behalf of Contractor represents and warrants that she/he has express authority to sign this Agreement for Contractor and agrees to hold the City harmless for any costs or consequences of the absence of actual authority to sign.

#### **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 below 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 Road  
Ypsilanti, MI 48198

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

City of Ann Arbor  
Craig Hupy  
(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, 3<sup>rd</sup> 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 Exhibits A, B, and C, and the other Contract Documents, 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. This Agreement may be executed and delivered by facsimile and upon such delivery, the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

**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.

**[REMAINDER OF PAGE LEFT BLANK; SIGNATURE PAGE FOLLOWS]**

**FOR CONTRACTOR**

By \_\_\_\_\_  
Type Name

Its \_\_\_\_\_

This \_\_\_ day of \_\_\_\_\_, 20\_\_\_

**FOR THE CITY OF ANN ARBOR**

By \_\_\_\_\_  
Christopher Taylor, Mayor

By \_\_\_\_\_  
Jacqueline Beaudry, City Clerk

This \_\_\_ day of \_\_\_\_\_, 20\_\_\_

**Approved as to substance**

By \_\_\_\_\_  
Type Name  
\_\_\_\_\_ City Administrator  
Acting/Interim

\_\_\_\_\_  
Craig Hupy, Service Area Administrator

**Approved as to form and content**

\_\_\_\_\_  
Stephen K. Postema, City Attorney

## **EXHIBIT A SCOPE OF SERVICES**

### **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 B COMPENSATION**

### General

Contractor shall be paid for those Services performed pursuant to this Agreement inclusive of all reimbursable expenses (if applicable), in accordance with the terms and conditions herein. The Compensation Schedule below/attached states nature and amount of compensation the Contractor may charge the City:

(insert/Attach Negotiated Fee Arrangement)

**EXHIBIT C  
INSURANCE REQUIREMENTS**

From the earlier of the Effective Date or the Commencement Date of this Agreement, and continuing without interruption during the term of this Agreement, Contractor shall provide certificates of insurance to the City on behalf of itself, and when requested any subcontractor(s). The certificates of insurance and required endorsements shall meet the following minimum requirements.

- A. The Contractor shall have insurance that meets the following minimum requirements:
1. Worker's Compensation Insurance in accordance with all applicable state and federal statutes. Further, Employers Liability Coverage shall be obtained in the following minimum amounts:  
  
Bodily Injury by Accident - \$500,000 each accident  
Bodily Injury by Disease - \$500,000 each employee  
Bodily Injury by Disease - \$500,000 each policy limit
  2. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 04 13 or current equivalent. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements which diminish the City's protections as an additional insured under the policy. Further, the following minimum limits of liability are required:  
  
\$1,000,000 Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined  
\$2,000,000 Per Project General Aggregate  
\$1,000,000 Personal and Advertising Injury  
\$2,000,000 Completed Operations Aggregate, which, notwithstanding anything to the contrary herein, shall be maintained for three years from the date the Project is completed.
  3. Motor Vehicle Liability Insurance equivalent to, as a minimum, Insurance Services Office form CA 00 01 10 13 or current equivalent. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy Further, the limits of

liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.

4. Umbrella/Excess Liability Insurance shall be provided to apply in excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of \$1,000,000.
- B. Insurance required under A.2 and A.3 above shall be considered primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the Contractor agrees to waive any right of recovery by its insurer against the City for any insurance listed herein.
- C. Insurance companies and policy forms are subject to approval of the City Attorney, which approval shall not be unreasonably withheld. Documentation must provide and demonstrate an unconditional and unqualified 30-day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number(s); name of insurance company; name(s), email address(es), and address(es) of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions, which may be approved by the City in its sole discretion; (c) that the policy conforms to the requirements specified. Contractor shall furnish the City with satisfactory certificates of insurance and endorsements prior to commencement of any work. If any of the above coverages expire by their terms during the term of this Agreement, the Contractor shall deliver proof of renewal and/or new policies and endorsements to the Administering Service Area/Unit at least ten days prior to the expiration date.

