

CITY OF PORTLAND

PRICE AGREEMENT FOR

TREE PROCUREMENT, PLANTING, AND MAINTENANCE SERVICES

Contract Number: XXXXXXXXX

As authorized by 5.33, this Price Agreement ("Contract") is made effective on _____ ("Effective Date") by and between the City of Portland ("City"), a municipal corporation of the State of Oregon, and _____ ("Contractor"), a(n) _____ corporation, by and through their duly authorized representatives. This Contract may refer to the City and Contractor individually as a "Party" or jointly as the "Parties."

The initial Term of this Contract shall be from the Effective Date through _____, for a total not to exceed 5 years. The total not-to-exceed amount under this Contract for the initial Term shall be \$XXXXXX per year for a total of \$ _____. (11/20)

Party contacts and Contractor's and City's Project Manager for this Contract are:

For City of Portland:	For Contractor:
Name: Tony Mecum – Bureau of PP&R	Name:
Title: Planting Program Supervisor	Title:
e-mail: tony.mecum@portlandoregon.gov ;	Address:
	City, State:
Name: Matt Krueger – BES	e-mail:
Title: Environmental Specialist-Generalist	
Matt.krueger@portlandoregon.gov ;	
Copy to: Nichelina Almirol-Robbins – Procurement Services	Copy to:
Title: Sr. Procurement Specialist	
Email: nichelina.almirolrobbins@portlandoregon.gov ;	
Phone: 503-823-8299	

Scope and Consideration

- (a) Contractor shall perform the Services and provide the Deliverables set forth in the Statement of Work and/or assigned Task Orders by the due dates specified in the Contract.
- (b) Payments shall be made to Contractor according to the schedule identified in Exhibit A, the Contractor's Price.
- (c) Contract Not Exclusive. The City may, but is not required to, purchase any Goods or Services within the scope of this Contract. Good or Services will be requested on an as-needed basis, and there is no guarantee of a minimum or maximum quantity. This Contract does not create an exclusive relationship between the City and Contractor, and the City retains the right to purchase the same or similar goods or services from other providers.

Recitals:

WHEREAS, to further its government operations, the City of Portland desires to contract for tree procurement, planting and maintenance services; and

WHEREAS, the City issued Request for Proposal (RFP) # 00002058 for Tree procurement, planting and maintenance services;

WHEREAS, Contractor, in its Proposal dated _____ and submitted in response to the City's RFP # 00002058, represented that it has the knowledge, experience, and expertise to provide such services;

WHEREAS, the City selected Contractor based on its Proposal;

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1 DEFINITIONS (11/18)

General Definitions. (11/18) These definitions apply to the entire Contract, subsequent Amendments, and any Change Orders or Task Orders, unless modified in an Amendment. If any definition contains a substantive provision conferring rights and/or obligations upon a Party, then effect shall be given to the substantive provision.

"Acceptance" (11/18) means the Deliverable demonstrates to the City's satisfaction that the Deliverable conforms to and operates according to the Acceptance Criteria, and if required, has successfully completed Acceptance Testing, and for Deliverables not requiring Acceptance Testing that the Deliverable conforms to the Acceptance Criteria or the City's Specifications.

"Acceptance Certificate" (11/18) means a written instrument by which the City notifies Contractor that a Deliverable has been Accepted or Accepted with exceptions, and Acceptance Criteria have been met or waived, in whole or in part.

"Acceptance Criteria" (11/18) means functionality and performance requirements determined by the City, based upon the Specifications, which must be satisfied prior to City's Acceptance of a Deliverable. City and Contractor shall agree upon written Acceptance Criteria.

"Acceptance Date" (11/18) means the date on which the City issues an Acceptance Certificate for the Deliverable(s).

"Acceptance Test" (11/18) means the evaluation and testing method, procedures, or both, that are used to determine whether or not a Deliverable requiring Acceptance Testing performs in accordance with the Acceptance Criteria.

"Affiliates" (11/18) means, for Contractor, any individual, association, partnership, corporation or other entity controlling, controlled by, or under common control. The term "control" means the power to direct or cause the direction of the management and policies of an individual or entity, whether through the ownership of voting securities, by contract, agreement or otherwise.

"Amendment" (12/18) means a written document required to be signed by both Parties when in any way altering the Master Terms and Conditions of the Contract, Contract amount, or substantially altering a Statement of Work.

"Business Day" (11/18) means a twenty-four-hour day, excluding weekends and City holidays, beginning at midnight and ending at midnight twenty-four hours later.

"Calendar Day" (11/18) means a twenty-four-hour day, including weekdays, weekends and holidays, beginning at midnight and ending at midnight twenty-four hours later.

"Change Order" (12/18) means a document, agreed and signed by both Parties, that changes an existing Statement of Work or Task Order. Change Orders cannot change Contract amount or Master Terms and Conditions.

“COBID Certified” means an entity certified by the State of Oregon Certification Office for Business Inclusion and Diversity.

“Confidential Information” (06/20) means any information that is disclosed in written, graphic, or machine-recognizable form and is marked or labeled at the time of disclosure as being Confidential or its equivalent, or, if the information is in verbal or visual form, it is identified as Confidential or proprietary at the time of disclosure, or a reasonable time thereafter. Information shall always be considered Confidential Information, whether or not it is marked or identified as such, if it is described by one or more of the following categories: (1) non-public financial, statistical, personnel, human resources data or Personally Identifiable Information as described in the Oregon Consumer Information Protection Act; (2) business plans, negotiations, or strategies; (3) unannounced pending or future products, services, designs, projects or internal public relations information; (4) trade secrets, as such term is defined by ORS 192.345(2) and the Uniform Trade Secrets Act ORS 646.461 to 646.475; (5) information which is exempt from disclosure per Oregon Public Records Law; (6) attorney/client privileged communications; (7) information which is exempt per federal laws (including but not limited to copyright, HIPAA); and (8) information relating to or embodied by designs, plans, configurations, specifications, programs, or systems including without limitation, data and information systems, any software code and related materials and processes, Customizations, Configurations, Updates, Upgrades; and any Documentation. Confidential Information does not include any information that: is or becomes publicly known through no wrongful or negligent act of the receiving Party; is already lawfully known to the receiving Party without restriction when it is disclosed; is, or subsequently becomes, rightfully and without breach of this Contract or any other agreement between the Parties or of any applicable protective or similar order, in the receiving Party’s possession without any obligation restricting disclosure; is independently developed by the receiving Party, as shown by reasonable written documentation, without breach of this Contract; or is explicitly approved for release by written authorization of the disclosing Party.

“Contract” (11/18) means the Master Terms and Conditions including all exhibits, attachments and schedules and their constituent parts listed in the Order of Precedence or incorporated by reference.

“Defect” (11/18) means any error, problem, condition, bug, or other partial or complete inability of a Service, Good or component thereof, to operate in accordance with the applicable Specifications.

“Deliverable(s)” (11/18) means the Goods, Services, Documentation or documents or tangible work products described in the Statement of Work to be provided to the City by Contractor under this Contract.

“Documentation” (11/18) means user manuals and other written materials in any form that describe the features or functions of the Goods and Services, including but not limited to published specifications, online instructions and help, marketing materials, technical manuals, and operating instructions provided by Contractor to the City, or readily available to the public, or as required to be produced by Contractor subject to the terms of this Contract.

“Equipment” (11/18) means any hardware, machinery, device, tool, including add-ons, or peripherals of tangible form together with the necessary supplies for upkeep and maintenance, and other apparatus necessary for the proper implementation and operation of the Goods or Services to be provided to the City by Contractor under this Contract.

“Establishment Period” (11/18) means the time period when Contractor provides Maintenance to the City.

“Final Acceptance” (11/18) means the City has determined that all Deliverables have successfully completed Acceptance Testing, which demonstrates to the City’s satisfaction that all Deliverables conform to and operate according to the Acceptance Criteria, applicable Documentation, and Contractor’s representations; and that for Deliverables not requiring Acceptance Testing, that the Deliverables conform to the Acceptance Criteria or the City’s specified requirements.

“Force Majeure Event” (8/20) means, with respect to a Party, any event or circumstance, regardless of whether it was foreseeable, that was not caused by that Party and that prevents a Party from complying with any of its obligations under this Contract, except that a Force Majeure Event will not include a strike or other labor unrest that affects only one Party, an increase in prices, or a change in law.

“Good(s)” (11/18) means the items provided by Contractor to the City under this Contract, as outlined in the Statement of Work.

“Intellectual Property Rights (IPR)” (11/18) means any patent rights, copyrights, trade secrets, trade names, service marks, trademarks, trade dress, moral rights, know-how and any other similar rights or intangible assets to which rights of ownership accrue, and all registrations, applications, disclosures, renewals, extensions, continuations, or reissues of the foregoing now or hereafter in force.

“Maintenance” (11/18) means Services provided by Contractor to the City to provide for the care or upkeep of the Goods.

“Manufacturer’s Warranty” (11/18) means a written statement to the City from Contractor, or passed through Contractor from a third party, that one or more Goods provided by Contractor will operate at the required Specifications, functionality, and performance level.

“Manufacturer’s Warranty Period” (11/18) means the time period during which a Manufacturer’s Warranty is valid and enforceable by the City.

“Master Terms and Conditions” (11/18) means the body of text from the preamble through the signature page of this Contract.

“Material Breach” (11/18) means any breach of this Contract that causes, caused, or may cause substantial harm to the non-breaching Party or substantially deprives the non-breaching Party of the benefit it reasonably expected under this Contract.

“Personally Identifiable Information (PII)” (06/20) means information that can be used on its own or with other information to identify, contact, or locate a single person, or to identify an individual in context, as described in the Oregon Consumer Information Protection Act.

“Project” (12/20) means the overall delivery of the Goods and all related Services including any Deliverables any of which Contractor may be providing in whole or in part.

“Proposal” (11/18) means Contractor’s response to the City’s RFP referenced in the recitals above.

“Purchase Order” (12/20) means a purchasing document provided by the City to Contractor containing the specific details of an individual order, including order quantities, unit prices, delivery locations, and an address for invoicing.

“Repair(s)” (11/18) means to fix, correct or replace the Deliverables, or a component thereof, to eliminate Defects to the City’s satisfaction.

“Services” (11/18) means both ordinary and professional services performed by Contractor under this Contract.

“Specifications” (12/20) means the most current cumulative statement of capabilities, functionality, and performance requirements for the Deliverables and their components as set out in the Acceptance Criteria, Change Orders, the Statement of Work, Documentation, Contractor’s representations, Contractor’s Proposal and Proposal Clarifications, and the City’s Request for Proposals.

“Statement of Work” (SOW) (8/20) means the written detailed specifications of the Goods(s) and Services(s) to be delivered to the City by Contractor, subject to the terms and conditions of this Contract.

“Subcontractor” (11/18) means any person or entity under the control of Contractor, other than an employee of Contractor, utilized by Contractor to perform all or part of this Contract.

“Task Order” (12/20) means any written request or document issued by the City and signed by both Parties for Good(s) or Service(s) to be provided under this Contract. Task Orders shall document the description of Goods and/or Services, price, payment schedule, Project and performance schedule, due dates, milestones and Deliverables.

"Term" (11/18) means the period of time that this Contract is in effect as stated on page one.

"Warranty Period" (12/20) means a period not less than one (1) year from Acceptance of the Goods or Services or Contractor's standard warranty term, whichever is longer.

SECTION 2 ORDER OF PRECEDENCE

2.1 Order of Precedence. (09/17) In the event there is a conflict or ambiguity between the terms and conditions of one portion of this Contract with another portion of this Contract, the conflict or ambiguity will be resolved in accordance with the order of precedence below. This order of precedence designates which portion of the Contract takes precedence over the other for purposes of interpretation. Contractor's hyperlinks contained herein will not supersede or alter the Master Terms and Conditions. For the avoidance of doubt, no other terms and conditions will override the Parties' obligations in the Confidentiality, Indemnification, or Choice of Law provisions in these Master Terms and Conditions. In this Contract the order of precedence shall be:

1. Amendments
2. Master Terms and Conditions
3. Exhibit A, Contractor's Price
4. Change Orders
5. Exhibit B, Statement of Work
6. Task Orders

SECTION 3 GENERAL AND ADMINISTRATIVE PROVISIONS

3.1 Term. (09/17) This Contract shall begin on the Effective Date and end upon the expiration date set forth on page one of this Contract unless terminated or extended under the applicable Contract provisions.

3.2 Point of Contact. (06/20) Contractor shall be the sole point of contact for the City with regard to this Contract and the Deliverables.

3.2.1 Written Notifications. (10/18) All notices to, and other written communication between the Parties shall be deemed received five (5) Business Days after being sent by first class mail, or upon receipt when sent by courier services, or by e-mail. All notices and written communications shall be sent to the Parties set forth on page 1 of the Contract, or to such other places as they may designate by like notice from time to time. Each Party shall provide written notice of any changes to the Party's contacts within thirty (30) Calendar Days.

3.3 Changes to Contract.

3.3.1 Amendment of the Contract. (06/19) Any changes to the provisions of this Contract shall be in the form of an Amendment. No provision of this Contract may be amended unless such Amendment is approved as to form by the City Attorney and executed in writing by authorized representatives of the Parties. If the requirements for Amendment of this Contract as described in this section are not satisfied in full, then such Amendments automatically will be deemed null, void, invalid, non-binding, and of no legal force or effect.

3.3.2 Change Orders to a Statement of Work. (12/18) The City and Contractor can agree to make changes, at any time to a Statement of Work and/or Task Order in the form of a Change Order. Contractor agrees to timely alter the delivery of Goods or Services accordingly. If such changes materially increase or decrease Contractor's obligations, the Parties shall execute an Amendment to the Contract, and if the amount of such adjustment is not calculable as a function of hours or tasks, the Parties shall negotiate in good faith a modified amount.

3.4 Delivery. (12/20) Contractor shall ship Goods freight and insurance prepaid; free on board ("FOB") the City's designated location at the time indicated herein. Shipments will be complete and partial shipments will be avoided unless the City agrees in writing to the partial shipment in advance of such a shipment. The risk of loss or damage in transit shall be upon Contractor until the Deliverable is received by the City at the

delivery site. Delivery of Goods shall not be deemed to be complete and title to Goods shall not pass to the City until an Acceptance Certificate has been issued by the City.

- 3.4.1 Delivery Schedule. (09/17) Contractor shall use best efforts to deliver Good(s) and/or Services(s) on time, in accordance with the scheduled delivery date as set forth in this Contract or an individual Task Order, Statement of Work or Change Order.
- 3.4.2 Time is of the Essence. (06/19) The Parties agree that time is of the essence as to the delivery of Deliverables and performance of Services under this Contract. By executing this Contract and accepting the Statement of Work, Contractor agrees that the time limits specified in the Statement of Work are reasonable. By accepting late or otherwise inadequate performance of Contractor's obligations, the City will not waive its rights to require timely performance of Contractor's obligations thereafter.
- 3.4.3 Late Delivery. (06/19) In the event that any specified delivery date is not met, Contractor shall be liable for any loss, expense, or damage resulting from delay in delivery or failure to deliver Goods or provide Services which is due to any cause except a Force Majeure Event. In the event of delay due to any such cause, the City may obtain substitute Goods or Services from another source and bill all additional costs directly to Contractor who shall remain financially liable for all additional acquisition costs.
- 3.4.4 Best Efforts. (06/19) Contractor shall use best efforts to minimize any delay in the provision of Goods, Deliverables, or performance of Services. If Contractor anticipates any delay that may prevent timely performance of Contractor's obligations under this Contract, Contractor shall promptly notify the City, including the anticipated length of the delay, the cause of the delay, measures proposed or taken to prevent or minimize the delay, and the timetable for implementation of such measures.
- 3.4.5 Cancellation and Reschedule. (08/19) Unless otherwise set forth in Exhibit A, Contractor's Price or Exhibit B, the Statement of Work, the City reserves the right to cancel or reschedule any order without penalty or charge, by giving written notice to Contractor at any time in advance of scheduled ship date.
- 3.5 Access to City Facilities (11/20) Contractor agrees that Contractor's physical or remote access to the City facilities shall be subject to the security interests and health controls necessary to protect public property, City employees and the public. The City shall not be liable for any delays necessary in granting Contractor access to any portion of the facilities or systems.
- 3.6 City Reporting Requirements. (01/7/20) The City is required to track certain types of contract data for reporting purposes. Items which the City must report on may include, but are not limited to, Subcontractor utilization, participation of COBID Certified firms, and Subcontractor/Supplier Payment. The City will enforce all diversity in workforce and COBID Certified subcontracting commitments made by Contractor in its Proposal.
- 3.7 Payment. (09/17) Payment(s) shall be in accordance with the payment schedule set forth in Exhibit A: Contractor's Price.
 - 3.7.1 Payment shall be issued by the City net thirty (30) Calendar Days from receipt of a complete and acceptable invoice from Contractor. Contractor invoices must contain Contractor's name and address; invoice number; date of invoice; Contract number and date; description of Goods and/or Services; quantity, unit price, (where appropriate), and total amount; City-required reporting, if any, and the title and phone number of the person to whom payment is to be sent. The City may stipulate how line items are entered on an invoice to ensure compatibility with the City's accounting and financial systems and to facilitate payment to Contractor.
 - 3.7.2 The City makes payments via electronic fund transfers through the Automated Clearing House (ACH) network. To initiate payment of invoices, Contractor shall execute the City's standard ACH Vendor Payment Authorization Agreement. Upon verification of the data provided, the ACH Vendor Payment

Authorization Agreement will authorize the City to deposit payment directly into specified Contractor accounts with specified financial institutions. All payments shall be made in United States currency.

- 3.7.3 Price and Price Changes. Initial Contract prices shall be as established herein Unit prices shall remain firm through the first year of the Contract. At the end of the one-year period following the date effective date, price changes may be allowed herein. Contractor agrees to provide pricing for all products for which Contractor is an authorized distributor for the duration of this Contract if and when requested by the City. Following the end of the one-year period referenced above, City and Contractor acknowledge that prices for goods and services furnished by Contractor under this Contract may need to be adjusted during the term of the Contract due to changes in Contractor's prices, rate plans, or product offerings. Such price changes shall be documented in writing between Contractor and City's Chief Procurement Officer as amendments.

Contractor shall submit any proposed pricing revisions in writing to the Project Manager for consideration at least thirty (30) days before the proposed effective date. All proposed price adjustments shall be calculated consistent with the methodology used to calculate the prices set forth in the Contractor's original proposal, the Contractor shall certify this in its request for price adjustments. Price adjustments shall become effective thirty (30) days from the date of last signature on the Contract amendment document or as otherwise stated therein. Except that no increase in price adjustments shall become effective prior to a date one year following the date of acceptance. Price adjustments will only become effective by fully executed amendments, following receipt by the Project Manager of the requested price adjustment.

- 3.8 Payment of Taxes/Contractor Shall Withhold. (09/17) Contractor shall, at its own expense, timely (a) pay all salaries, wages, and other compensation to its employees; (b) withhold, collect, and pay all applicable federal, state, and local income taxes (domestic or foreign), FICA, Medicare, unemployment insurance and any other taxes or charges in connection with its employees; and (c) provide and pay for workers compensation insurance and any statutory or fringe benefits to employees. Contractor shall be solely responsible for all such obligations for its employees. Contractor shall also ensure that any Subcontractor shall comply with the foregoing obligations for its employees. The City shall have no duty to pay or withhold such obligations.

- 3.9 Wage Rates. State of Oregon, Bureau of Labor and Industries (BOLI) Prevailing Wage Rates (PWR) are required to be paid to workers in each trade or occupation that the Contractor or Subcontractor uses in performing all or part of the work on this project. The applicable PWR for this project will be the rates in the BOLI publication titled, "Prevailing Wage Rates for Public Works Contracts in Oregon," effective on January 1, 2023, including any applicable amendments which are hereby incorporated into this Agreement by this reference. Workers must be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and 279C.840. You can download your copy from www.oregon.gov/boli or obtain them from the Bureau of Labor & Industries, 800 NE Oregon St. #32, Portland OR 97232; phone (503) 731-4200.

The City of Portland is required to pay the Prevailing Wage Rate (PWR) fee directly to the Oregon Bureau of Labor and Industries.

Every subcontract must provide that work on the project is subject to the State of Oregon Bureau of Labor and Industries Prevailing Wage Rates.

All Proposers awarded contract(s) are required to post a Public Works Bond with the Oregon Construction Contractors Board (OCCB) unless exempt prior to start of work on the project.

Any Subcontractors awarded contract(s) are required to post a Public Works Bond with the Oregon Construction Contractors Board unless exempt prior to state of work on the project.

3.10 Records and Audits (06/19)

- 3.10.1 Records Retention. (06/19) Contractor shall maintain current financial records in accordance with Generally Accepted Accounting Principles (GAAP). Contractor agrees to maintain and retain and retain all financial records, supporting documents, statistical records and all other records pertinent to this Contract during the term of this Contract and for a minimum of six (6) years after the expiration or termination date of this Contract or until the resolution of all audit questions or claims, whichever is longer.
- 3.10.2 City Audits. (06/19) The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and Goods or Services at any time in the course of the Contract and during the records retention period listed above. Audits shall be conducted in accordance with generally accepted auditing standards as promulgated in Government Auditing Standards by the Comptroller General of the United States Government Accountability Office.
- 3.10.3 Access to Records. (06/19) The City may examine, audit and copy Contractor's books, documents, papers, and records relating to this Contract at any time during the records retention period listed above upon reasonable notice. Copies of applicable records shall be made available upon request.

- 3.11 Overpayment. (09/17) If an audit discloses that payments to Contractor were in excess of the amount to which Contractor was entitled, then Contractor shall repay the amount of the excess to the City. Under no circumstances will the payment of previous invoices constitute an acceptance of the charges associated with those invoices.
- 3.12 Independent Contractor. (09/17) Contractor is independent of the City and, accordingly, this Contract is not entered into as a joint venture, partnership, or agency between the Parties. No employment or agency relationship is or is intended to be created between the City and any individual representing Contractor. Employees of Contractor and any authorized Subcontractors shall perform their work under this Contract under Contractor's sole control.

3.13 Termination. (06/19) The following conditions apply to termination of this Contract.

- 3.13.1 Termination by City. The City, on thirty (30) Calendar Days' written notice to Contractor, may terminate this Contract for any reason in the City's sole discretion. In the event of such termination, the City shall pay to Contractor the portion of the not-to-exceed price attributable to all Deliverables Accepted or Services performed and Accepted through the effective date of the termination.
- 3.13.2 Mutual Agreement. (09/17) The City and Contractor, by mutual written agreement, may terminate this Contract at any time.
- 3.13.3 Material Breach. (09/17) Either Party may terminate this Contract in the event of a Material Breach of this Contract by the other. Prior to such termination, however, the Party seeking the termination shall give to the other Party written notice to cure the Material Breach and of the Party's intent to terminate. If the Party has not entirely cured the Material Breach within thirty (30) Calendar Days of the notice, then the Party giving the notice shall have the option to: (a) terminate this Contract by giving a written notice of termination, (b) seek any remedies in this Contract, in law, or at equity, to the extent not otherwise limited by the terms of this Contract, or (c) any combination thereof.
- 3.13.4 Force Majeure. (09/17) Either Party may terminate this Contract due to a Force Majeure Event as set forth in Section 5.13, Force Majeure.

- 3.13.5 Bankruptcy. (09/17) The City may terminate this Contract if Contractor: (a) becomes insolvent, makes a general assignment for the benefit of creditors; (b) suffers or permits the appointment of a receiver for its business or assets; (c) becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, and such proceeding has not been dismissed within a sixty (60) Calendar Day period; or (d) has wound up or liquidated, voluntarily or otherwise.
- 3.13.6 Ownership Upon Termination. In the event of termination all of Contractor's Work Product to date shall be delivered to the City, and it will become and remain property of the City.
- 3.14 Void Assignment. (09/20) In the event that Contractor assigns its obligations under this Contract to a third party in a manner other than as set forth in Section 5.8, Assignment, the City shall have the option to terminate this Contract without any notice or cure period or further obligation to Contractor or the assignee, and promptly receive a refund for fees paid for Goods delivered and/or Services performed by the third party.
- 3.15 Waiver. (09/17) No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach of this Contract. The failure of either Party to insist upon any of its rights under this Contract upon one or more occasions, or to exercise any of its rights, shall not be deemed a waiver of such rights on any subsequent occasions.
- 3.16 Severability. (09/17) Any section of this Contract, which is held or declared void, invalid, illegal or otherwise not fully enforceable shall not affect any other provision of this Contract and the remainder of this Contract shall continue to be binding and of full force and effect. This Contract shall be binding upon and inure to the benefit of the City and its successors and assigns.
- 3.17 Business Tax Registration. (09/17) Contractor shall register for a City of Portland business license as required by Chapter 7.02 of the Code of the City of Portland prior to execution of this Contract. Additionally, Contractor shall pay all fees or taxes due under the Business License Law and the Multnomah County Business Income Tax (MCC Chapter 12) during the full term of this Contract. Failure to be in compliance may result in payments due under this Contract to be withheld to satisfy amount due under the Business License Law and the Multnomah County Business Income Tax Law.
- 3.18 EEO Certification. (09/17) Contractor shall be certified as an Equal Employment Opportunity Affirmative Action Employer as prescribed by Chapter 5.33.076 of the Code of the City of Portland and maintain its certification throughout the term of this Contract.
- 3.19 Non-Discrimination in Benefits. (09/17) Throughout the term of this Contract, Contractor shall provide and maintain benefits to its employees with domestic partners equivalent to those provided to employees with spouses as prescribed by Chapter 5.33.077 of the Code of the City of Portland.
- 3.20 Sustainability. (09 /20) Pursuant to the City's Sustainable City Principles, which direct City Bureaus to pursue long-term social equity, environmental quality, and economic vitality through innovative and traditional mechanisms, Contractor is encouraged to incorporate these Principles into its scope of work with the City wherever possible. Therefore, in accordance with the Principles and the City's Sustainable Procurement Policy, it is the policy of the City of Portland to encourage the use of Goods or Services that help to minimize the human health and environmental impacts of City operations. Contractor is encouraged to incorporate environmentally preferable Goods or Services into its work performance wherever possible. "Environmentally preferable" means Goods or Services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the Good or Service.
- 3.21 Packaging. (09/17) All packaging should be minimized to the maximum extent possible without compromising product quality. The City encourages packaging that is reusable, readily recyclable in local recycling programs, is made from recycled materials, and/or is collected by Contractor for reuse/recycling.
- 3.22 Contract Not Exclusive (09/20) The City may, but is not required to, purchase any Goods or Services within the scope of this Contract. Goods or Services will be requested on an as-needed basis, and there is no

guarantee of a minimum or maximum quantity. This Contract does not create an exclusive relationship between the City and Contractor, and the City retains the right to purchase the same or similar Goods or Services from other providers. Payment shall be made only for Goods or Services actually ordered, delivered, and accepted, whether greater or less than the original estimated quantities.

- 3.23 News Releases and Public Announcements. (09/17) Contractor shall not use the City seal or other representations of the City in its external advertising, marketing, website, or other promotional efforts, nor shall Contractor issue any news release or public announcements pertaining to this Contract or the Project without the express written approval of the City. Such approval may be withheld in the City's sole discretion. Contractor shall not use the City seal without specific written permission from the City Auditor.
- 3.24 Rule of Construction/Contract Elements/Headings. (09/17) This Contract has been drafted by the City in the general format by the City as a convenience to the Parties only and shall not, by reason of such action, be construed against the City. Section headings are for ease of reference and convenience only and shall not affect or enter into the interpretation of any portion of this Contract.
- 3.25 Survival. (09/17) All obligations relating to Confidential Information; indemnification; publicity; representations and warranties; remedies; proprietary rights; limitation of liability; and obligations to make payments of amounts that become due under this Contract prior to termination or expiration shall survive the termination or expiration of this Contract and shall, to the extent applicable, remain binding and in full force and effect for the purposes of the ongoing business relationship by and between Contractor and the City.
- 3.26 Permissive Cooperative Procurement. (11/20) Pursuant to ORS 279A.215, as additional consideration for this Contract, Contractor agrees to extend an option to other government entities to purchase any Goods or Services covered under this Contract at the same prices as are specified in Exhibit A: Contractor's Price, and under the same terms and conditions, to all public agencies. Each public agency shall execute its own contract with Contractor and shall have the option to negotiate its own terms and conditions.

SECTION 4 STATUTORY REQUIREMENTS, PUBLIC RECORDS AND CONFIDENTIALITY

- 4.1 Governing Law and Jurisdiction. (01/20) This Contract shall be construed according to the laws of the State of Oregon without reference to the conflict of laws' provisions. To the extent not modified by the terms of this Contract, the Uniform Commercial Code as codified in ORS Chapters 71 and 72 governs Goods under this Contract. Any litigation between the City and Contractor arising under this Contract or out of work performed under this Contract shall occur, if in the state courts, in the Multnomah County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon.
- 4.2 Public Records Request. (09/17) Contractor acknowledges that the City of Portland is subject to the Oregon Public Records Act and Federal law. Third persons may claim that the Confidential Information Contractor submitted to the City hereunder may be, by virtue of its possession by the City, a public record and subject to disclosure pursuant to the Oregon Public Records Act. The City's commitments to maintain certain information confidential under this Contract are all subject to the constraints of Oregon and federal laws. All information submitted by Contractor is public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portions for which Contractor requests and meets an exemption from disclosure consistent with federal or Oregon law. Within the limits and discretion allowed by those laws, the City will maintain the confidentiality of information.
- 4.3 Public Records. (09/17) The City will retain one (1) copy of any public records for the express purposes of complying with State of Oregon and Portland City Code public records and archiving laws.
- 4.4 Confidentiality.
- 4.4.1 Contractor's Confidential Information. (08/19) During the term of this Contract, Contractor may disclose to the City, certain Contractor Confidential Information pertaining to Contractor's business. Contractor shall be required to mark Confidential Information CONFIDENTIAL with a restrictive legend or similar marking. If CONFIDENTIAL is not clearly marked, or the Contractor's Confidential Information cannot be marked with a restrictive legend or similar marking or is disclosed either orally

or by visual presentation, Contractor shall identify the Confidential Information as confidential at the time of disclosure or within a reasonable time thereafter. This Contract itself shall not be considered Confidential Information. Subject to Section 4.2, the City shall: (1) limit disclosure of Contractor Confidential Information to those directors, employees, contractors and agents of the City who need to know the Contractor Confidential Information in connection with the City Project and who have been informed of confidentiality obligations at least as strict as those contained in this Contract, and (2) exercise reasonable care to protect the confidentiality of the Contractor Confidential Information, at least to the same degree of care as the City employs with respect to protecting its own proprietary and confidential information.

- 4.4.2 City's Confidential Information. (08/19) Contractor shall treat as confidential any City Confidential Information that has been made known or available to Contractor or that Contractor has received, learned, heard, or observed; or to which Contractor has had access. Contractor shall use City Confidential Information exclusively for the City's benefit in the performance of this Contract. Except as may be expressly authorized in writing by the City, in no event shall Contractor publish, use, discuss or cause or permit to be disclosed to any other person such City Confidential Information. Contractor shall (1) limit disclosure of the City Confidential Information to those directors, officers, employees, subcontractors and agents of Contractor who need to know the City Confidential Information in connection with the City Project and who have agreed in writing to confidentiality obligations at least as strict as those contained in this Contract, (2) exercise reasonable care to protect the confidentiality of the City Confidential Information, at least to the same degree of care as Contractor employs with respect to protecting its own proprietary and confidential information, and (3) return immediately to the City, upon its request, all materials containing City Confidential Information, in whatever form, that are in Contractor's possession or custody or under its control. Contractor is expressly restricted from and shall not use the Intellectual Property Rights of the City without the City's prior written consent.
- 4.4.3 Scope. (09/17) This Contract shall apply to all City Confidential Information previously received, learned, observed, known by, or made available to Contractor. Contractor's confidentiality obligations under this Contract shall survive termination or expiration of this Contract.
- 4.4.4 Equitable Relief. (12/18) Contractor acknowledges that unauthorized disclosure of City Confidential Information will result in irreparable harm to the City. In the event of a breach or threatened breach of this Contract, the City may obtain injunctive relief prohibiting the breach, in addition to any other appropriate legal or equitable relief. The Parties agree that, notwithstanding any other section of this Contract, in the event of a breach or a threatened breach of Contract terms related to Confidential Information or Intellectual Property Rights, the non-breaching Party shall be entitled to seek equitable relief to protect its interests, including but not limited to injunctive relief. Nothing stated herein shall be construed to limit any other remedies available to the Parties.
- 4.4.5 Discovery of Documents. (06/19) In the event a court of competent jurisdiction orders the release of Confidential Information submitted by one Party, the other Party will notify the Party whose Confidential Information is being requested to be disclosed of the request. The Party receiving the request shall allow the other Party to participate in the response at its own expense. Each Party will comply with any effective court order.

SECTION 5 CONTRACTOR PERFORMANCE AND WARRANTIES

5.1 General Warranties. (09/17) Contractor makes the following warranties:

- 5.1.1 Capacity. (09/17) Contractor warrants it has the legal authority and capacity to enter into and perform this Contract.
- 5.1.2 Authority to Conduct Business. (08/19) Contractor warrants it is lawfully organized and constituted and duly authorized to operate and do business in all places where it shall be required to do business under this Contract, and that it has obtained or will obtain all necessary licenses and permits required in connection with this Contract.
- 5.1.3 Disclosure of Litigation. (09/17) Contractor warrants that as of the Effective Date there are no suits, actions, other proceedings, or reasonable anticipation thereof, in any judicial or quasi-judicial forum that will or may adversely affect Contractor's ability to fulfill its obligations under this Contract. Contractor further warrants that it will immediately notify the City in writing if, during the Term of this Contract, Contractor becomes aware of, or has reasonable anticipation of, any lawsuits, actions, or proceedings in any judicial or quasi-judicial forum that involves Contractor or any Subcontractor and that will or may adversely affect Contractor's ability to fulfill its obligations under this Contract.
- 5.1.4 Conflict of Interest. (09/17) Contractor warrants it has no present interest and shall not acquire any interest that would conflict in any manner with its duties and obligations under this Contract.
- 5.1.5 Compliance with Applicable Law. (09/17) Contractor warrants it has complied and shall comply with all applicable federal, state, and local laws and regulations of its domicile and wherever performance occurs during the term of this Contract. Contractor warrants it is currently in compliance with all tax laws.
- 5.1.6 Public Contracts. (09/17) Contractor shall observe all applicable state and local laws pertaining to public contracts. ORS Chapters 279A and 279B require every public contract to contain certain provisions. To the extent applicable, ORS 279B.220, 279B.230 and 279B.235 are incorporated into this Agreement by reference.
- 5.1.7 Compliance with Civil Rights Act. (09/17) Contractor warrants it is in compliance with Title VI of the Civil Rights Act of 1964 and its corresponding regulations as further described at: <http://www.portlandoregon.gov/bibs/article/446806>
- 5.1.8 Respectful Workplace Behavior. (09/17) The City is committed to a respectful work environment, free of harassment, discrimination and retaliation and other inappropriate conduct. Every individual has a right to work in a professional atmosphere where all individuals are treated with respect and dignity. The City's HR Rule 2.02 covers all employees of the City as well as contractors, vendors or consultants who provide services to the City of Portland. Contractor warrants its compliance with terms and conditions HR 2.02 as further described at: <https://www.portlandoregon.gov/citycode/27929>

5.2 Grant Funding. (02/18). This Contract is currently not using grant funding. However, in the event that City acquires or uses grant funding to pay for any portion of this Contract, the City and Contractor agree to Amend the Contract to include the federally required terms and conditions. General grant terms may be found at <http://www.portlandoregon.gov/bibs/article/455735>

5.3 Compliance with Non-Discrimination Laws and Regulations.

- 5.3.1 Nondiscrimination. (06/19) Pursuant to all City, State, and federal non-discrimination and civil rights laws, Contractor, with regard to the work performed by it during this Contract, shall not discriminate on the grounds of race, color, national origin, including limited English proficiency, sex, sexual orientation, gender identity, age, religion or non-religion, disability, marital status, family status, or source of income, including in employment practices, the selection and retention of subcontractors, including procurements of materials and leases of equipment.

- 5.3.2 Solicitations for Subcontractors, Including Procurements of Materials and Equipment. (06/19) In all solicitations either by competitive bidding or negotiation made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract relative to nondiscrimination on the grounds of race, color, national origin, sex, sexual orientation, age, religion, disability, marital status, or family relationships.
- 5.3.3 Sanctions for Noncompliance. (09/17) In the event of Contractor's noncompliance with the nondiscrimination provisions of this Contract, the City shall impose such contract sanctions as it or any state or federal agency may determine to be appropriate, including, but not limited to withholding of payments to Contractor under this Contract until Contractor complies, and/or cancellation, termination, or suspension of this Contract, in whole or in part.
- 5.3.4 ADA Compliance. (12/20) Contractor shall comply with the Americans With Disabilities Act (ADA), including any duty the ADA may impose on City or Contractor as a result of the Goods, Services or activities requested to be provided for City under this Agreement.

Contractor shall document each ADA request for modification to the products of Services and Contractor's fulfillment of the request. If Contractor determines that it is unable to promptly fulfill the request for modification under the ADA, Contractor will contact the City Contract manager within the same business day, proving reasons why Contractor is unable to fulfill the request for modification and to identify alternate accessibility options that Contractor can perform.

Within 7 Business Days after receipt, City and Contractor shall advise the other Party in writing, and provide the other Party with copies (as applicable) of any notices alleging violation of or noncompliance with the ADA relating to the Agreement, or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to the Agreement or the programs, Products, Services or activities that Contractor is undertaking for City under this Agreement.

- 5.3.5 Required Reporting. (05/19) If any person or class of persons files a complaint with Contractor alleging discrimination under Title VI of the Civil Rights Act of 1964 (race, color, or national origin, including limited English proficiency), Contractor will notify the City of Portland of the complaint and cooperate with any investigation related to the complaint. Notifications shall be sent to Title VI Program Manager, 421 SW 6th Ave, Suite 500, Portland, Oregon 97204, or title6complaints@portlandoregon.gov.

5.4 Goods and Service(s) Warranties. (08/19) Contractor makes the following warranties:

- 5.4.1 No Third-Party Conflict or Infringement. (01/19) As of the Effective Date, Contractor warrants the execution and performance of this Contract, shall not contravene the terms of any contracts with third parties or any third-party Intellectual Property Right; and, as of the Effective Date of this Contract, there are no actual or threatened legal actions with respect to the matters in this provision. Contractor agrees to promptly notify the City, in writing, if during the Term of the Contract, a potential third-party conflict or infringement of third-party Intellectual Property Rights arises.
- 5.4.2 No Encumbrances. (08/19) All Deliverables provided by Contractor under this Contract shall be transferred to the City free and clear of any and all restrictions of transfer or distribution and free and clear of any and all liens, claims, security interests, liabilities, and encumbrances of any kind.
- 5.4.3 Conformance with Specifications. (11/20) Contractor warrants that the Goods and Services shall operate in conformance with the Specifications per the provisions of a Manufacturer's Warranty.
- 5.4.4 No Material Defects. (08/19) Contractor warrants that the Goods provided shall be free of any defects in design, material, and workmanship.

- 5.4.5 Compliance with Law. (08/19) Contractor warrants that the Goods conform to all requirements of applicable law, including all applicable health, safety, privacy, data security and environmental laws and regulations.
- 5.4.6 Industry Standards. (01/19) Contractor warrants that the Goods are compliant with generally accepted industry standards. Contractor warrants that the Services performed under this Contract will meet the standards of skill and diligence normally employed by persons performing the same or similar services.
- 5.4.7 Substitution or Modification of Goods at No Charge. (07/20) Substitutions or modifications of Goods may only be provided upon prior written approval by the City. In the event that Contractor substitutes or modifies the Deliverables, Contractor shall ensure that the new or modified Deliverables shall conform in all aspects to the Specifications. Such substitutions or modifications shall in no way degrade the performance or functionality of the Deliverables and shall not result in additional cost to the City.
- 5.4.8 Warranty Remedies. (08/19) In accordance with the remedy specified in Exhibit B, Statement of Work, section 11 – Tree Replacement, the City may direct the Contractor to remove any Defective Goods identified by the City or Contractor, at Contractor's sole risk and expense. Contractor shall replace defective Goods.
- 5.5 Assignment of Manufacturers' Warranties. (01/20) In all cases where Goods are covered by a Manufacturer's Warranty, Contractor will provide the City with all Manufacturer's Warranties. Contractor will assign to the City any Manufacturer's Warranty applicable to any respective Good. Notwithstanding the foregoing, Contractor shall be held responsible by the City for the replacement of the Goods or any of its components during the Manufacturer's Warranty Period.
- 5.6 No Waiver of Warranties or Representation. (01/19) Delivery of Goods or performance of Services shall not be construed to represent Acceptance nor relieve Contractor from its responsibility under any representation or warranty. If the City makes a payment prior to Final Acceptance, the payment does not grant a waiver of any representation or warranty by Contractor.
- 5.7 No Third Party to Benefit. (09/17) This Contract is entered into for the benefit of the City and Contractor. Except as set forth herein, nothing in this Contract shall be construed as giving any benefits, rights, remedies, or claims to any other person, firm, corporation or other entity, including, without limitation, the general public or any member thereof, or to authorize anyone not a Party to this Contract to maintain a suit for breach of contract, personal injuries, property damage, or any other relief in law or equity in connection with this Contract.
- 5.8 Assignment. (08/19) Neither Party shall assign, transfer, or delegate all or any part of this Contract, or any interest therein, without the other Party's prior written consent, which shall not be unreasonably withheld. For purposes of this Section, the acquisition, merger, consolidation or change in control of Contractor or any assignment by operation of law shall be considered an assignment of this Contract that requires the City's prior written consent. Notwithstanding the foregoing: (a) in the event that the City's business needs change or the City enters into an agreement with a provider for outsourcing services, Contractor agrees that the City shall have the right to assign this Contract to a successor of all, substantially all, or specified area(s) of the City's business, including an outsourcing provider, upon written notice to the other Party, and (b) Contractor may, without the City's consent, but upon prior written notice to the City, assign its right to payment under this Contract or grant a security interest in such payment to any third party without requiring that the third party be liable for the obligations of Contractor under this Contract. Any attempted assignment or delegation in violation of this Section shall be void.
- 5.9 Notice of Change in Financial Condition. (09/17) Contractor must maintain a financial condition commensurate with the requirements of this Contract. If, during the term of this Contract, Contractor experiences a change in its financial condition which may adversely affect its ability to perform the obligations of this Contract, Contractor shall immediately notify the City in writing. Failure to notify the City of such a change in financial condition is sufficient grounds for terminating this Contract.

- 5.10 Notice of Change in Ownership. (09/17) If, during the term of this Contract, Contractor experiences a change in ownership or control, Contractor shall immediately notify the City in writing. Failure to notify the City of such a change in ownership or control is sufficient grounds for terminating this Contract.
- 5.11 Subcontractors. (09/20) Contractor shall not subcontract any work under this Contract without the City's prior written consent. Contractor shall be fully responsible for the acts and omissions of its Subcontractors, including any Affiliates, at all levels, and of their agents and employees. Contractor shall ensure that all applicable provisions of this Contract (including those relating to Insurance, Indemnification, and Confidentiality) are included in all of its subcontracts. The City reserves the right to review any agreements between Contractor and its Subcontractors for Goods and Services authorized under this Contract.

All COBID Certified subcontractors/suppliers identified in Contractor's proposals shall be used in their proposed capacity during Contract performance. If Contractor desires to replace any COBID Certified subcontractors/suppliers under this Contract all substitution requests must have approval from the City's Chief Procurement Officer before such substitutions can be made. In no event shall Contractor subcontract any work, assign any rights, or delegate any obligations under this Contract without the City's prior written consent.

- 5.12 Flow-down Clauses. (01/19) Contractor shall include the following clauses, or substantially similar language, in its subcontracts under this Contract:

Section 4.4, Confidentiality
Section 5.3, Compliance with Non-Discrimination Laws and Regulations
Section 6.1, Hold Harmless and Indemnification
Section 6.2, Insurance

- 5.13 Force Majeure. (08/20)

5.13.1 If a Force Majeure Event occurs, the Party that is prevented by that Force Majeure Event from performing any one or more obligations under this Agreement (the "Nonperforming Party") will be excused from performing those obligations, on condition that (1) the Nonperforming Party used reasonable efforts to perform those obligations, (2) the Nonperforming Party's inability to perform those obligations is not due to its failure to take reasonable measures to protect itself against the event or circumstance giving rise to the Force Majeure Event, and (3) the Nonperforming Party complies with its obligations under section 5.13.2.

5.13.2 Upon occurrence of a Force Majeure Event, the Nonperforming Party shall promptly notify the other party of occurrence of that Force Majeure Event, its effect on performance, and how long that Party expects it to last. Thereafter the Nonperforming Party shall update that information as reasonably necessary. During a Force Majeure Event, the Nonperforming Party shall use reasonable efforts to limit damages to the other Party and to resume its performance under this Contract.

- 5.14 Ownership of Property. (06/19) All work product produced by the Contractor under this Contract is the exclusive property of the City. "Work Product" includes, but is not limited to research, reports, computer programs, manuals, drawings, recordings, photographs, artwork and any data or information in any form. The Contractor and the City intend that such Work Product shall be deemed "work made for hire" of which the City shall be deemed the author. If for any reason a Work Product is deemed not to be a "work made for hire," the Contractor hereby irrevocably assigns and transfers to the City all right, title and interest in such Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrines. Contractor shall obtain such interests and execute all documents necessary to fully vest such rights in the City. Contractor waives all rights relating to work product, including any rights arising under 17 USC 106A, or any other rights of authorship, identification or approval, restriction or limitation on use or subsequent modifications. If the Contractor is an architect, the Work Product is the property of the Consultant-Architect, and by execution of this Contract, the Contractor-Architect grants the City an exclusive and irrevocable license to use that Work Product.

Notwithstanding the above, all pre-existing trademarks, services marks, patents, copyrights, trade secrets, and other proprietary rights of Contractor are and will remain the exclusive property of Contractor. Contractor hereby grants to the City a non-exclusive, perpetual, irrevocable license, with the right to sublicense, to disclose, copy, distribute, display, perform, prepare derivative works of and otherwise exploit any pre-existing Intellectual Property Rights incorporated into the Work Product(s).

SECTION 6 INDEMNIFICATION, INSURANCE, AND BONDING

6.1 Hold Harmless and Indemnification. (08/19)

- 6.1.1 Contractor shall indemnify, defend, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, demands, suits, and actions for all losses, damages, liabilities, costs and expenses (including all attorneys' fees and costs), resulting from or arising out of the actions, errors, or omissions of Contractor or its officers, employees, Subcontractors, or agents under this Contract.
- 6.1.2 Infringement Indemnity. (08/19) Contractor shall indemnify, defend, and hold harmless the City, its directors, officers, employees, and agents from and against any and all claims, demands, suits, and actions for any damages, liabilities, losses, costs, and expenses (including reasonable attorney fees, whether or not at trial and/or on appeal), arising out of or in connection with any actual or alleged misappropriation, violation, or infringement of any proprietary right or Intellectual Property Right of any person whatsoever. The City agrees to notify Contractor of the claim and gives Contractor sole control of the defense of the claim and negotiations for its settlement or compromise.
- 6.1.3 Contractor shall indemnify, defend, and hold harmless the City against any taxes, premiums, assessments, and other liabilities (including penalties and interest) that the City may be required to pay arising from Goods and Services provided by Contractor under this Contract. The City of Portland, as a municipal corporation of the State of Oregon, is a tax-exempt unit of local government under the laws of the State of Oregon and is not liable for any taxes.

6.2 Insurance. (08/19) Contractor shall not commence work until Contractor has met the insurance requirements in this section and Contractor has provided insurance certificates approved by the City Attorney. Contractor shall acquire insurance issued by insurance companies or financial institutions with an AM Best rating of A- or better and duly licensed, admitted and authorized to do business in the State of Oregon.

- 6.2.1 Insurance Certificate. (08/19) As evidence of the required insurance coverage, Contractor shall provide compliant insurance certificates, including required endorsements, to the City prior to execution of the Contract. The certificates shall list the City as certificate holder. Contractor shall maintain continuous, uninterrupted coverage for the Term of this Contract and to provide insurance certificates demonstrating the required coverage for the Term of this Contract. Contractor's failure to maintain insurance as required by this Contract constitutes a Material Breach of this Contract. Contractor must notify the City in writing thirty (30) Calendar Days prior to a cancellation, non-renewal, or changes to the insurance policy.
- 6.2.2 Additional Insureds. (08/19) For commercial general liability coverage, Contractor shall provide City with a blanket additional insured endorsement form that names the City of Portland, Oregon, and its officers, agents, and employees, as an additional insured. The additional insured endorsement must be attached to the general liability certificate of insurance.
- 6.2.3 Insurance Costs. (08/19) Contractor shall be financially responsible for all premiums, deductibles, self-insured retentions, and self-insurance.
- 6.2.4 Coverage Requirements. (08/19) Contractor shall comply with the following insurance requirements:
 - 6.2.4.1 Commercial General Liability. (08/19) Contractor shall acquire commercial general liability ("CGL") and property damage insurance coverage in an amount not less than \$2 million per occurrence for damage to property or personal injury arising from Contractor's work under this Contract.

- ☒ Required and attached
- ☐ Reduced by Authorized Bureau Director
- ☐ Waived by Authorized Bureau Director

6.2.4.2 Pollution Liability. (08/19) Contractor shall acquire (if not included in CGL Coverage noted above) Pollution Liability Insurance covering Contractor's or appropriate subcontractor's liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related cleanup costs incurred by Contractor, all arising out of the Goods delivered or Services (including transportation risk) performed under this Contract is required. Combined single limit per occurrence shall not be less than \$3 million with an annual aggregate limit of not less than \$5 million.

An endorsement to the Commercial General Liability or Automobile Liability policy, covering Contractor's or subcontractor's liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related clean-up cost incurred by the Contractor that arise from the Goods delivered or Services (including transportation risk) performed by Contractor under this Contract is also acceptable.

6.2.4.3 Automobile Liability. (08/19) Contractor shall acquire automobile liability insurance to cover bodily injury and property damage in an amount not less than \$2 million for each accident. Contractor's insurance must cover damages or injuries arising out Contractor's use of any vehicle.

- ☒ Required and attached
- ☐ Reduced by Authorized Bureau Director
- ☐ Waived by Authorized Bureau Director

6.2.4.4 Workers' Compensation. (08/19) Contractor shall comply with Oregon workers' compensation law, ORS Chapter 656, as it may be amended. If Contractor is required by ORS Chapter 656 to carry workers' compensation insurance, Contractor shall acquire workers' compensation coverage for all subject workers as defined by ORS Chapter 656 and shall maintain a current, valid certificate of workers' compensation insurance on file with the City for the entire period during which work is performed under this Contract. Contractor shall acquire workers compensation coverage in an amount not less than \$1 million each accident, \$1 million disease each employee, and \$1 million disease policy limit.

- ☒ Required and attached or
- ☐ Proof of exemption (Complete Independent Contractor Certification Statement)

6.2.5 Insurance Requirements for Subcontractors. (08/19) Contractor shall contractually require its Subcontractors to acquire and maintain for the duration of this Contract insurance equal to the minimum coverage limits required above.

6.3 Rolling Estoppel. (09/17) Unless otherwise notified by Contractor, it shall be understood that the City shall have met all its obligations under this Contract. The City will be conclusively deemed to have fulfilled its obligations, unless it receives written notification of a failure to meet such obligations in the next status report, or within ten (10) Business Days following such failure, whichever is sooner, and Contractor identifies the specific failure in that notification. The City's failure to meet obligations must be described in terms of how it has affected the Project schedule or a specific performance requirement of Contractor.

6.3.1 Contractor is estopped from claiming that a situation has arisen that might otherwise justify changes in Project timetable, the standards of performance under this Contract, or the Contract price, if Contractor knew of that problem and failed to provide notification to the City as set forth above or to include it in the applicable status report to the City's project manager.

6.3.2 In the event Contractor identifies a situation that is impairing Contractor's ability to perform for any reason, Contractor's notification should contain Contractor's suggested solutions to the situation. These suggestions should be in sufficient detail so that the City's Project Manager can make a

prompt decision as to the best method of dealing with the problem and continuing the Project in an unimpeded fashion.

- 6.4 Dispute Resolution. (09/17) Contractor shall cooperate with the City to ensure that all claims and controversies which arise during this Contract will be resolved as expeditiously as possible in accordance with the following resolution procedure:
- 6.4.1 Any dispute between the City and Contractor shall be resolved, if possible, by the Project Manager or their designee on behalf of the City and [REDACTED] on behalf of Contractor.
- 6.4.2 If the Project Manager or the Project Manager's designee and Contractor are unable to resolve any dispute within three (3) Business Days after notice of such dispute is given by either Party to the other, the matter shall be submitted to City Bureau Head on behalf of the City and [REDACTED] on behalf of Contractor for resolution, if possible.
- 6.4.3 Should any dispute arise between the Parties concerning this Contract that is not resolved by mutual agreement above, it is agreed that such dispute will be submitted to mandatory mediated negotiation prior to any Party's commencing arbitration or litigation. In such an event, the Parties to this Contract agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the Parties, but in the absence of such agreement each Party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. All costs of mediation shall be borne equally by the Parties.
- 6.4.4 Should an equitable solution not result from the foregoing, the City and Contractor shall be free to pursue other remedies allowed under this Contract.
- 6.4.5 Unless ordered by the City to suspend performance of all or any portion of Contractor's Services or delivery of Goods, Contractor shall proceed with the performance of such Services or delivery of Goods without any interruption or delay during the pendency of any of the foregoing dispute resolution procedures. During the pendency of any of the foregoing dispute resolution procedures, the City shall continue to make all payments that are not in dispute while having the right to withhold payments that are in dispute.
- 6.5 Remedies. (07/20) The remedies provided in this Contract are cumulative and may be exercised concurrently or separately. In the event of any Material Breach by Contractor, which Material Breach shall not have been cured as agreed to between the Parties, the City shall have the ability to pursue the City's rights at law or equity. The exercise of any one remedy shall not constitute an election of one remedy to the exclusion of any other.
- 6.6 Cost of Cover. (09/17) In the event of termination of this Contract by the City due to a Material Breach by Contractor, then the City may complete the Project itself, by agreement with another contractor, or by a combination thereof. After termination, in the event the cost of completing the Project exceeds the amount the City would have paid Contractor to complete the Project under this Contract, then Contractor shall pay to the City the amount of the reasonable excess.

SECTION 7 MAINTENANCE PROVISIONS

These provisions shall apply to all Maintenance Services. Should any ambiguities or conflicts arise between this SECTION 7 and any other terms within this Contract, this Section shall prevail in matters of Maintenance.

- 7.1 Maintenance Period. (09/17) Contractor shall provide Maintenance for three to four years.
- 7.2 Maintenance Term. (09/20) The price for Maintenance services is set forth in Exhibit A, Contractor's Price. Where necessary, prices for Maintenance shall be pro-rated to ensure that Maintenance periods will co-term with this Contract.

7.3 Optional Maintenance. (01/19) If the City suspends or discontinues use of Goods or Services, in whole or in part, the City may elect to suspend or discontinue Maintenance and payment of Maintenance Fees for the portion of the Goods or Services not used.

7.4 Services Included. (01/19) Maintenance shall include the following:

7.4.1 Routine. (08/19) Within the schedule specified in this Contract, Exhibit B, Statement of Work, item 10 – Establishment Period and Replacement Requirements, Contractor shall Routinely provide adequate watering of the root ball of newly plant trees to ensure establishment of newly planted trees.

7.5.1 Replacement. (01/19) In accordance with Exhibit B, Statement of Work, item 11 – Tree Replacement, Contractor shall replace defective, damaged, and/or dead trees for which a defect, significant injury, and/or death has been identified by the Project Manager.

7.4.2 Training.

In accordance with Exhibit B, Statement of Work, item 2 – Trainings, Contractor(s) shall attend one annual tree planting training scheduled and organized by the City PM. The Contractor and their crewmembers assigned to the project shall attend this training. This includes all staff that will be involved in the tree planting process. The City PM shall attend all trainings. The training shall be paid for by the City. Attendees will be billed at the hourly labor rate.

7.6 Other Standard Services. (09/17) Contractor shall, at no additional cost to the City, provide other standard Services which Contractor offers at no cost to its other customers.

7.7 Escalation. (12/20) If the City is unsatisfied with Contractor's Maintenance Services, the following escalation procedure will apply:

7.7.1 The City shall notify Contractor in writing of its intent to escalate. This notice will be sent to Contractor's Maintenance contact. Upon receipt of this notice, Contractor will contact the City immediately to acknowledge the request and acquire more information.

7.7.2 If within twenty-four (24) hours after the notice of intent to escalate, the City is not satisfied with the response or resolution, the City will contact the following Contractor executives, in the order specified below, to resolve the problem:

Name	Title	Phone	Email

7.8 Maintenance Remedies.

7.8.1 Remedies Not Exclusive. (09/17) In addition to any other remedies provided for in this Contract or at law or in equity, the City shall have the right to acquire one or more of the following non-exclusive remedies in the event of any failure of Contractor to meet Maintenance obligations: (a) suspension of payment obligations for Maintenance accruing during the period for which Contractor did not meet Maintenance obligations; (b) a refund of all Maintenance Fees paid by the City to Contractor for the period during which Contractor did not meet Maintenance obligations; and (c) notice to Contractor of Material Breach.

7.9 Failure to Meet Maintenance Obligations. (09/20) In the event Contractor fails to maintain the trees as mutually agreed by Contractor and the City, the City has the right to cancel the agreement in its entirety.

SECTION 8 ACCEPTANCE AND ACCEPTANCE TESTING

8.1 Right to Perform Acceptance Testing. (08/19) Prior to Accepting Services or Deliverables, the City shall have the right to evaluate the Deliverable(s) to ensure they meet Acceptance Criteria, as may be further defined in Exhibit B - Statement of Work. Contractor shall cooperate with the City in the development of Acceptance Criteria and the Acceptance Test Plan that shall codify and set forth the location, date, and other specifications of the test.

8.2 Procedure and Timetable. (09/17) Unless otherwise specified,

- 8.2.1 The City shall commence Acceptance Testing within a reasonable amount of time after receipt of a Deliverable.
- 8.2.2 Contractor shall provide, at no additional cost, reasonable and appropriate support, assistance, and consultation in order to facilitate Acceptance Testing.
- 8.2.3 City will make all reasonable efforts to complete Acceptance Testing within the time period specified within the acceptance test plan. Acceptance test plan to be developed by proposer with the City and approved by the City. This acceptance test plan shall contain the details of the various points of acceptance for services including but not limited to, planting acceptance, annual establishment acceptance, and final acceptance in accordance with Exhibit B, Scope of Work. If an Acceptance Test is successful the City shall issue an Acceptance Certificate, a sample of which is attached in Exhibit E-2.

8.3 Failure of Acceptance Test. (09/17) The City will notify Contractor if a Deliverable or a portion of a Deliverable fails to pass an Acceptance Test and will specify in reasonable detail the identified failures and possible reasons for failure. After City's notification, Contractor shall correct the failure within five (5) Business Days and notify the City that the correction has been completed. After Contractor's correction notification, the City shall perform a second Acceptance Test. If the Deliverable or portion of the Deliverable fails to pass the second Acceptance Test, the City shall notify Contractor in writing, and the City may, in its sole discretion: (a) terminate this Contract with no further liability; (b) require Contractor to replace the Deliverable or defective portion of the Deliverable at no additional cost to the City, (c) require Contractor to make further corrections to prepare for retesting again; (d) Accept the Deliverable at a reduced cost to be negotiated between the Parties; or (e) issue an Acceptance Certificate for an "Acceptance with Exception(s)" in accordance with Sections 8.3.1 and 8.3.2.

- 8.3.1 If the City issues an Acceptance Certificate for an "Acceptance with Exception(s)" the City will list the exception(s) and the date for Contractor's correction of the Defect(s). If Defect(s) are corrected by the listed date(s) the City agrees to commence further Acceptance Testing of the Deliverable or affected portion(s). If the Deliverable passes the Acceptance Tests, the City will issue an Acceptance Certificate.

- 8.3.2 If a Deliverable fails a second or subsequent Acceptance Test (or in the event of a single Acceptance Test, the Acceptance Test) in no event shall there be an increase to the original price agreed to by the Parties for the Deliverable.

8.4 City Acceptance of Failure. (05/19) If the City elects to accept a Deliverable or any combination even with the failure(s), then the City may request that Contractor issue a refund to the City in an amount equal to a percentage of the full fee value of the Deliverable that the Parties mutually determine represents the loss of use or functionality.

8.5 Revocation of Acceptance. (01/19) The City shall have the right to revoke "Acceptance with Exception(s)" if the City granted an "Acceptance with Exception(s)" based on Contractor's commitment to correct the Defect within a reasonable period of time, but the Defect has not been so corrected. The City shall also have the right to revoke Acceptance if the City accepted the Deliverable without discovery of the Defect, and the Acceptance was reasonably induced by Contractor's assurances or by the difficulty of discovery of the Defect before Acceptance. Revocation is effective only if it occurs within a reasonable time after the City discovers or should have discovered the reasons for revocation.

8.6 Termination Based on Failure of Acceptance. (09/17) If the Goods or Services fail to pass the Final Acceptance Test(s), the City may terminate this Contract. Contractor shall refund all costs paid for the Goods and Services in U.S. Dollars within fifteen (15) Calendar Days of the date of receipt of notice of termination. The refund shall be in cash and not in the form of future credits from Contractor.

- 8.7 **No Waiver.** (05/19) Acceptance shall not relieve Contractor from its responsibility under any warranty. Payment for Deliverables, or any portion thereof, does not constitute Acceptance nor does it constitute a waiver of any warranty applicable to the City.

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SIGNATURE PAGE

(08/19)

Contractor represents that Contractor has had the opportunity to consult with its own independently selected attorney in the review of this Contract. Neither Party has relied upon any representations or statements made by the other Party that are not specifically set forth in this Contract.

This Contract constitutes the entire agreement between the City and Contractor and supersedes all prior and contemporaneous proposals and oral and written agreements, between the Parties on this subject, and any different or additional terms on a City Purchase Order or Contractor quotation or invoice.

The Parties agree that they may execute this Contract and any Amendments to this Contract, by electronic means, including the use of electronic signatures.

This Contract may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties hereby cause this Contract to be executed.

CONTRACTOR

Authorized Signature

Date

Printed Name and Title

Address: _____

Phone: _____

Email: _____

Contract Number: XXXXXXXX

Contract Title: TREE PROCUREMENT, PLANTING AND MAINTENANCE SERVICES
FOR BUREAU OF ENVIRONMENTAL SERVICES AND PORTLAND PARKS AND RECREATION

CITY OF PORTLAND SIGNATURES

By: N/A Date: _____
Bureau Director

By: _____ Date: _____
Chief Procurement Officer

By: N/A Date: _____
Elected Official

Approved:

By: N/A Date: _____
Office of City Auditor

Approved as to Form:

By: _____ Date: _____
Office of City Attorney

Exhibit A
Contractor's Price

SECTION 0 Pricing.

- 0.0 Most Favorable Prices and Terms: (08/19) Contractor represents that all prices, terms, and benefits offered by Contractor under this Contract are equal to or better than the equivalent prices, terms and benefits being offered by Contractor to any other state or local government unit or commercial customer for the same or similar Goods or Services.
- 0.1 Additional Services: The City reserves the right to procure additional services for additional City bureaus beyond those stated in the RFP documents at the same prices submitted by Contractor. Price increases will be allowed but shall be in keeping with Exhibit A of this Contract. Such additional services are not guaranteed and will be made at the City's sole discretion based upon the requirements of City bureaus.
- 0.2 Right To Change: The City reserves the right to order changes to the goods, materials, equipment, and services outlined herein. The City and Contractor shall determine a fair and equitable cost and if required, additional time for such changes. All such changes shall be ordered in writing and agreed to by the Parties.

Exhibit B
Statement of Work

SECTION 0 SUMMARY

A. TREE PLANTING AND THREE-YEAR ESTABLISHMENT SERVICES SPECIFICATIONS

The successful Contractor's staff performing work under this Contract shall be familiar with the specifications listed in this section. The City reserves the right to change tree planting and establishment specifications during the contract term. If any changes are made which affect pricing, the Contractor and the City shall negotiate an appropriate price adjustment.

Most projects will encompass meetings, trainings, tree procurement, tree planting, and tree establishment activities. Trees shall typically be procured, planted, and established by the same Contractor; however, the Contractor(s) may be offered work that does not include all activities described above, and will be paid according to the Contract.

1. MEETINGS

- a. The successful Contractor's shall attend two annual meetings with the City Project Manager (PM). These meetings shall be scheduled by the City PM. The City PM shall require additional meetings with the Contractor if the City PM determines the need to manage the project.
- b. The City PM may cancel a meeting that the City PM determines unnecessary.
- c. The following are the two minimum required meetings:
 - i. Planting Season Kickoff Meeting
 1. This meeting shall cover the task order and information on the planting season.
 2. This meeting shall occur before the Contractor begins tree planting and shall not occur later than December 31. The date of the meeting shall be at the City PM's discretion, with at least two weeks' notice to the Contractor.
 3. This meeting shall last no longer than two hours unless the City PM and Contractor agree to additional time.
 4. This meeting shall be held at a City facility or online through video conferencing.
 5. The Contractor's Project Manager(s) shall attend this meeting. Additional staff may attend the meeting at the discretion of the City PM.
 - ii. Establishment Season Kickoff Meeting
 1. This meeting shall cover the task order and information on the establishment season.
 2. This meeting shall occur before the Contractor begins tree establishment and shall not occur later than May 15. The date of the meeting shall be at the City PM's discretion, with at least two weeks' notice to the Contractor.
 3. This meeting shall last no longer than two hours unless the City PM and Contractor agree to additional time.
 4. This meeting shall be held at a City facility or online through video conferencing.
 5. The Contractor's Project Manager(s) shall attend this meeting. Additional staff may attend the meeting at the discretion of the City PM.

2. TRAININGS

- a. The successful Contractor(s) shall attend one annual tree planting training scheduled and organized by the City PM. The Contractor and their crewmembers assigned to the project shall attend this training. This includes all staff that will be involved in the tree planting process. The City PM shall attend all trainings. Additional City staff may attend at the discretion of the City PM.
- b. The training shall be paid for by the City. Attendees will be billed at the hourly labor rate.
- c. The training shall occur between October and December, at the discretion of the City PM, with at least two weeks' notice to the Contractor. The training shall last no longer than 8 hours unless the City PM and Contractor agree to additional time.

- d. The training shall be held at a City facility, in the field at a planting site, or at a facility owned or operated by the Contractor, at the discretion of the City PM.
- e. The Contractor shall provide their crew with specific tools for the training as required by the City PM. The required tools shall only include those listed in these specifications unless the City PM and Contractor agree to additional tools.
- f. Additional trainings may be provided if mutually agreed upon by both the Contractor and City PM.

3. WORKDAY

- a. Planting shall be performed during standard City business hours of Monday through Friday (7:00am to 5:00pm). No work shall be performed on Saturdays, Sundays, or holidays without the permission of the City. Holidays include New Years' Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Juneteenth Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Friday after Thanksgiving Day, and Christmas Day. If a holiday occurs on a Saturday, work shall not be performed on the day before (Friday). If a holiday occurs on a Sunday, work shall not be performed on the day after (Monday).
- b. On occasion, the City may require the Contractor(s) to suspend work on specific days. The City PM shall notify the Contractor at least five business days in advance of the required suspension.

4. PERSONNEL AND EQUIPMENT

- a. The Contractor shall supply a crew with the necessary qualifications and all material and equipment needed to complete the work in accordance with these specifications. Required tools include:
 - i. Sharp pruners
 - ii. Sharp arborist hand saws
 - iii. Sharp soil knives
 - iv. Shovels
 - v. Rakes
 - vi. Hoses fitted with watering wands, deep watering probes, or buckets
- b. The Contractor's foreman shall carry business cards of the City PM and refer any concerns from property owners or the general public to the City PM.
- c. The Contractor's employees shall be easily identifiable by either wearing a visible employee identification card, clothing with company logo, or vehicle with company name prominently displayed.

5. SAFETY STANDARDS

- a. The following safety standards apply to all work performed under this Contract:
 - i. All equipment to be used and all work to be performed shall be in full compliance with the most current revision of the American National Standards Institute Standard Z-133.1 Safety Standard.
 - ii. All equipment shall be reliable, well-maintained, and relatively clean in appearance.
 - iii. The City reserves the right to inspect Contractor's equipment at any time to determine condition and safety and to ensure that each crew is properly equipped with all required equipment as listed above and throughout these specifications.
 - iv. The Contractor shall obtain required permits for blocking of public streets or parking and traffic control, from the appropriate agency (Portland Bureau of Transportation or Oregon Department of Transportation). The City shall reimburse the Contractor for these required permit costs. Contractor shall submit documentation of these costs with monthly invoice. The Contractor is responsible for meeting permit terms.

- v. The Contractor shall provide adequate barricades, flaggers, signs and/or warning devices during the performance of work under this Contract to protect motorists, pedestrians, and workers. All placements of cones, signs and barricades shall conform to American Traffic Safety Services Association standards. This work shall follow any additional State or local requirements.
- vi. If flaggers are required, the Contractor shall be compensated at the general labor hourly rate listed on the Bid Tabulation sheet.

6. PROTECTION OF EXISTING FEATURES

- a. The Contractor shall take necessary precautions to protect all paving, curbs, walls, landscape, irrigation, utilities, and other existing site improvements, on public or private property, during planting and establishment. Removal or destruction of existing plantings is prohibited unless specifically authorized by the City. Any damage to existing features as the result of the Contractor's operations shall be immediately reported to the City PM by phone and email. The City will determine the appropriate course of action for repair work, either by the Contractor, the City, or another party. Repairs shall be made to the City's satisfaction. The cost of any repair work shall be the responsibility of the Contractor and may be deducted from payment due to the Contractor or invoiced to the Contractor.

7. WORK AREA

- a. During operations, Contractor shall keep work site and adjacent areas clean and orderly to the greatest extent possible. Materials shall be kept off sidewalks, driveways, and streets to minimize impediments to normal traffic use of the area. Water, mud, sand, soil, and trash shall be kept off paved surfaces to prevent materials from reaching storm drains.
- b. The Contractor shall not leave staging material, equipment, or debris overnight on site without permission of the City.
- c. Tree planting and establishment activities will be in the field along street rights-of-way, within parks, schools, other publicly owned properties, and private properties. Contractor and their crew may encounter irate people, people experiencing mental illness, and people under the influence of drugs or alcohol during their work. Contractor is expected to prepare their crew on how to work safely in these situations.

8. TREE PROCUREMENT

- a. The Contractor shall be responsible for the procurement of trees.
- b. **TREE SCHEDULE**
 - i. The City shall specify the species, variety, and size in plans or tree schedule provided by the City. The City may also specify stock. Variances from the schedule shall be approved by the City.
 - ii. The Contractor shall broadcast tree material search lists to a minimum of 15 wholesale nurseries in the greater Portland region. Additional nurseries, located outside the greater Portland region, may be used. The Contractor shall provide the City PM with a list of nurseries contacted.
 - iii. The Contractor shall provide the City PM with a summary Procurement Report (Exhibit F) provided by the City showing tree material sizes and quantities available, along with unit prices from all responding nurseries by email for each project, prior to purchase. The Procurement Report shall include:
 - 1. Tree material sizes
 - 2. Stock type
 - 3. Quantities available
 - 4. Unit prices
 - 5. Nursery information

- iv. Where specified trees are not available, Contractor shall submit to the City a list of all nurseries that were contacted, and a proposal for use of equivalent alternative material. If a specified tree type is available, but only a size different from that specified, the Contractor shall provide the City with a list of the sizes available. Final authorization for all substitutions shall be at the discretion of the City PM.
- v. Contractor shall verify that tree quality for quoted material meets requirements of this specification and any additional project requirements prior to submitting quote to the City.
- vi. The City PM shall decide from which source to procure the plant material. City shall reimburse Contractor for actual tree material cost; no mark-up shall be allowed.
- vii. The City shall reimburse Contractor for tree delivery cost.
- viii. Contractor shall submit itemized tree purchase receipts for each project as part of invoicing, along with the Invoice Cover Page provided by the City.
- ix. Tree materials may not be purchased through a broker unless approved by the City PM.
- x. Some trees may be pre-purchased by the City in which case there will be no material cost shown on the invoice. Contractor shall be responsible for arranging delivery and storing trees until planting.

c. **SIZE**

- i. Broadleaf trees shall be measured by caliper size at six inches above the root flare. Conifer size shall be measured by height from the base of trunk to the tip of the leader.

d. **TREE STOCK QUALITY**

- i. All plants shall be grown in accordance with good horticultural practices and shall conform to the American Standard for Nursery Stock ANSI Z60.1 – 2014, or most current version of this standard, published by AmericanHort. Tree stock quality shall also meet the PP&R Specifications for Nursery Tree Quality, Exhibit E.
- ii. Trees acquired shall be nursery-grown in a USDA hardiness zone suitable for the region.
- iii. Trees shall exhibit the following characteristics:
 - 1. Healthy and vigorous, with trunk and limbs free from insects, disease, defects, injuries, and decay
 - 2. Single trunk that is straight, with a well-developed leader and good trunk taper
 - 3. The trunk shall be solidly attached to the root ball
 - 4. Well-distributed branches that are considerably smaller diameter than the trunk, with wide-angled branch attachments or branch attachments that are appropriate for the tree form. The City PM may specify lowest branching height in some cases.
 - 5. A fibrous root system with no girdling roots at or above the root collar.
- iv. Bareroot trees: Bareroot trees shall have abundant root growth, with both larger anchor roots and smaller fibrous roots. Roots shall not be broken, torn, decayed, or damaged. Bareroot trees shall be planted prior to bud-break.
- v. Balled and burlapped (B&B) trees: B&B trees shall have a firm root ball. The root ball shall not be loose, broken, or desiccated. The minimum root ball diameter shall be the same as those specified in American Standard for Nursery Stock (ANSI Z60.1 – 2014).
- vi. Container trees: Roots shall be well-developed enough to hold the potting substrate together. The tree shall not be pot bound or have matted roots. The soil shall not be desiccated.

- vii. Fabric bag trees: The trunk shall be solidly attached to the root ball. The root ball shall not be broken or desiccated.

e. **NEONICOTINOIDS**

- i. Trees shall not be treated with neonicotinoid pesticides, including but not limited to acetamiprid, clothianidin, imidacloprid, nitenpyram, nithiazine, thiacloprid and thiamethoxam.

f. **LABELING**

- i. Each tree shall be labeled with a securely attached, loose-hanging, waterproof tag bearing legible designation of botanical and common name, including variety. Proposer shall provide tag if one is not provided by the nursery.

g. **OBSERVATION**

- i. The City reserves the right to observe trees both at their place of growth, any temporary holding site, and at the planting site for compliance with requirements for species type, variety, size, form, and quality.

h. **PROCUREMENT ACCEPTANCE**

- i. The City may reject any materials or services that do not meet these standards, at the City PM's discretion.

i. **TREE TRANSPORTATION, HANDLING, AND STORAGE**

- i. Proposer shall take all precautions customary in good trade practice in preparing plants for moving. Proposer shall work with nursery provider to dig, pack, transport, and handle trees with care to ensure protection against injury.
- ii. Trees shall not be bound with material such as wire that will damage the bark, break branches, or in any way deform the tree.
- iii. Trees shall be lifted and handled with suitable support of the root ball to avoid damaging the root ball and roots, in addition to trunk, branches, and foliage. Proposer shall not bend trees in such a manner that damages limbs or bark. Proposer shall not drop trees.
- iv. During transportation of trees, Proposer shall exercise care to prevent injury and drying out of trees. Proposer shall cover trees transported on open vehicles with a protective covering to prevent wind damage and desiccation.
- v. Should roots or root balls be dried out, branches broken, soil balls broken or loosened, or areas of bark scraped or torn, or any other damage occur from transportation from nursery to final installation, the City may reject the injured tree(s) and order them replaced by the Proposer.
- vi. Proposer shall protect all trees from weather and mechanical damage and keep roots moist at all times prior to planting. Once removed from their holding medium, trees shall be planted immediately. For bareroot trees, planting shall begin immediately after delivery.

9. TREE PLANTING

a. **PLANTING SEASON**

- i. The typical planting season will be October 15th through the following March 31st. The City PM may request plantings outside of this period.
- ii. Proposer shall provide the City a weekly project schedule two weeks before project start date. The weekly project schedule shall include dates on when 25% of trees will be planted, 50% of trees will be planted, 75% of trees will be planted, and 100% of trees will

be planted. Deviations from this schedule shall be sent to the City PM for approval so that appropriate City staffing can be arranged for proper project management.

- iii. Proposer shall notify the City PM of the first location of the day at the start of the day.
- iv. Proposer shall notify the City PM of the start of the project with at least two weeks' notice.

b. DAILY PLANTING REPORT

- i. During planting activities, the Proposer shall submit a Daily Planting Report, using the template provided by the City, to the City PM. See Exhibit G for template. The intent of the Daily Planting Report is for:
 - 1. The Proposer to communicate when trees have been planted,
 - 2. The City PM to communicate which trees require corrections,
 - 3. The Proposer to communicate that corrections have been completed,
 - 4. The City PM and Proposer to communicate opt-outs and/or trees not to plant anymore, and
 - 5. The Proposer to communicate which trees have been rejected due to stock issues.
- ii. The Daily Planting Report shall contain the following information and is subject to change by the City PM:
 - 1. Plantings and Corrections Log. The log includes:
 - a. Planting assigned date
 - b. Planting completed date
 - c. Name of project
 - d. Type of work completed
 - e. Tree number (ObjectID)
 - f. Frontage
 - g. Address
 - h. Species
 - i. Stock size
 - j. Proposer planting comments
 - k. City PM notes on planting
 - l. Planting inspection date
 - m. Correction required
 - n. Date corrections were completed
 - o. Comments on corrections
 - p. Acceptance status (ready for billing)
 - q. Billing status
 - 2. Do Not Plant / Opt-Out Log
 - a. Address
 - b. Location
 - c. Tree number (ObjectID)
 - d. Input date
 - e. Site type
 - f. City PM notes
 - g. Proposer notes
 - h. Quantity of spaces affected
 - 3. Rejected Stock Log
 - a. Date
 - b. Species
 - c. Stock size and type
 - d. Nursery from where tree was procured

c. DIAGRAMS

- i. A typical street tree planting diagram is included as an exhibit. This is provided as general reference, not as a construction detail.
- ii. A root barrier installation diagram is found in Appendix B of the City of Portland's Street Tree Planting Standards at <https://www.portland.gov/trees/treepermits/documents/street-tree-planting-standards/download>. This is provided as general reference, not as a construction detail. Specifications in this document and any direction from the City preside over the Planting Standards diagrams.

d. EXCAVATION OF PLANTING SITES

- i. Planting may be conducted in areas where overhead and/or underground utilities exist. It is the Proposer's responsibility to have underground utilities located prior to commencing work. Proposer shall submit a ticket by calling Dig Safely Oregon at 1-800-332-2344 or 811 or going online at <https://digsafelyoregon.com/> at least five (5) full business days prior to commencing work at any site.
- ii. Proposer shall remove all existing grass and weeds (including roots) within area of tree hole excavation, by means of hand pulling, pruning, grubbing, or scalping. Proposer shall remove all gravel, sand, debris, and other deleterious materials within area of tree hole excavation and shall visually inspect the site for any potential conflicts. Proposer shall notify the City of any potential conflicts that might prevent execution of the planting plan.
- iii. Proposer shall excavate the planting hole at least two times wider than the diameter of the root ball or 4 foot wide, whichever is greater. Proposer shall not use augers. Proposer shall hand dig only unless otherwise approved by the City PM. If hardscape or infrastructure limit the width, the hole shall be dug to the maximum width possible without damaging or undermining the hardscape or infrastructure. Soil on which root ball is set shall be undisturbed or compacted by foot to support the root ball and limit settling.
- iv. For planting strips 4 feet or less wide, Proposer shall remove sod in a 6-foot-long section between the sidewalk and curb, centered on the tree. This area shall be filled with mulch (see Mulching, below).
- v. The depth of the hole shall be based on the tree's root flare and the surrounding grade. The root flare shall be at or slightly above grade (no more than 1" above) once the site is backfilled. For locations with sloped grade, original slope should pass through the point where the root flare meets substrate/soil. In concrete cut-outs and planting strips less than 4 feet wide, the surrounding grade shall be considered the soil grade below the adjacent sidewalk, but never more than 4 inches lower than the sidewalk surface grade.
- vi. The Proposer shall notify the City immediately by phone, text, or email when conditions detrimental to tree growth, such as adverse drainage conditions or compaction are encountered. Proposer shall not proceed with planting until conditions detrimental to plant growth have been resolved to the satisfaction of the City.
- vii. Planting holes cannot be dug and left unattended unless approved by the City PM.

e. ROOT BARRIERS

- i. Root barriers shall be required for all street tree installations in improved sites less than 4 feet wide. The City shall indicate root barrier requirements on the planting schedule.
- ii. Due to the required tree hole excavation size, the excavation for the root barrier will be an extension of the tree hole and not a separate excavation.
- iii. Root barriers shall be made of polypropylene, polyethylene, or polystyrene, at least 0.060 inches thick, with vertical root guides every 6 inches. Root barrier products should specify use as a tree root barrier. Root barriers shall be at least 12 inches deep and at least 6 feet long. If the root barrier is made of panels, panels shall lock together to achieve the 6-

foot length. Materials shall be installed per the manufacturer's specification. Alternatives that meet the planting standard may be approved at the discretion of the City PM.

- iv. Root barrier products shall be installed along the sidewalk side only, in a linear fashion. Root barriers shall be centered on the planting spot.
- v. Root barriers shall be installed as required unless:
 - 1. Installation triggers significant sidewalk undermining and/or sidewalk edge crumbling.
 - 2. Utilities, boulders, or other objects are encountered which prevent installation.
 - 3. Installation penetrates tree root ball.
- vi. For any of the above situations where root barriers are not installed, the Proposer shall document the property address, specific tree location, and issue that prevented installation. Proposer shall send this documentation, including a photo, with the Daily Planting Report.

f. TREE PREPARATION (BEFORE PLACING TREE IN HOLE)

- i. All foreign objects such as twine, bindings, nursery stakes, and tree tags shall be removed from the tree trunk and branches at time of planting.
- ii. All branches shall be uncrossed before the tree is planted.
- iii. The Proposer shall use clean, sharp pruners or arborist hand saws when making pruning cuts.
- iv. Pruning Branches: Dead or broken branches shall be pruned with clean, sharp hand pruners or arborist hand saws at the branch collar. Peeling the bark or snipping too close or too far from the branch collar shall be avoided. Pruning activities shall not leave branch stubs or damage the branch collar.
- v. The root flare shall be found to establish proper planting depth.
- vi. Pruning Roots: All adventitious or girdling roots shall be removed. If circling roots are present, the encircling roots shall be pruned to prevent future tree girdling. Cuts are to be clean and smooth with no rough or torn wood or bark remaining. Roots shall only be pruned using a sharp soil knife, sharp pruners, or sharp arborist hand saw. Approval of any alternative tools shall be at the discretion of the City PM before use.
- vii. Container trees: The container shall be removed immediately prior to planting. The root flare shall be exposed. Root balls shall be shaved 0.5 - 1 inch on all sides and bottom using sharp pruners, soil knives, or arborist hand saws.
- viii. B&B trees: All string, plastic, wire, and any other non-living material shall be removed from the root ball prior to installation. The root flare shall be exposed. All the burlap and wire shall be completely removed from the root ball before backfilling. The packing materials shall not be rolled down under the root ball. Exceptions may be made at the discretion of the City.
- ix. Bareroot trees: Roots shall not be broken, torn, decayed, or damaged. Torn or damaged roots shall be pruned with a clean pruning cut.
- x. Fabric bag trees: The fabric bag shall be cut and removed from the tree immediately prior to planting. The root flare shall be exposed. Torn, damaged, or circling roots shall be pruned with a clean pruning cut.
- xi. Foreign materials such as rocks 2 inches or greater in diameter, rope, twine, etc. shall be removed from the planting hole prior to placing the tree.

- xii. The Proposer shall dispose of any debris generated during pruning operations in accordance with all applicable regulations. The debris shall be removed from the project site as part of these operations.

g. TREE INSTALLATION

- i. Trees shall be lifted from the root ball, not the trunk. Trees shall be gently placed on undisturbed or compacted soil. Care shall be taken to ensure the root flare will be at or slightly above grade (no more than 1" above) once the site is backfilled.
- ii. The tree shall be centered on the tree locate mark and in the planting strip if the tree is in the right-of-way.
- iii. The tree shall be vertically plumb. If trunk and central leader curve, Proposer shall give priority to setting the lower half of the tree perpendicular to the ground.
- iv. If the tree is in the right-of-way, the tree shall be oriented so the main branches are parallel to the street and sidewalk in order to reduce interference with pedestrian and vehicular traffic.

h. BACKFILLING

- i. Backfill shall be non-clumped native material from the excavated hole free of roots, rocks 2 inches or greater in diameter, subsoil, debris, weeds, and foreign matter. These materials shall be disposed of at the Proposer's expense. Backfilling shall begin as soon as tree is placed in hole. This is particularly critical for bare root trees to prevent roots from drying out. Proposer shall firm the soil near the base, so the root ball is adequately supported. Proposer shall gently work backfill around and beneath the roots, so no air pockets remain. For bare root trees or trees with voids from removed nursery stakes, backfill shall be worked in between the roots by hand to avoid damaging roots. Proposer shall continue to monitor the trunk for straightness throughout the backfill process and alternate adding backfill material and tamping lightly until backfill material is level with the root flare. Any voids, including those from nursery stakes removed, shall be filled with soil.
- ii. Final soil level shall match grade of surrounding ground. If planted in a concrete cut-out or planting strip less than 4 feet wide, final soil level shall match the soil grade level of below the adjacent sidewalk, but never more than 4 inches lower than the sidewalk surface grade.
- iii. Proposer is responsible to supply additional backfill material if needed, to meet grade. If multiple trees are planted at one site, excess soil from one excavation may be used to backfill other tree holes at that site. Additional material shall be topsoil and consist of friable surface soil reasonably free of grass, roots, weeds, sticks, stones, or other foreign materials. The topsoil shall consist of sandy loam, with soil particles within the following percentages: clay; 0-25; silt; 25-50; sand; 50-70; decomposed organic matter; 5-10.
- iv. Any excess backfill materials shall be incorporated into berms (see Basin Construction below) to a reasonable extent. Any remaining excess soil and rocks 2 inches and greater in diameter shall be removed from the site and disposed of in a proper manner by Proposer at the Proposer's expense.

i. BASIN CONSTRUCTION AND WATERING

- i. Proposer shall construct a shallow watering basin around each tree planting to hold irrigation water in the root zone area. Basin shall consist of a berm of earth 3-5 inches high, in a circular shape. The berm shall be aligned with the outer edge of the planting hole. For example, if the planting hole is 4 feet wide, the planting berm shall be 2 feet from the center of the tree. If the planting site is a planting strip or concrete cut-out 4 feet

or less wide, Proposer shall not be required to construct basin, provided there is adjacent concrete and/or sod to contain water in the root zone.

- ii. Proposer may use backfill soil and/or sod, flipped upside down, from excavation area to construct berm. No roots, rocks greater than 2-inch diameter, debris, weeds, or foreign matter shall be used to construct the berm. Proposer shall make the area inside the berm level or with a slight taper of not more than 1 inch per foot towards the outer root system. Proposer shall tamp berm by foot or rake on top and sides.
- iii. Proposer shall flood basin with 20 gallons of water and allow to infiltrate, prior to installing mulch. Open ended hoses are not permitted; hoses shall be fitted with watering wand. Any depressions or exposed voids shall be filled with soil and tamped to meet grade. Soil shall be added to berm as necessary to ensure basin holds a minimum of 20 gallons of irrigation water.
- iv. Any additional soil needed to create berm shall be provided by the Proposer and shall meet soil specifications listed above. Excess soil from other tree excavations at each site may be used to build berms for other trees at the same site.

j. **STAKING, TYING, AND TAGGING**

- i. Proposer shall supply stakes. Stakes shall be made of untreated wood, minimum 1 ¾ inch X 1 ¾ inch. Stakes shall be long enough to penetrate at least 12 inches into undisturbed soil outside the planting hole and to extend at least 48 inches above grade. The City PM may require alternative staking material and technique in certain situations. Any additional costs incurred by proposer shall be reimbursed by the City.
- ii. Two stakes shall be placed opposite of each other, equidistant from the tree trunk and parallel to the curb. For planting in non-right-of-way locations (e.g., schoolyards), the City PM shall specify orientation of stake placement. In some cases, the City may specify additional stakes.
- iii. Drive the stakes into the ground, outside of the planting hole and through the outer edge of the berm, until they cannot be pulled out by hand. Stakes shall stand plumb or angled slightly outward, away from the tree. The roots of the newly planted tree shall not be disturbed while installing stakes.
- iv. The Proposer shall supply tree ties. Ties shall be ¾" Arbortie or other material approved by the City. The following are acceptable methods to tie trees. The City PM may require the Proposer to use a specific tying method for specific projects.

- 1. Two pieces of Arbortie: one end of each piece encircles the tree's trunk with a loop and the other end of the tie is tightly secured to its own stake. The diameter of the loops shall be 2-3 times the diameter of the trunk to prevent girdling. Ties shall be located no higher than 2/3 the height of the tree, unless specified differently by the City PM. The ties shall be taut while allowing the tree to sway in the wind.

One piece of Arbortie: a loop in the middle of the Arbortie encircles the trunk of the tree and each end of the Arbortie is tightly secured to a separate stake. The diameter of the loop shall be 2-3 times the diameter of the trunk to prevent girdling. Ties shall be located no higher than 2/3 the height of the tree, unless specified differently by the City PM. The tie shall be taut while allowing the tree to sway in the wind.

- v. The Proposer shall attach the nursery tags identifying the tree and tree tags provided by the City that identify the tree species and contain planting program information. These tags shall be attached to the tree tie.

k. **MULCHING**

- i. The Proposer shall supply mulch. Mulch shall be hemlock bark, shredded medium grind size, free of noxious weed seed, debris, and all foreign material. Other material may be approved at the discretion of the City.
- ii. Mulch shall be applied to newly planted trees. Lay mulch down in a uniform 3-inch-thick layer, 3 inches away from the tree trunk, around the tree to the outer edge of the berm. If a berm is not required, due to a planting strip 4 feet or less wide, the mulch shall be applied to the edge of the planting strip or cutout.

l. DOORHANGERS

- i. The Proposer shall leave a doorhanger at the property or adjacent property upon the completion of planting, unless specified otherwise by the City. The City shall supply the doorhangers.

m. SITE CLEAN UP

- i. At the end of each workday, and at the conclusion of planting at each site, the Proposer shall clean all pavement surfaces on both public and private property. Proposer shall remove surplus material, including excess subsoil, unsuitable soil, rocks, weeds, trash, and debris. All materials shall be disposed of off-site in a proper manner. Proposer is responsible for any associated labor and disposal fees.

n. REPAIRS

- i. Any damage to existing features, including but not limited to irrigation systems, shall be reported to the City PM immediately.
- ii. Repair work will be the financial responsibility of the Proposer as described under Protection of Existing Features above.
- iii. Repairs shall be completed the same day as when the damage occurred unless specified otherwise by the City PM.
- iv. The Proposer shall inform the property owner of any damages to existing features by placing a doorhanger on the property owner's front door. The doorhanger shall contain information as required by the City PM. Doorhangers will be provided by the City at the beginning of the planting season.

o. PLANTING ACCEPTANCE

- i. Testing
 - 1. Proposer shall notify the City PM when the Proposer has completed the installation of the 50th tree of the planting season. If the Proposer is assigned 50 trees or less for the planting season, the Proposer shall notify the City PM when half (50%) of the assigned trees are installed.
 - 2. The Proposal shall pause further tree installation until the City PM has accepted the trees under testing.
 - 3. The City PM shall inspect the trees within five (5) business days to ensure the requirements of these specifications are followed.
 - 4. The City PM shall determine the need for corrections to be performed by the Proposer. The City PM may require the Proposer to attend a site visit within five (5) business days to review required corrections in person with the City PM.
 - 5. The Proposer shall complete the corrections within five (5) business days of the notification or, if a site visit is required by the City PM, the Proposer shall complete corrections within five (5) business days of the site visit.
 - 6. The Proposer shall notify the City PM when the corrections have been completed. The City PM shall inspect the corrections within five (5) business days from notification of completion. The City PM shall then notify the Proposer of any remaining required corrections, or acceptance of testing.
 - 7. Once notified of acceptance of testing, Proposer shall continue the installation of remaining trees.

- ii. Throughout the planting season, Proposer shall notify the City PM when trees have been installed in order for the City PM to inspect the trees for acceptance. Notification by the Proposer shall be done via the Daily Planting Report (see Daily Planting Report section, above).
- iii. The City shall inspect all work for acceptance, including tree material quality, planting, clean-up, and disposal throughout the planting season.
- iv. If the City determines a work site does not meet acceptance, the City will inform the Proposer via the Daily Planting Report or email. For all corrections, the Proposer shall return to the site to correct the issue and note the date of correction on the Daily Planting Report once completed. Proposer shall correct issues at no additional cost to the City. The City will evaluate work quality and require rework as necessary.

p. INVOICING

- i. Invoicing for planting shall be submitted only after plantings are accepted by the City. Invoices shall be submitted along with the Invoice Cover Page provided by the City. See Exhibit I for Invoice Cover Page.

10. ESTABLISHMENT PERIOD AND REPLACEMENT REQUIREMENTS

- a. The establishment period shall be either 3 or 4 years, as specified in the task order provided to the Proposer, prior to the planting season. Proposer shall be compensated for the establishment costs based on proposer pricing.
- b. Commencement of the establishment period shall begin immediately after planting acceptance. The Proposer shall be responsible for the care and oversight of all newly planted trees. This work shall include watering, hand-weeding, mulching, pruning of dead/broken branches, and maintenance of stakes and ties. If necessary, the Proposer is also responsible for resetting plants to proper grades and upright positions and restoration of the planting basin.
- c. The cost to implement the various tasks included in the establishment period includes mulching, weeding, watering, pruning, and removal of stakes and ties, inclusive in Proposer's pricing.
- d. Specifications for operations during the establishment period are as follows.

e. ESTABLISHMENT SCHEDULE

- i. The Proposer shall provide the City PM with an establishment schedule by May 1. The schedule shall include:
 - 1. Schedule of establishment activities
 - 2. Watering method
- ii. The Proposer shall notify the City PM of any changes to the schedule within 48 hours.

f. ESTABLISHMENT REPORT

- i. The City shall provide the Proposer an Establishment Report for the Proposer to record watering events, reports of tree issues, and corrections completed as required by the City PM. See Exhibit H for template. The Establishment Report shall include:
 - 1. Water Visit Log. The Proposer shall fill in this log. The log includes:
 - a. Name of project
 - b. Date tree was planted
 - c. Tree location
 - d. Dates of watering events
 - e. Extra watering events beyond required watering frequency
 - 2. Address Notes & Concerns Log. The Proposer and City PM shall fill out this log together to communicate concerns about trees. The log includes:
 - a. Input date

- b. Address
- c. Species
- d. Location
- e. Tree number (ObjectID)
- f. Quantity
- g. Input By
- h. Proposer notes
- i. City PM notes

3. Establishment Corrections Log. The City PM shall fill out this log to communicate required corrections that shall be performed by the Proposer. The Proposer shall record on this log the corrections they completed. The log includes:

- a. Input date
- b. Address
- c. Tree number (ObjectID)
- d. Species
- e. Correction
- f. City PM notes
- g. Proposer notes

g. **WATERING**

- i. Adequate watering of the root ball is the most important maintenance practice in order to ensure establishment of newly planted trees. Failure to provide adequate water prevents root growth.
- ii. The objective of watering is to deliver water to the root zone. Foliar applications are not acceptable. Water runoff is not acceptable. If water is running off rather than penetrating soil surface, reduce water pressure.
- iii. The Proposer shall at minimum water trees as scheduled. Rainfall will not supplant the requirement to perform watering. During periods of extreme heat or drought the Proposer is encouraged to provide additional watering events to ensure that trees survive.
- iv. The watering schedule shall be:
 1. Year 1 and Year 2: Minimum once per week from May 1 – October 15 for a total of 24 visits each year (44 visits over the course of both years).
 2. Year 3: Minimum every other week from May 1– October 15 for a total of 12 visits.
 3. Year 4: Only applies to a 4-year establishment period. Minimum every other week June 15 – September 1 for a total of 6 visits.
 4. The City PM may request additional watering visits at the scheduled rate. Additional watering events may be before May 1, during the regular schedule, or after October 15.
- v. Watering shall consist of the placement of at least 20 gallons of water per tree per watering episode. The City PM may reduce the required volume of water required per watering event. Within 24 hours, water shall penetrate to at least a 12" depth for all planted trees. The Proposer shall confirm that watering operations are meeting this target depth.
- vi. The following methods are acceptable. The City PM may require the Proposer to use one of the following watering methods for specific projects.
 1. Truck with water tank and pump: The water tank shall be clean, and the pump shall be in good working condition, without leaking connections. Tanks previously used for chemical application are strictly prohibited. The truck shall remain on

paved areas at all times, unless approved by the City. If approved to travel on turf, and turf is damaged, repair work will be the financial responsibility of the Proposer as described under Protection of Existing Features above. The hose shall accommodate distance from truck to watering location. A watering wand is required at the end of the hose. Buckets may also be used.

2. Pressurized deep watering probe: Use as many injection sites as necessary within the root zone to evenly saturate soil to a depth of 12". Injection sites should be at least 12" from trunk of tree and shall not be placed directly within the root ball, but in the transition zone between the root ball and undisturbed soil. Care shall be taken to minimize root damage.
 3. Watering bags: Bags shall hold minimum of 20 gallons of water. A properly functioning water bag should drain within 8 hours. If drainage holes are blocked, Proposer is responsible to clean bag or replace at the Proposer's expense. Fill the bag to capacity. Water bags may remain on tree while watering operations are required. Water bags shall be removed by October 15 annually.
- vii. The City shall perform inspections based on the Proposer-provided schedule in order to ensure that watering has been performed according to the schedule.

h. MULCH APPLICATION AND MAINTENANCE

- i. The Proposer shall maintain mulch: a uniform 3-inch-thick layer, 3 inches away from the tree trunk, around the tree to the outer edge of the berm. If a berm is not required, due to a planting strip 4 feet or less wide, the mulch shall be applied to the outer edge of the planting strip or cutout.
- ii. At minimum, mulch shall be refreshed once each year at the beginning of the watering schedule, no later than June 1.
- iii. Before adding new mulch, existing mulch shall be loosened with a hard steel rake to aerate, improve water permeability, and present a consistent surface appearance. Weeds shall also be removed from within the mulch ring.
- iv. To prevent change in grade, remove any extra soil or debris above the root flare.
- v. The root flare shall always be visible.
- vi. The City may direct the Proposer to prune adventitious roots (see Root Pruning below).
- vii. The berm shall be maintained to a height between 3 to 5 inches with 3 inches of mulch on top.
- viii. Mulch shall be applied manually. No power machinery shall be used in the application process.

i. ROOT PRUNING

- i. The Proposer shall use clean, sharp pruning tools with metal cutting blades. If pruning a diseased tree, Proposer shall disinfect pruning tools by dipping tools into a 10% bleach solution or wiping with a disinfectant spray, before moving on to non-diseased roots.
- ii. The Proposer shall remove adventitious roots that have grown into soil and/or mulch above soil grade.
- iii. Pruning cuts are to be clean and smooth with no rough or torn wood or bark remaining.
- iv. The Proposer shall dispose of any debris generated during pruning operations.

j. WEEDING OPERATIONS

- i. All tree mulch rings shall be kept free from weeds at all times. Proposer shall keep all outside vegetation from encroaching into the space within the mulch ring.
- ii. All weeding shall be performed manually; herbicides and weed whips may not be used.
- iii. The entire root system of weeds shall be removed as well as the top growth. All weed debris shall be removed from site and disposed of by the Proposer.

k. BRANCH PRUNING

- i. The Proposer shall use clean, sharp arborist pruning tools with metal cutting blades. If pruning a diseased tree, Proposer shall disinfect pruning tools by dipping tools into a 10% bleach solution or wiping with a disinfectant spray, before moving on to non-diseased limbs.
- ii. The Proposer shall remove water sprouts and dead, diseased, or broken branches only.
- iii. The Proposer shall follow ANSI Pruning Standards A300, and work shall be performed in accordance with ANSI Z133.1 Safety Standards. Pruning shall be in accordance with ISA's Best Management Practices for Tree Pruning.
- iv. Pruning cuts shall be made at the branch collar leaving no stubs. The branch collar shall not be removed. Flush cuts are unacceptable.
- v. Pruning cuts are to be clean and smooth with no rough or torn wood or bark remaining.
- vi. The Proposer shall dispose of any debris generated during pruning operations.

l. STAKE, TAG, AND TIE MAINTENANCE

- i. The Proposer shall maintain all stakes, tags, and ties on trees until the beginning of the second establishment season (May 1) unless directed otherwise by the City PM.
- ii. If stakes are pulled out, unstable, leaning, broken, or in some other way not supporting the tree as intended, Proposer shall replace or reset stakes unless directed otherwise by the City PM.
- iii. If a tree has become tilted by more than 10 degrees, the Proposer shall carefully reset it to a solid upright position, without damaging the tree, before resetting the stakes.
- iv. Stakes and ties shall be removed at the beginning of the second establishment season (May 15), unless otherwise specified by the City. The Proposer shall remove stake and tie materials from the site and dispose of in a proper manner, at the Proposer's expense. The City encourages the Proposer to reuse or recycle these materials. Any voids left by the removal of stakes shall be filled with soil or mulch.

m. ANNUAL ESTABLISHMENT ACCEPTANCE

- i. The City shall inspect all trees at the end of the first and second establishment periods by October 31 for acceptance, including tree health, mulch, weeding, soil level, stake removal, watering, and pruning. For trees with 4-year establishment periods, the City shall also inspect those trees at the end of the third establishment period by October 31 for acceptance, including tree health, mulch, weeding, soil level, stake removal, watering, and pruning.
- ii. If the City determines a work site does not meet acceptance, the City will inform the Proposer. The Proposer shall return to the site to correct the issue within 5 business days following notification. The Proposer shall correct issues at no additional cost to the City.

The City will evaluate work quality and require rework as necessary. All rework corrections shall be completed no later than November 30.

n. INVOICING

- i. Invoicing shall be billed by number of visits (e.g., watering events) per tree.
 1. Year 1 of establishment requires 24 visits per tree.
 2. Year 2 of establishment requires 24 visits per tree.
 3. Year 3 of establishment requires 12 visits per tree.
 4. Year 4 of establishment, which only applies to trees assigned the 4-year establishment period, requires 6 visits per tree.
 5. Additional visits approved by the City and completed by the Proposer shall also be billed.
- ii. When the Proposer invoices the City, the City PM shall inspect tree sites for compliance with the establishment specifications. The City PM shall require the Proposer to correct any noncompliance with the establishment requirements of these specifications, and the City PM shall communicate necessary corrections in the Establishment Report. If corrections are required, the Proposer shall bring tree sites into compliance and make note of corrections completed in the Establishment Report. The City shall pay the Proposer when specifications are met.
- iii. Invoices shall be submitted along with the Invoice Cover Page provided by the City. See Exhibit I for cover page.

11. TREE REPLACEMENT

- a. The Proposer shall, at the direction of the City PM, remove and replace any tree within its establishment period that is missing, dies, or in the opinion of the City PM, is in an unhealthy or unsightly condition, and/or has lost its natural shape due to dead branches or decline, and/or 25% or more of the crown is in decline. All missing, dead, and rejected trees shall be removed within five (5) working days of notification by the City PM, unless directed otherwise by the City PM. Replacement trees shall be planted within the current or next appropriate planting season (October 15 – March 31), as determined by the City PM.
- b. All replacement trees planted under this contract shall be procured and planted by the Proposer at no additional cost to the City.
- c. All costs incurred in the removal and replacement of missing, dead, and rejected trees shall be borne by the Proposer. New trees, materials, etc., and planting procedures shall comply with the requirements specified herein.
- d. The species, cultivar, and size of the replacement tree shall be approved at the discretion of the City PM before the Proposer procures the tree. The City PM may require the replacement tree to be of different species, cultivar, or size.
- e. A tree shall not be replaced more than twice.
- f. When a tree becomes missing, dead, or rejected, the establishment cycle and payment stop. The establishment payments resume after the replacement tree is planted. A tree and its replacement(s) shall not receive, in total, more than the originally assigned years of establishment payments (3 or 4 years). Replacement trees are subject to a new establishment period (3 or 4 years). All establishment responsibilities end after the final acceptance, or at the completion of the contract, whichever comes first.

12. FINAL ACCEPTANCE

- a. At the end of the final establishment year, the Proposer shall apply a fresh layer of mulch and prune only dead or broken branches.
- b. The City shall inspect all trees by October 31 of the final establishment year for acceptance, including tree health, mulch, weeding, soil level, stake removal, watering, and pruning.
- c. If the City determines a work site does not meet acceptance, the City will inform the Contractor. The Contractor shall return to the site to correct the issue within 5 business days following notification. The Contractor shall correct issues at no additional cost to the City. The City will evaluate work quality and require rework as necessary. All rework corrections shall be completed no later than November 30.

13. ADDITIONAL WORK

- a. Structural Pruning.
 - i. The City may request for structural pruning work to be performed. This shall be paid at the scheduled rate for Arborist labor.
 - ii. Structural pruning shall typically be performed on trees planted in the last 5 years. Structural pruning work shall only be performed upon specific request by the City, and shall only be performed by, or under the direct supervision of, an ISA Certified Arborist, in accordance with ANSI A300 standards. For structural pruning work the City shall provide the Contractor a list of trees and the timeframe in which they shall be pruned. The Contractor shall obtain any necessary permits for street tree pruning and complete all work within the time allotted in the pruning permit. All pruned branches shall be disposed of off-site in a proper manner by Contractor and at Contractor's expense. The City PM may supervise Contractor's pruning work on site and/or may perform post-pruning inspections to determine if additional pruning work is required. Contractor shall always use cleaned, sharp pruning tools, and always prune back to the main trunk or side branch. Pruning cuts shall be made in compliance with ANSI A300 pruning standards. No application of wound dressings shall occur. If pruning a diseased tree, Contractor shall disinfect pruning tools by dipping tools into a 10% bleach solution or wiping with a disinfectant spray, before moving on to non-diseased limbs.
- b. If any additional labor or material purchase is required for tree planting and establishment work that is not specified within this Contract but falls within the work requirements, this shall be paid on a Time and Materials basis, based on labor rates provided in this bid and material purchase price. Any additional work shall be approved by the City prior to the Proposer beginning that work and purchasing associated materials.

2. WORK PERFORMED BY THE CITY

The Bureau of Portland Parks and Recreation (PP&R) and Bureau of Environmental Services (BES) shall make available, sufficient hours of staff personnel as is required to meet with the awarded contractors and provide such information as required. The Bureau has assigned Project Manager, Tony Mecum, who will oversee the work and provide support as needed for Parks and Recreation (PP&R) and Matt Krueger for the Bureau of Environmental Services (BES).

Other specific duties the City will perform include:

- a) The Project Manager, will review the Contractor's nursery lists and shall decide from which listed sources to procure the specified plant material,
- b) The Project Manager will handle any potential conflicts that might prevent execution of the planting plan,
- c) The City shall inspect all work for acceptance, and
- d) The City shall reimburse the awarded contractor for actual tree material cost; (Note: some trees may be pre-purchased by the City, in which case there will be no material cost).

The City's Project Manager will be Tony Mecum for the Bureau of Parks and Recreation (PP&R) and Matt Krueger, for the Bureau of Environmental Services. The City may change City's Project Manager from time to time upon written notice to Contractor.

Contact Information: tony.mecum@portlandoregon.gov; matt.krueger@portlandoregon.gov;

The Contractor's Project Manager will be _____. Contact Information:

3. TASK ORDERS

Work performed under this Contract must be authorized via a written Task Order (sample attached as Exhibit D) signed by the City and the Contractor. The Scope of Work, schedule, Deliverables, and compensation for each Project will be defined in the Task Order prior to commencement of the work. Any change to the Scope of Work, schedule, Deliverables, and compensation must be agreed upon by the City and the Contractor in writing as an amendment to the Task Order.

The Chief Procurement Officer shall approve Task Order amendments when amending the Task Order to increase compensation is greater than 25% of the original Task Order amount.

Compensation for each Task Order will be determined through negotiation with the Contractor based on the Scope of Work, the hours the Contractor estimates for performance of the work and the Contractor's hourly rates, subject to a predetermined cap for the maximum compensation for the Task Order. If the work requires fewer hours than those estimated, the Contractor will be paid for the actual hours necessary to complete the Task Order. If the Contractor underestimates the number of hours that are required to perform the work, the negotiated maximum compensation for the Task Order shall be the cap of the compensation to be paid. Compensation may be amended for documentable circumstances not reasonably foreseeable to either Party at the time the Task Order was issued, or for changes to the Scope of Work or Deliverables requested by the City.

The Contractor must be able to start the work per the Task Order no later than seven (7) Calendar Days from the date of the Notice to Proceed as Projects often require work with short deadlines. If the Contractor is unable or unwilling to complete the Project within the required time, it shall so state in writing to the City's Project Manager and shall forfeit the Task Order within 24 hours of being notified.

Task Orders will be negotiated on a rotational basis. In the event the City and a Contractor cannot reach a favorable agreement on the maximum compensation for a specific Task Order, the City shall terminate negotiations and commence negotiations with the next Contractor from the rotational list. Continual difficulties in negotiating compensation caps or repeated unavailability or inability to perform Task Orders may result in removal of a Contractor from the rotation list and cancellation of the Contractor's Contract with the City.

In the event that the Contract maximum amount is reached prior to the end of the Contract term, that Contractor will be removed from the on-call rotation list.

Following the execution of each Task Order, the City's Project Manager will work directly with the Contractor for the duration of the Project unless otherwise noted on the Task Order.

4. CONTRACTOR PERSONNEL

The Contractor shall assign the following personnel to do the work in the capacities designated:

ROLE ON PROJECT	NAME

5. STATUS REPORTS

Contractor shall summarize activities under this Contract in written weekly/monthly status reports submitted to the City Project Manager. The status reports are due on the first day of the week/month and shall include summaries of all activities and Deliverables completed in the prior week/month. The report shall include a list of any delayed items, a description of the cause of the delay, schedule impact, and a proposed method of resolution. Delayed items shall be carried over onto subsequent reports until resolved.

6. PLACE OF PERFORMANCE

The scope of work performed covers trees planted in public rights-of-way, private property, and city property. All trees will be planted within the City of Portland. As this work will be determined by the projects yet to be developed, a specific address or project location cannot be provided at this time. Most projects have direct vehicle access to planting locations. Some may require trees to be hauled short distances without a vehicle.

7. PERIOD OF PERFORMANCE

The City anticipates the awarded contracts to take effective July 1, 2023, and end June 30, 2028. The tree planting periods will begin in Fall of 2023 and end in the Spring of 2025. An additional year of planting may be added for the fall 2025 to spring 2026 season through a contract amendment process.

Acceptance Criteria and Acceptance Test Plan

Acceptance Criteria and the Acceptance Test plan shall be reviewed and agreed jointly by the City's Project Manager and Contractor's Project Manager.

EXHIBITS TO FOLLOW:

EXHIBIT C – FINAL ACCEPTANCE CERTIFICATE

EXHIBIT D – SAMPLE TASK ORDER

EXHIBIT E – PP&R SPECIFICATIONS FOR NURSERY TREE QUALITY

EXHIBIT F – PROCUREMENT REPORT

EXHIBIT G – DAILY PLANTING REPORT TEMPLATE

EXHIBIT H – ESTABLISHMENT REPORT TEMPLATE

EXHIBIT I – INVOICE COVER PAGE

EXHIBIT C

FINAL ACCEPTANCE CERTIFICATE

(08/19)

On this ____ day of _____, 20__, the City certifies **Final** Acceptance of **(name Deliverable(s))**, in accordance with Contract No. _____. This Certificate of Acceptance is issued subject to and in accordance with the Contract, all defined terms having the meanings as set forth in the Contract, and without prejudice to any claims which subsequently may arise in connection with Defects in the **Deliverables** (or combination of Products) described herein.

-- OR --

FINAL ACCEPTANCE CERTIFICATE WITH EXCEPTIONS

On this ____ day of _____, 20__, the City certifies **Final** Acceptance of **(name of Deliverable(s))**, in accordance with Contract No. _____. This Certificate of **Final** Acceptance is issued subject to the following exceptions:

- 1.
- 2.
- 3.

Exceptions must be completed by _____. If Exceptions are not completed by _____, the City may revoke **Final** Acceptance of the Deliverables.

This Certificate of **Final** Acceptance is issued subject to and in accordance with the Contract, all defined terms having the meanings as set forth in the Contract, and without prejudice to any claims which subsequently may arise in connection with Defects in the Deliverable(s) described herein.

CITY OF PORTLAND

Authorized Signature

Date

Printed Name

Title

Exhibit D

Sample Task Order (12/20)

Task Order No. _____ DPO No. _____ (Leave blank - to be completed by Procurement Services)

The Contract No. _____, between the **City of Portland** and _____ (name of firm)

- 1) **CITY PROJECT MANAGER** (For this Task Order)
 - a. Bureau:
 - b. Name:
 - c. Phone Number:
- 2) **PROJECT BACKGROUND:** (Information may be provided in an attachment)
- 3) **SPECIFIC SERVICES** - This Task Order identifies the following specific **Goods/Services/Deliverables** to be provided by Contractor:
- 4) **DELIVERABLES** - The Contractor shall provide the following:
- 5) **SCHEDULE** - All tasks to be completed by (date)
- 6) **COMPENSATION** - The maximum compensation relating to these **Goods/Services/Deliverables** shall not exceed \$_____ without written authorization by the Project Manager. Pricing shall be as indicated in the Contract.

SAP Cost Object:

(Include the hourly Services rate, Goods unit price or Deliverable price, for this Task Order) The hourly rate for Services delivered under this Task Order is \$_____ per hour.

- 7) **Contractor Personnel**
Contractor shall assign the following **Key Personnel/personnel** to do the work in the capacities designated, including all subcontractors.

Name	Role on project

8) **SUBMIT INVOICES TO:**

Name _____
Address _____
City, Zip, State _____

Electronic submittal is acceptable.

ALL OTHER TERMS AND CONDITIONS OF THE CONTRACT SHALL REMAIN IN FULL FORCE AND EFFECT. Changes to this Task Order must be made via a Change Order.

In witness hereof, the Parties have duly agreed to this Task Order as of the date written below.

CONTRACTOR:

Name:
Title:
Phone:
Fax:
Email:

CITY OF PORTLAND

(Task Order Project Manager)

Bureau:

BY: _____

BY: _____

DATE _____

DATE _____

PP&R Specifications for Nursery Tree Quality

Introduction

This document provides specifications for selecting, specifying and accepting quality nursery trees for Portland Parks & Recreation, specifically the divisions of Urban Forestry and Horticultural Services. These specifications apply to container trees, balled and burlapped trees, and trees in grow bags—not bare root trees. Key traits of nursery trees are identified and described to provide growers and Portland Parks & Recreation with the information they need to distinguish good-quality stock from poor-quality stock. Structural and health characteristics are described, as well as labeling, compliance with laws and regulations, and inspection of nursery stock. If a defect or substandard element can be corrected easily, appropriate remedies should be applied as agreed upon by the Portland Parks & Recreation representative and the nursery.

I. GENERAL SPECIFICATIONS

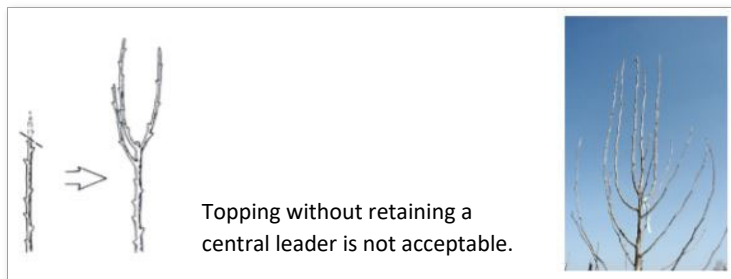
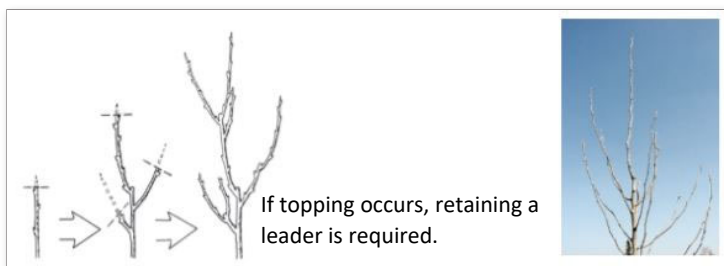
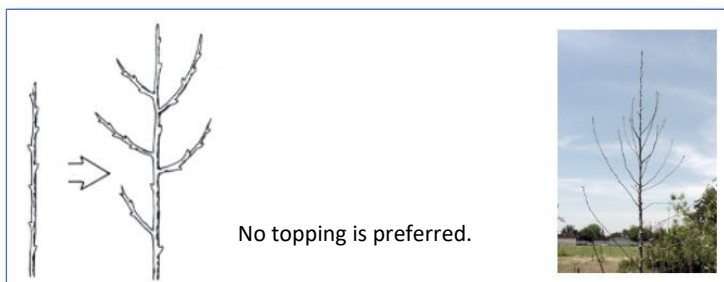
- A. Proper Identification:** All trees shall be true to name as ordered and as shown on the order sheet from the buyer. Trees shall be labeled individually by species and cultivar as appropriate. Plant names shall conform to those prepared by [American Association Nurserymen Horticultural Standards 2014 ed.](#), or the most current version, unless otherwise specified.
- B. Compliance:** All trees shall comply with federal, state, and local laws and regulations requiring inspection for plant diseases, pests, and weeds. Even though trees may conform to these standards, the buyer may impose additional requirements.
- C. Inspection:** The buyer reserves the right to reject trees that do not meet specifications as set forth in these guidelines or as adopted by the buyer. If a defect or substandard element can be corrected easily, appropriate remedies shall be applied. If destructive inspection of a root ball is to be done, the buyer and seller should have a prior agreement as to the time and place of inspection, number of trees to be inspected, and financial responsibility for the inspected trees.
- D. Type of Root System:** All tree sizes and their respective root ball - either balled and burlapped, containerized or grown in in-ground bags - shall conform to standards prepared by [American Association Nurserymen Horticultural Standards 2014 ed.](#), unless otherwise specified.
- E. Ban of neonicotinoids:** The City of Portland has a mission of ecological stewardship and only purchases plant material free of neonicotinoid insecticides. This is to help ensure that Portland parks and green spaces are salmon safe and sustainable landscapes for years to come. ([Portland City Ordinance #187078](#)).

II. TREE STRUCTURE AND HEALTH

These specifications apply to deciduous, broadleaf evergreen, and coniferous species. Note that most leaf characteristics will not be evident on deciduous trees during the dormant season. The tree and the root ball size should conform to the latest version of [ANSI Z60.1 – American Standard for Nursery Stock](#).

A. Overall form:

- i. There should be one dominant leader more-or-less straight to the top of the tree. There can be a double leader only in the top 10% of the tree and only in primarily decurrent trees.
- ii. In excurrent trees or those trees that start out excurrent and then become decurrent, there should be only one central leader to the top of the tree.
- iii. Under no circumstances shall coniferous species be topped or sheared.
- iv. Broadleaf trees that have not been topped are desirable. If trees are topped, leaving no central leader is not acceptable.
- v. The tree shall be free of codominant stems and/or vigorous upright branches that compete with the central leader.
- vi. If the original lead has been headed or topped, a new leader at least one-half the diameter of the original shall be present.



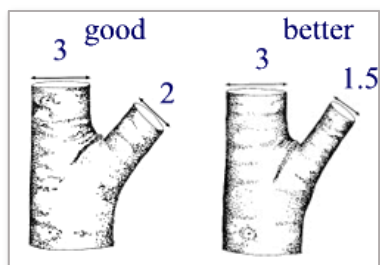
(Images courtesy of Urban Tree Foundation)

B. Crown:

- i. The tree canopy shall be symmetrical, free of large voids, and typical of the species or cultivar.
- ii. Live crown ratio (the percent of total tree height that supports branches) should be at least 50-60%, ideally with a clear trunk being no more than 40% of the total tree.

C. Branches:

- i. All branches shall be less than 1/2 to 2/3 the diameter of the central leader, measured one inch above the branch, be free of included bark (unless characteristics of the species, i.e. *Zelkova* spp. and some *Ulmus* spp.), and be more-or-less radially distributed around the trunk.

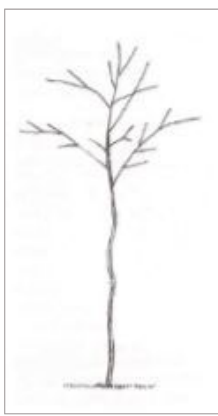


Trunk to branch ratio
(Image courtesy of New York Dept. of Parks & Recreation)

- ii. Trees shall not have dead, diseased, broken, distorted or otherwise injured branches. Temporary branches, unless otherwise specified, should be present along the lower trunk below the lowest main scaffolding branches with a clear trunk being no more than 40% of the tree.



A.



B.

Temporary branches in a young tree. The image on the left (A) is more desirable.
(Image courtesy of Urban Tree Foundation)

D. Leaves:

- i. The size, color, and appearance of leaves shall be typical for the time of year and stage of growth of the species or cultivar with no visible signs of pest damage.
- ii. Trees shall not show signs of prolonged moisture stress as indicated by wilted, shriveled, or dead leaves.
- iii. Coniferous trees shall not be sheared.

E. Trunk: The trunk shall be relatively straight and free of wounds (except properly made pruning cuts), sunburned areas, fruiting bodies, signs of insects, or mechanical lesions.

F. Roots:

- i. The uppermost roots or root collar (root crown) shall be within the upper 2 inches of the soil media.
- ii. The root collar and the inside portion of the root ball shall be free of defects, including circling, kinked, and stem girdling roots. Soil removal near the root collar may be necessary to inspect for root defects.
- iii. Roots on the periphery and bottom of the root ball shall be no larger than 1/4 inch in diameter.
- iv. Circling roots whose diameter is greater than 10% of the trunk caliper and that circle more than one-third of the trunk are not acceptable.
- v. The tree shall be well rooted in the soil media. For container trees, when the container is removed the root ball shall remain intact. When the trunk is lifted both the trunk and root system shall move as one.
- vi. Root distribution shall be uniform throughout the container media. Structure and growth shall be appropriate for the species or cultivar.

G. Root ball:

- i. At the time of inspection and delivery, the root ball shall be moist throughout. The crown shall show no signs of moisture stress as indicated by wilted, shriveled, or dead leaves or branch dieback. The roots shall show no signs of excess soil moisture as indicated by poor root growth, root discoloration, distortion, death, or foul odor.
- ii. Buyer shall be informed, prior to delivery or pickup of trees, of any additional material that may be present on the root ball other than the soil media.
- iii. Field grown trees with burlap on their root ball that have been transferred to a container and remain in that container for longer than one growing season are not acceptable.
- iv. Only 2-inch caliper broadleaf trees or smaller will be accepted in grow bags.
- v. Only 7-foot coniferous trees or smaller will be accepted in grow bags.

Minimum grow bag diameter:

Broadleaf Trees	Grow bag diameter
¾", 1" caliper	12" min.
1 ¼", 1 ½", 1 ¾" caliper	18" min.
2" caliper	21 - 22" min.
Coniferous Trees	
7' and under	18" min.

APPENDIX: RELEVANT TERMS

Caliper: Trunk diameter measured 6 inches from the root flare; if caliper is greater than 4 inches, the caliper measurement is taken at 12 inches from the root flare.

Central leader: A continuation of the main trunk located more or less in the center of the crown, beginning at the lowest main branch (scaffold) and extending to the top of the tree. Also referred to as the dominant leader.

Circling roots: One or more roots whose diameter is greater than 10% of the trunk caliper and that circle more than one-third of the trunk.

Clear trunk: The portion of the trunk below the crown lacking lateral branches; this includes the portion of the trunk with shortened temporary branches that are below the main crown.

Codominant: Two or more vigorous, upright branches or stems of relatively equal size that originate from a common point.

Crown: The portion of the tree beginning at the lowest main (scaffold) branch extending to the top of the tree.

Cultivar: Named plant selection from which identical or nearly identical plants can be produced, usually by vegetative propagation or cloning.

Decurrent: Refers to trees with a growth habit that is characterized by having weak apical dominance (central leader) that eventually produces a rounded or spreading tree crown.

Excurrent: Refers to trees with a growth habit that is characterized by having strong apical dominance (central leader) that produces a “cone-shaped” habit.

Included bark: Bark embedded in the union between a branch and the trunk or between two or more stems that prevents the formation of a normal branch bark ridge.

Live crown ratio: The percent of total tree height that supports branches.

Root collar: The area at the base of a tree where the main roots join the tree stem.

Scaffold branches: Large main branches that generally originate from the trunk that form the main structure of the crown.

Stem-girdling root: A circling, bent, or straight root that touches or rests on the trunk or root flare that can become a permanent root.

Temporary branch: A small branch that is temporarily retained along the lower trunk of young trees.

Trunk: The main stem of a tree, beginning at the root collar and ending at the lowest main scaffold branch.

EXHIBIT F

PROCUREMENT REPORT

Information about Report: Procurement Reports will be provided to Proposer electronically. Proposer shall enter all data into the Procurement Report except for the column titled, “City PM – Reject or Accept.” That column will be filled by the City PM. Formatting of the Procurement Report is subject to change by the City PM at any point during the contract term.

[illegible][illegible]

EXHIBIT G
Daily Planting Report Template

Information about Report: The Daily Planting Report will be provided to Proposer electronically. The following tables explain the columns in each sheet of the report, who is responsible for filling out each column, and what information is to be included in each column. Formatting of the Daily Planting Report is subject to change by the City PM at any point during the contract term.

Daily Planting Report Sheet 1: Plantings and Corrections Log

Column Headers	Filled By:	Description
Assign Date	UF	Date site or address assigned to Contractor
Complete Date	Contractor	Date work was completed
Project	Contractor or City	Listing of project name (i.e. Fiscal Year (FY) 23 Planting)
Type of work completed	Contractor	Description of work (i.e. FY23 New Planting, Opt Out, FY22 Replacement Planting)
ObjectID/Tree #	Contractor or City	City-provided ObjectID/Tree number listed on City-provided planting site/address list or map
Frontage	Contractor or City	Street name corresponding to planting location
Address	Contractor or City	City-provided address listed on City-provided planting site/address list or map
Species	Contractor	Species planted (can use data-validation for easy input - i.e. Pinus ponderosa, 1.5", container, Nursery)
Stock Size	Contractor	Size of tree at planting (i.e. 1.5", 5', etc.)
Contractor planting comments	Contractor	Any important notes about planting (i.e. Property owner opted out of one tree)
UF Notes on Planting Comments	City	Notes about planting during acceptance inspections (i.e. tree planted too low, stake leaning)
Planting inspection date	City	Date City conducts acceptance inspections of planting
Corrections Required? (Y/N)	City	Noting if corrections are required before acceptance
Corrections (1)	City	Noting type of correction needed (i.e. replant tree at proper depth, adjust mulch ring)
Corrections (2)	City	Noting type of correction needed (i.e. replant tree at proper depth, adjust mulch ring)
Corrections (3)	City	Noting type of correction needed (i.e. replant tree at proper depth, adjust mulch ring)
Corrections made on:	Contractor	Date contractor conducts corrections
Correction Comments	Contractor	Any important notes about corrections made (i.e. many circling roots corrected)
Ready for billing? (Y/N)	City	City notes if planting is accepted and is ready for billing
Billed	Contractor	May be used by Contractor if needed

Daily Planting Report Sheet 2: Do Not Plant / Opt-Out Log

Category	Filled By:	Description
Address	Contractor or City	Address
Location	Contractor or City	Tree location or description (i.e. 1 of 4 trees)
ObjectID	Contractor or City	ObjectID of tree(s)
Input Date	Contractor or City	Date information was added to spreadsheet
Input by:	Contractor or City	Name of person filling in information
Site Type	City	Planting site category according to Urban Forestry's Approved Street Tree List
Notes	Contractor or City	Any relevant notes (i.e. Property owner opted out of 1 of 4 trees, gas line conflict in strip)
QTY of spaces	Contractor or City	Count of planting spaces impacted

Daily Planting Report Sheet 3: Rejected Stock Log

Category	Filled By:	Description
Date	Contractor	Date information was filled in
Species	Contractor	Info of species rejected including: species, stock size, stock type, nursery (i.e. Ponderosa pine, 5', B&B, Nursery Name)

EXHIBIT H

Establishment Report Template

Information about Report: The Establishment Report will be provided to Proposer electronically. The following tables explain the columns in each sheet of the report, who is responsible for filling out each column, and what information is to be included in each column. Formatting of the Establishment Report is subject to change by the City PM at any point during the contract term.

Establishment Report Sheet 1: Water Visit Log

Column Headers	Filled By:	Description
Project Name	City	Listing of project name (i.e. Fiscal Year (FY) 23 Planting)
Year of Establishment	City	Years into Establishment (1-2-3)
Type of work completed	City	Description of work (Watering Trees)
Week ending (e.g.,5/19/23)	Contractor	Marking each week watering service provided (22 weeks)
Extra Watering Visits	Contractor	Marking extra weeks of watering service as required
Ready for Billing? (Y/N)	City	City notes if establishment service is accepted and is ready for billing

Establishment Report Sheet 2: Address Notes & Concerns Log

Column Headers	Filled By:	Description
Input Date	Contractor or City	Date of recording
Address	Contractor or City	Site address
Species	Contractor or City	Tree species
Location	Contractor or City	Description of tree location, if multiple
ObjectID	Contractor or City	City-provided ObjectID/Tree number listed on City-provided planting site/addresslist or map
Quantity	Contractor or City	Number of trees per site
Input By	Contractor or City	Listing of party making establishment note
Contractor Notes	Contractor	Notes about establishment service concerns, tree issues
UF Notes	City	Notes about establishment service concerns, tree issues

Establishment Report Sheet 3: Establishment Corrections Log

Column Headers	Filled By:	Description
Input Date	City	Date of recording
Address	City	Site address
ObjectID	City	City-provided ObjectID/Tree number listed on City-provided planting site/addresslist or map
Species	City	Tree species
Correction	City	Noting type of correction needed (i.e. replace broken stake(s))
UF Notes	City	Notes about establishment service needed
Contractor Notes	Contractor	Notes about correction provided

EXHIBIT - I
INVOICE COVER PAGE

Directions:

Contractor fills out this form and submits it with each itemized invoice to the City Project Manager.

Project Information	Details (Contractor to fill out)
Contractor Name	
Price Agreement Number	
Task Order Number	
Distributed Purchase Order (DPO) Number	
Planting Program	
Fiscal Year of Planting	

Invoice Information	Details (Contractor to fill out)
Invoice Number	
Date of Invoice	
Payment Due Date	
Invoice Type Examples: • Tree Material Only • Procure, deliver, and install trees • Establishment • Watering Only • Arborist – structural pruning	
Total Invoice Price	