



WILDWOOD

MEMORANDUM

To: Mayor Bowlin and City Council Members

From: Rick C. Brown, Director of Public Works / City Engineer

Date: April 8, 2021

Re: Contractor Proposals for 2021 Tree Planting and Ash Tree Treatment

As you are aware, last year, we saw strong evidence of ash tree infestation by the Emerald Ash Borer (EAB), which resulted in ash tree mortality throughout the City. As you know, the Department engaged Davey Resource Group, Inc. (DRG) last year to complete an inventory of our existing ash street trees and to formulate a plan to manage the impacts of the EAB. The inventory, completed during the winter of 2020, indicated we had a total of 1,307 ash trees on city right of way. Last year, DRG also recommended treating 394 of our better condition trees to save them from the EAB. That work was recommended to be completed over a two-year period.

After discussion of these strategies by the Admin/PW Committee last year, the preference was to move forward with DRG's recommendations, a combination of treatments and replanting. After authorization by the City Council, Arbor Master was able to treat 200 trees for about \$25,000 last year. In addition, we were able to recently replant 84 trees, using grant funds which we received from the Missouri Department of Conservation.

For 2021, it is proposed to continue the treatment of an additional 200 ash trees and provide for the replanting of dead ash trees (or other species) in both the spring and fall. For 2021, we have budgeted a total of \$65,000 in the Capital Projects fund to address the impacts of the EAB.

Treatment – for 2021, DRG is recommending the treatment of about 200 trees, which would bring the total treated over two years to about 400 trees. (Trees will be treated every 2 years, so for 2022, we may have to re-treat the original 199 trees from 2020.) Based on Arbor Masters 2020 bid, which was for two years of treatments, the cost to treat the proposed 200 trees will be about \$25,000 for 2021.

Tree Planting - the Department worked with DRG to prepare a new RFP (request for proposal) for 2021 tree planting, which was provided to several area tree contractors. The RFP requested costs for a two-phased planting program as follows:

- Spring 2021 Town Center Tree Planting – this includes replanting of about 62 trees within tree grates. This would include several varieties of #15 container stock, as recommended by DRG.
- Fall 2021 Subdivision Tree Planting – this includes planting about 50- 75 trees (possibly more depending on 2020 removals) within tree lawn areas (between the curb and sidewalk). This would include several varieties of #15 container stock, as recommended by DRG, with an option to plant larger trees, if requested. Larger sizes would be planted under separate agreement with individual subdivisions, whereby the subdivision would pay the difference in cost.

A copy of the RFP has been included with this memorandum. In response to the RFP, on Wednesday, March 31, the Department received submittals from four (4) tree contractors, which have been included as **Exhibit A**.

Recommendation

1. The Department is recommending a city-contractor agreement with STL Tree Pros, for Spring 2021 town center tree planting, for the not to exceed amount of \$13,000.
2. The Department is recommending a new city-contractor agreement with Arbor Masters, for treatment of about 200 ash trees, for the not to exceed amount of \$25,000.

For fall subdivision tree planting, after we have the tree quantities finalized, a new agreement or increased contract authorization will be necessary with STL Tree Pros, assuming they perform well this spring, and a separate agreement with Gamma Tree Experts, may be necessary. That recommendation will be presented to the Committee later this year.

With approval of this recommendation by the Committee, the Department will prepare a bill, authorizing the city-contractor agreements with STL Tree Pros and Arbor Masters, for the consideration of the City Council at the April 26th meeting.

I will be available at the April 13th meeting of the Administration/Public Works Committee for any questions regarding this recommendation.

RCB

Tree Pit Planting Project					
	Davey	Gamma	STL Tree Pros	Omni	ArborMasters
#15	\$ 306.00	\$ 295.00	\$ 195.00	NA	\$ 495.00
Neighborhood ROW Planting Project					
	Davey	Gamma	STL Tree Pros	Omni	ArborMasters
#15	\$ 312.00	\$ 295.00	\$ 195.00	NA	\$ 495.00
#25	\$ 429.00	\$ 395.00	\$ 612.00	NA	\$ 630.00
1.5" BB	\$ 495.00	\$ 425.00	\$ 480.00	NA	\$ 655.00
2" BB	\$ 573.00	\$ 500.00	\$ 660.00	NA	\$ 780.00
2.5" BB	\$ 652.00	\$ 575.00	\$ 960.00	NA	\$ 945.00
3" BB	\$ 715.00	\$ 675.00	<i>No price provided</i>	NA	\$ 1,275.00
3.5" B	\$ 765.00	<i>No price provided</i>	<i>No price provided</i>	NA	\$ 1,395.00
4" BB	\$ 795.00	<i>No price provided</i>	<i>No price provided</i>	NA	\$ 1,525.00

Request for Proposal

Tree Planting:

Town Center Tree Pits & Neighborhood Right-of-Ways

City of Wildwood, Missouri



W I L D W O O D

Due Date: Wednesday, March 31, 2021 by 2:00pm CST

Issued By:

Davey Resource Group, Inc. on behalf of the
City of Wildwood
Public Works Department
16860 Main Street
Wildwood, MO 63040-1242

(on March 8, 2021)

Section I - General Information

OBJECTIVE

The City of Wildwood (hereinafter referred to as “City”) is making a request for proposal (RFP) to qualified firms or individuals to provide tree planting services for the City’s town center (Community Improvement District/downtown, Manchester Road, Taylor Road, New College Avenue, Generations Drive) and specific neighborhood right-of-ways for the 2021 planting season. Both planting efforts are different in scope and qualified firms or individuals are not required to bid on both and can elect to submit a bid on a single portion. **Davey Resource Group, Inc. (DRG) will serve as the administrator of the contract.**

PRE-PROPOSAL MEETING

All interested Contractors are encouraged to attend the pre-proposal meeting scheduled on Wednesday, March 24, 2021 at 10:00am CST which will be held virtually via Zoom. A link to the Zoom call will be provided in advance to all interested parties. All questions will be addressed at this time. Any RFP amendments needed to clarify the intent and/or further explain the requirements of this RFP will be generated from the pre-bid meeting dialog. Any RFP updates will be shared with the participating Contractors.

EVALUATION OF PROPOSALS

The City reserves the right to accept or reject any proposal for any reason. All proposals shall be evaluated for completeness, level of experience, qualification of Contractor(s) and key personnel, and the ability to meet the standards of service required.

NEGOTIATIONS

The City retains the right to negotiate specifications, terms, and conditions which may be necessary or appropriate to the accomplishment of the purpose of this RFP. The City may require the entire proposal to be made an integral part of the resulting contract. This implies that all responses, supplemental, and other submissions provided by the vendor during discussions or negotiations will be held by the City as contractually binding on the successful vendor.

AWARD

Award of contract is subject to approval by the City and DRG. After the City selects the preferred Contractor(s), the City may need to secure final approval through City Council or other governing groups. The award will be made within sixty (60) days after the date of the proposal opening, or any mutually agreed extension thereof.

If, through the approval process, there are significant changes to the work specifications, the selected Contractor(s) will have an option to decline the contract award.

CONTRACT

The successful Contractor(s) will be required to enter a standard form services contract, subject to modifications. The contract will be modified to incorporate the terms of this RFP and any pertinent documents included with the selected Contractor's accepted and approved proposal. (See example contract which has been attached as Exhibit A.)

The City reserves the right to terminate the relationship with the successful Contractor(s) if the required documents are not submitted to and approved within thirty (30) business days of receiving notice of the contract award.

The City will have the ability to extend the contract for up to three (3) years.

Should the Contractor(s) neglect, refuse, or fail to complete the work under the contract in accordance with the specified requirements, the Contractor(s) may be liable for consequential damages resulting directly from their negligent acts.

INCURRED COSTS

The City and the contract administrator will not be liable in any way for any costs incurred by the respondents in replying to this RFP.

CONFIDENTIALITY

After award of the contract, all responses, documents, and materials submitted by the Contractor(s) pertaining to this RFP will be considered public information and will be made available for inspection, unless otherwise determined. All data, documentation, and innovations developed as a result of these contractual services shall become the property of the participating communities. Based upon the public nature of these RFP's, a Contractor(s) must inform the contract administrator, in writing, of the exact materials in the offer which it claims are exempt from disclosure pursuant to the Missouri Sunshine Law.

COMPLIANCE WITH THE LAWS

The Contractor(s) shall at all times observe and comply with all laws, ordinances, and regulations of the federal, state, and local governments, which may in any manner affect the preparation of proposals or the performance of the Contract. Contractor(s) shall make all necessary applications for a federal employer identification number, state sales tax number, and a payroll tax number; and file all tax returns as required by law.

Contractor(s) hereby agrees that it will comply with all requirements of the Missouri Human Rights Act. Contractor(s) hereby agrees that it will comply with all requirements of the Missouri Occupational Safety and Health Administration.

All State and municipal permits and licensing (i.e. right-of-way permit) must be in place prior to initiating any contract work.

INSURANCE REQUIREMENTS

Contractor(s) shall produce and maintain for the term of the contract, and any renewals or extensions thereof, the various insurance coverage including:

1. Workers Compensation (a minimum of \$1,000,000)
2. Comprehensive General Liability and Bodily Injury (a minimum of \$500,000 each person and \$3,000,000 each occurrence)
3. Comprehensive Automobile Liability and Bodily Injury (a minimum of \$500,000 each person and \$3,000,000 each occurrence)

The certificates must state "The City of Wildwood is an additional insured".

Contractor(s) will also be required to provide a 100% Performance Bond.

INDEMNIFICATION

The selected Contractor(s) shall indemnify and hold harmless the City of Wildwood, any trustees, officers, directors, agents, employees, representatives, and assigns, from lawsuits, actions, costs (including attorney's fees), claims or liability of any character incurred due to the alleged negligence of the Contractor(s), brought because of any injuries or damages received or sustained by any person, persons, or property on account of any act or omission, neglect or misconduct of said Contractor(s), its officers, agents, and/or employees arising out of, or in performance of any of the provisions of the Contract Documents, including any claims or amounts recovered for any infringements of patent, trademark, or copyright; or from any claims or amounts arising or recovered under the Workers' Compensation Act: or any other law, ordinance, order or deed. In connection with any such claims, lawsuits, actions or liabilities, the City of Wildwood, any trustees, officers, directors, agents, employees, representatives, and assigns shall have the right to defense counsel of their choice. The Contractor(s) shall be solely liable for all costs arising out of such claims, lawsuits, actions, or liabilities.

The Contractor(s) shall not make any settlement or compromise of a lawsuit or claim, or fail to pursue any available avenue of appeal of any adverse judgment, without the approval of the participating cities and any other indemnified party. Any city or other indemnified party, in its or their sole discretion, shall have the option of being represented by its or their own council. If this option is exercised, then the Contractor(s) shall promptly reimburse the city or other indemnified party, upon written demand, for any expenses, including but not limited to court costs, reasonable attorney's and witness' fees and other expenses of litigation incurred by the city or other indemnified party in connection therewith.

Section II - Scope of Services

BACKGROUND

Town Center Tree Pits

The City of Wildwood's town center, which encompasses the downtown area, Manchester Road, and St. Louis Community College - Wildwood, has several 4'x4' cutouts in the sidewalk (tree pits) designed to accommodate trees. To date, larger B&B nursery stock was installed throughout town center in these pits with mixed results regarding survivability and success. After a recent assessment, it has been decided that there are some combative factors with B&B establishment in the tree pits.

As a result, **#15 containerized stock** with a focus on fibrous root production will be installed for this project. Each tree must also have an appropriate layer of mulch installed in each tree pit.

There are currently **55 sites** that are ready to be planted in **spring 2021**. There may be more (or less) sites that will be prepared for planting in spring 2021 (to be determined after the winter season).

For each tree pit site, there are grates (two sections per pit) that will need to be lifted out of place prior to tree installation and then reset upon completion of installation. Each grate section weighs approximately 75 pounds.

Neighborhood Right-of-Way

The City of Wildwood has been proactively managing their ash tree population with a combination approach of both treatment and remove/replace efforts. As a result of recent ash management practices, there are several vacant planting sites in neighborhood right-of-way tree lawns throughout the City. The City seeks to install a range of **50 to 75 B&B and/or containerized stock** (or other sizes) within tree lawns along various residential streets in the City during **fall 2021**. Each tree must also have an appropriate layer of mulch installed.

Each tree must have deer protection installed from ground level to the first scaffold branch using drain tile, wire mesh, spiral wraps, or other means, as agreed upon between the contractor and the City.

REQUIREMENTS

The successful Contractor(s) will be responsible for providing the personnel and equipment needed to meet the project requirements and terms as specified in this document.

The work may consist of tree planting of various size nursery stock and mulching at various locations throughout the City of Wildwood. Work locations will be on the public right-of-way. The successful Contractor(s) will be provided with locations of all designated tree planting sites. Contractor(s) will coordinate with Davey Resource Group, Inc. to ensure all locations are marked properly in time for work to be performed.

The nursery stock type of trees to be planted are listed on the attached Bid Summary Sheet. Proposals shall include a per tree price for trees to be planted (including mulch). Contractor(s) shall consider the following specifications:

Jobsite Management:

An International Society of Arboriculture (ISA) Certified Arborist must be present and available at all times during tree planting. This individual shall be in full charge of the work and have full authority for making decisions involving the contracted work. The assigned ISA Certified Arborist shall not be removed or replaced without the consent of DRG and/or a City representative who maintains ultimate authority over the project. Proof of arborist certification and must be submitted with this RFP.

Tree Planting Requirements:

1. Tree planting for the tree pits in town center will not commence until spring 2021.
2. Tree planting for the neighborhood right-of-ways will not commence until fall 2021.
3. If tree planting timing needs to be adjusted, a completion timeframe will be provided.
4. Contractor(s) and DRG will collaborate and agree on species selection and vendor.
5. DRG and the City will determine nursery stock size for the neighborhood right-of-way.
6. Contractor(s) will be responsible for ordering, payment, shipping, and delivery of plant material(s).
7. All trees will be evaluated and approved in accordance with ANSI Z60.1 American Standard for Nursery Stock and planting specifications will be provided prior to work.
8. All planting procedures shall adhere to ANSI A300 Part 6 - Planting and Transplanting and the provided planting specifications which will be based on this standard.
9. A 2" minimum to 4" maximum layer of organic mulch must be installed at the time of planting. No mulch is to contact the stem of the tree.
10. Each tree must have deer protection installed from ground level to the first scaffold branch using drain tile, wire mesh, spiral wraps, or other means, as agreed upon between the contractor and the City.
11. Contractor(s) must have all utilities located prior to digging.
12. **A 1-year warranty must be provided for all trees.**

Contractor(s) will be responsible for the repair of any ruts or other damage that might be caused during the execution of this contract.

DUTY TO INFORM

It shall be the Contractor's duty to inform DRG and/or City staff of any tree related issues and/or underground utilities that could cause harm or injury to people or property.

COMMUNICATIONS

It shall be the Contractor's responsibility to communicate all important project issues and questions with DRG.

Section III - Minimum Information Required

PROPOSAL FORMAT

Offerors should organize proposals into the following sections:

1. Professional Qualifications
2. Past Involvement with Similar Projects
3. Proposal Price
4. Authorized Negotiator

The following describes the elements that should be included in each of the proposal sections:

1. Professional Qualifications
 - a. State the full name and address of your organization and, if applicable, the branch office or other subsidiary element that will perform, or assist in performing, the work hereunder.
 - b. Include the name(s) of the ISA Certified Arborists and their respective certification numbers.
 - c. State history of the firm, in terms of length of existence, types of services provided, etc.
 - d. The written proposal must provide proof of a Missouri business license.
 - e. The written proposal must provide proof of insurance that meets the requirements in Section I.
2. Past Involvement with Similar Projects
 - a. The written proposal must include a list of specific experience in the project area and indicate proven ability in implementing similar projects. A complete list of client references must be provided for similar projects recently completed. The list shall include the firm/agency name, address, telephone number, project title, and contact person.
3. Proposal Price
 - a. The written proposal must include a unit price for tree planting based on the various tree sizes shown on the Bid Summary Sheet. Price includes the cost, delivery, installation, mulch, and one year warranty of the tree.
 - b. The City of Wildwood is tax exempt. Successful bidders will receive tax exempt forms.
4. Authorized Negotiator
 - a. Include the name, phone number, and e-mail address of person(s) in your organization authorized to negotiate the agreement with the City.

All proposals shall be submitted to Rick Brown, rick@cityofwildwood.com, and Andy Berg, andy.berg@davey.com.

Date and Time Due: Wednesday, March 31, 2020 at 2:00pm CST

Any questions related to the preparation of your proposal should be directed to Andy Berg, andy.berg@davey.com or (847) 513-2451.

Final list of tree quantities and locations will be provided once a final proposal is accepted.

Bid Summary Sheet

Listed below is the size class of trees in the City of Wildwood scheduled for planting.

TREE PLANTING (Town Center Tree Pits)			
Nursery Stock	2021 Cost/Tree	2022 Cost / Tree (Optional)	2023 Cost / Tree (Optional)
#15			

TREE PLANTING (Neighborhood ROW)			
Nursery Stock	2021 Cost/Tree	2022 Cost / Tree (Optional)	2023 Cost / Tree (Optional)
#15			
#25			
1.5" B&B			
2" B&B			
2.5" B&B			
3" B&B			
3.5" B&B			
4" B&B			

EXHIBIT A

City of Wildwood

CITY-CONTRACTOR AGREEMENT

This City–Contractor Agreement “Agreement” is made and entered into this ___ day of _____, 2021, by and between the City of Wildwood, Missouri (hereinafter called the "City") and _____, with offices located at _____, (hereinafter called the "Contractor").

WITNESSETH:

The Contractor and the City, for the consideration set forth herein, agree as follows:

ARTICLE I.

The Contract Documents

The Contract Documents, hereby placed on file with the City Clerk, consist of the General Conditions of City-Contractor Agreement, State Wage Determination, Non-Collusion Affidavit, Performance Payment Bond, Specifications, Drawings, the Construction Schedule, all Addenda, and all Modifications issued after execution of this Agreement, which together with this Agreement form the entire agreement, obligations and duties of the parties, and are all as fully a part of the Agreement as if attached to this Agreement or repeated herein. All definitions set forth in the General Conditions of City-Contractor Agreement are applicable to this Agreement.

ARTICLE II.

Scope of Work

The Contractor, acting as an independent contractor, shall do everything required by the Contract Documents (the “Work”) and shall timely complete the project in strict compliance with all requirements and specifications set forth in the Contract Documents. Contractor represents and warrants that it has special skills which qualify it to perform the Work in accordance with the Contract Documents, and that it is free to perform all such Work and

is not a party to any other agreement, written or oral, the performance of which would prevent or interfere with the performance, in whole or in part, of the Work. All Work shall be performed in compliance with all applicable federal, state, and City laws and regulations, including but not limited to all grading, construction and zoning ordinances of the City.

ARTICLE III.

Time of Completion

All time limits stated in the Contract Documents are of the essence. The Work to be performed here under shall commence within ten (10) days of the date of the written notice to proceed from the City to the Contractor. All work for spring 2021 planting shall be completed by June 1, 2021. All work for fall 2021 planting shall be completed by December 1, 2021. Should the Contractor, or in case of default, the surety, fail to complete the Work within the calendar days or the completion date specified, whichever occurs first, a deduction of the amount stipulated in Article V will be made for each day that the Work remains uncompleted.

ARTICLE IV.

The Contract Sum and Payments

The City shall pay the Contractor for the performance of the Work the total sum of _____ (\$ _____) ("Contract Sum") based upon Applications for Payment submitted by the Contractor on or before the fifteenth (15th) day of the month for Work completed in accordance with the General Conditions in the following manner:

(1) On or about the tenth (10th) day of each following month, ninety five percent (95%) of the portion of the Contract Sum properly allocable to labor, materials and equipment incorporated into the Work, and ninety five percent (95%) of the portion of the Contract Sum properly allocable to materials and equipment suitably stored at the site to be

incorporated into the Work, through the period ending up to the twentieth (20th) of the preceding month, less the aggregate of all previous progress payments;

(2) Upon completion of the Work, a sum sufficient to increase the total payments to ninety five percent (95%) of the Contract Sum; and

(3) Final payment within 60 days after the Work is fully completed and accepted by the City and the Work fully performed.

(4) The retainage amount withheld by subsections (1) and (2) above shall not exceed any maximum amount permitted by law.

ARTICLE V.

Performance of the Work

(a) Within seven (7) calendar days after being selected, the Contractor shall prepare and submit for the City's approval a Construction Schedule for the Work in a bar chart format which Construction Schedule shall indicate the dates for starting and completing the various stages of construction. The Notice To Proceed shall be issued within 10 working days of the selection, however, no Work will commence until the Contractor's Construction Schedule is submitted and approved by the City.

(b) Completion of the Work in accordance with the time limits set forth in the Construction Schedule is an essential condition of the Agreement. If the Contractor fails to complete the Work in accordance with the Construction Schedule, unless the delay is excusable under the provisions of Article VI hereof, the Contractor shall pay the City, as liquidated damages and not as a penalty, the sum of Two Hundred and Fifty Dollars (\$250.00) for each calendar day the Contractor fails to comply with the Construction Schedule. The total amount so payable to the City as liquidated damages may be deducted from any sums due or to become due to Contractor from City.

(c) After Commencement of the Work, and until final completion of the Work, the Contractor shall report to the City at such intervals as the City may reasonably direct, the

actual progress of the Work compared to the Construction Schedule. If the Contractor falls behind the Construction Schedule for any reason, it shall promptly take, and cause its Subcontractors to take, such action as is necessary to remedy the delay, and shall submit promptly to the City for approval a supplementary schedule or progress chart demonstrating the manner in which the delay will be remedied; provided, however, that if the delay is excusable under Article VI hereof, the Contractor will not be required to take, or cause its Subcontractors to take, any action which would increase the overall cost of the Work (whether through overtime, premium pay or otherwise), unless the City shall have agreed in writing to reimburse the Contractor for such increase in cost. Any increase in cost incurred in remedying a delay which is not excusable under Article VI hereof, or is not approved in advance by the City, shall be borne by the Contractor.

ARTICLE VI.

Delays beyond Contractor's Control

(a) If the Contractor fails to complete the Work in accordance with the Construction Schedule solely as a result of the act or neglect of the City, or by strikes, lockouts, fire or other similar causes beyond the Contractor's control, the Contractor shall not be required to pay liquidated damages to the City pursuant to paragraph (b) of Article V hereof, provided the Contractor uses his best efforts to remedy the delay in the manner specified in paragraph (c) of Article V hereof. If, as a result of any such cause beyond the Contractor's control, the delay in completion of the Work in accordance with the Construction Schedule is so substantial that it cannot be remedied in the aforesaid manner, or if the backlog of Work is so great that it cannot be remedied without incurring additional cost which the City does not authorize, then the time of completion and the Construction Schedule shall be extended pursuant to a Change Order for the minimum period of delay occasioned by such cause. The period of delay and extension shall be determined by the City.

(b) Notwithstanding the foregoing paragraph (a), no extension of time shall be granted for any delay the cause of which occurs more than seven (7) days before claim therefore is made in writing by the Contractor to the City, and no extension of time shall be granted if the Contractor could have avoided the need for such extension by the exercise of reasonable care and foresight. In the case of a continuing cause of delay, only one claim is necessary.

(c) Weather shall not constitute a cause for granting an extension of time.

(d) In the event a delay is caused by the City, the Contractor's sole remedy shall consist of its rights under this Article VI.

ARTICLE VII.

Changes in the Work or Cost of Work

(a) The City may make changes within the general scope of the project by altering, adding to or deducting from the Work, and the Contract Sum adjusted accordingly. All such changes in the Work shall be executed under the conditions of the Agreement. No extra Work or change in the Work shall be made except pursuant to a Change Order approved by the City and Contractor in accordance with the General Conditions. Any claim for an increase in the Contract Sum resulting from any such change in the Work shall promptly be made by the Contractor in accordance with the General Conditions.

(b) If the requested change would result in a delay in the Construction Schedule, the provisions of paragraph (c) of Article V and of Article VI hereof shall apply. If the requested change would result in a decrease in the time required to perform the Work, the completion date and the Construction Schedule shall be adjusted by agreement between the parties to reflect such decrease.

(c) If the Contractor intends to make a claim for an increase in the Contract Sum, it shall give the City written notice explaining the circumstances, justifications and

amount of Contract Sum increase desired thereof promptly after the occurrence of the event or circumstances giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute further Work. No such claim shall be valid unless so made in accordance with the General Conditions. Any change in the Contract Sum resulting from such a claim shall first be authorized by Change Order executed by the City and Contractor. The City reserves the right to suspend Work of the Contractor pending the resolution of any claim for an increase in the Contract Sum.

(d) Any adjustment in the Contract Sum for duly authorized extra Work or change in the Work shall be determined based on the unit prices previously specified, to the extent such unit prices are applicable. To the extent such unit prices are not applicable, the adjustment in the Contract Sum shall, at the option of the City, be determined by an acceptable lump sum properly itemized and supported by sufficient substantiating data to permit evaluation, or by an acceptable cost plus percentage or fixed fee.

ARTICLE VIII.

Termination by City or Contractor

(a) If the Contractor is adjudged a bankrupt, or if the Contractor makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the Contractor's insolvency, or if the Contractor persistently or repeatedly fails, except in cases for which an extension of time is provided, to make progress in accordance with the Construction Schedule, or if the Contractor fails to make prompt payment to Subcontractors or for material or labor, or persistently disregards laws, ordinances or the instructions of the City, or otherwise breaches any provision of the Agreement, the City may, without prejudice to any other right or remedy, by giving written notice to the Contractor and its surety, terminate the Agreement, take possession of the Work and of

all materials and equipment thereon and finish the Work by whatever method the City may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Agreement Sum shall exceed the expenses of finishing the Work, including additional architectural, managerial and administrative expenses, such excess shall be paid to the Contractor. If such expenses shall exceed the unpaid balance of the Contract Sum, the Contractor shall pay the difference to the City promptly upon demand.

In the event of termination pursuant to this Article, the Contractor, upon the request of the City, shall promptly:

- (i) assign to the City, in the manner and to the extent directed by the City, all right, title and interest of the Contractor under any subcontracts, purchase orders and construction equipment leases to which the Contractor is a party and which relate to the Work or to construction equipment required therefore, and
 - (ii) make available to the City to the extent directed by the City all construction equipment owned by the Contractor and employed in connection with the Work.
- (b) Performance of the Work hereunder may be terminated by the City by giving three (3) days prior written notice to the Contractor if the City, for any reason and in its sole discretion, decides to discontinue or suspend construction. In the event of such termination, as opposed to termination pursuant to paragraph (a) of this Article VIII, the Contract Sum shall be reduced in an equitable manner by agreement between the parties or by arbitration.

ARTICLE IX.

Contractor's Liability Insurance

The Contractor shall purchase and maintain in full force and affect the following insurance coverages with an insurance carrier acceptable to the City:

The policy shall be endorsed to cover the liability of the Contractor under the General Conditions of this Agreement.

The Contractor and his Subcontractors shall procure and maintain during the life of this Agreement insurance of the types and minimum amounts as follows:

- (a) Workers' Compensation in full compliance with statutory requirements of Federal and State of Missouri law and Employers' Liability coverage in the amount of \$1,000,000.
- (b) Comprehensive General Liability and Bodily Injury
 - Including Death: \$500,000 each person*
 - \$3,000,000 each occurrence*
 - Property Damage: \$3,000,000 each occurrence*
 - \$3,000,000 aggregate*
- (c) Comprehensive Automobile Liability, Bodily Injury
 - Including Death: \$500,000 each person*
 - \$3,000,000 each occurrence*
 - Property Damage: \$3,000,000 each accident*

The Contractor's policy shall name the City as the Insured. Certificates evidencing such insurance shall be furnished the City prior to Contractor commencing the Work on this project. The certificates must state "The City of Wildwood is an additional insured."

*But not less than the sovereign immunity limits for Missouri public entities as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, R.S.Mo. The Contractor and his Subcontractors shall cause the insurer(s) to increase the insurance amounts in accordance with those published annually in the Missouri Register pursuant to Section 537.610, R.S.Mo. In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for the City's rights or defenses with regard to its applicable sovereign, governmental, or official immunities and protections provided by state constitution or law.

ARTICLE X.

The Work

The Contractor shall furnish all labor, materials and equipment necessary to perform the scope of Work within the project limits. The Scope of Work includes planting of new trees along Town Center streets, within tree grates, during the spring 2021 season, or along residential street right of way within residential neighborhoods during the fall 2021 season.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

CITY OF WILDWOOD
(the "City")

(the "Contractor")

By: _____
James R. Bowlin, Mayor

By: _____

Attest:

Printed Name: _____

Megan Eldridge, City Clerk

Title