

**SECTION C  
GENERAL TERMS & CONDITIONS**

THE STATE OF TEXAS

BID # S30-L22704

ORDINANCE # 2008-127

CONTRACT # 4600008604

COUNTY OF HARRIS

**I. PARTIES**

**1.0 ADDRESS**

THIS AGREEMENT for **TREE PLANTING SERVICES** ("Agreement") is made on the Countersignature Date between the **CITY OF HOUSTON, TEXAS** ("City"), a municipal corporation and **STATEWIDE TREE SERVICE, INC.** ("Contractor or Vendor"), a corporation doing business in Texas.

The initial addresses of the parties, which one party may change by giving written notice to the other party, are as follows:

**City**

City Purchasing Agent for Director  
of Parks and Recreation Department  
City of Houston  
1400 Lubbock  
Houston, Texas 77002

**Contractor**

Statewide Tree Service, Inc.  
4113C Blossom  
Houston, TX 77007  
Phone: 713-864-3368  
Fax: 713-868-0993

The Parties agree as follows:

**2.0 TABLE OF CONTENTS**

2.1 This Agreement consists of the following sections:

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**EXHIBITS**

- A. DEFINITIONS
- \* B. SCOPE OF SERVICES
- \* C. EQUAL EMPLOYMENT OPPORTUNITY
- \* D. MWBE SUBCONTRACT TERMS
- \* E. DRUG POLICY COMPLIANCE AGREEMENT
- F. CERTIFICATION OF NO SAFETY IMPACT POSITIONS
- \* G. DRUG POLICY COMPLIANCE DECLARATION
- H. FEES AND COSTS
- I. CITY CONTRACTORS' PAY OR PLAY PROGRAM

Note: These Exhibits shall be inserted into the Contract agreement at the time of Contract execution.

**3.0 PARTS INCORPORATED**

3.1 The above described sections and exhibits are incorporated into this Agreement.

**4.0 CONTROLLING PARTS**

4.1 If a conflict among the sections or exhibits arises, the Exhibits control over the Sections.

**5.0 DEFINITIONS**

5.1 Certain terms used in this Agreement are defined in Exhibit "A".

SIGNATURES

6.1 The Parties have executed this Agreement in multiple copies, each of which is an original.

ATTEST/SEAL: (if a corporation)  
WITNESS: (if not corporation)

Statewide Tree Service, Inc.

By: *Evette Garza*  
Name:  
Title:

By: *Carol Allison Jr.*  
Name: *Carol Allison Jr.*  
Title: *President*  
Federal Tax ID Number: *72-1590394*

ATTEST/SEAL:

CITY OF HOUSTON, TEXAS

*Ann Russell*  
City Secretary

Signed by:  
*Bill White* *Bill White*  
Mayor

APPROVED:

COUNTERSIGNED BY:

*William Wheeler*  
City Purchasing Agent

*Annie D. Parker*  
City Controller *Madeline P. Apple*

DATE COUNTERSIGNED:

*2-21-08*

This Contract has been reviewed as to form by the undersigned legal assistant and has been found to meet established Legal Department criteria. The Legal Department has not reviewed the content of these documents.

*1-29-08*  
Date

*Melora B. Bush*  
Legal Assistant

## II. DUTIES OF CONTRACTOR

### 1.0 SCOPE OF SERVICES

- 1.1 In consideration of the payments specified in this Agreement, Contractor shall provide all supervision, labor, tools, equipment, permits, parts, expendable items, material, and supplies necessary to perform the services described in Exhibit "B".

### 2.0 RELEASE

- 2.1 PRIME CONTRACTOR/SUPPLIER AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE CITY) FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

### 3.0 INDEMNIFICATION

- 3.1 PRIME CONTRACTOR/SUPPLIER AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY "THE CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

3.1.1 PRIME CONTRACTOR/SUPPLIER AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 2.1-3.2, "CONTRACTOR") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;

3.1.2 THE CITY'S AND PRIME CONTRACTOR/SUPPLIER ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; AND

3.1.3 THE CITY'S AND PRIME CONTRACTOR/SUPPLIER ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT.

3.1.4 PRIME CONTRACTOR/SUPPLIER SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS CONTRACT AND FOR FOUR YEARS AFTER THE CONTRACT TERMINATES. CONTRACTOR'S INDEMNIFICATION IS LIMITED TO \$500,000.00 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

- 3.2 CONTRACTOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY.

### 4.0 INDEMNIFICATION PROCEDURES

- 4.1 Notice of Claims. If the City or Prime Contractor/Supplier receives notice of any claim or

circumstances, which could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:

- 4.1.1 description of the indemnification event in reasonable detail, and
  - 4.1.2 the basis on which indemnification may be due and
  - 4.1.3 the anticipated amount of the indemnified loss.
- 4.2 This notice does not stop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10 day period, it does not waive any right to indemnification except to the extent that Prime Contractor/Supplier is prejudiced, suffers loss, or incurs expense because of the delay.
- 4.3 Defense of Claims
- 4.3.1 Assumption of Defense. Prime Contractor/Supplier may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. Prime Contractor/Supplier shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Prime Contractor/Supplier must advise the City as to whether or not it will defend the claim. If Prime Contractor/Supplier does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.
  - 4.3.2 Continued Participation. If Prime Contractor/Supplier elects to defend the claim, the City may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Prime Contractor/Supplier may settle the claim without the consent or agreement of the City, unless it (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City, (ii) would require the City to pay amounts that Prime Contractor/Supplier does not fund in full, (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

## 5.0 INSURANCE

- 5.1 Contractor shall maintain in effect certain insurance coverage and shall furnish certificates of insurance, in duplicate form, before beginning its performance under this Agreement. All policies except Professional Liability and Workers' Compensation must name the City as an additional insured. The issuer of any policy (1) shall have a Certificate of Authority to transact insurance business in Texas or (2) shall be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide. Contractor shall maintain the following insurance coverage in the following amounts:
- 5.1.1 Commercial General Liability insurance including Contractual Liability insurance:  
\$500,000 per occurrence; \$1,000,000 aggregate
  - 5.1.2 Workers' Compensation including Broad Form All States endorsement:  
Statutory amount
  - 5.1.3 Automobile Liability insurance  
\$1,000,000 combined single limit per occurrence  
Defense costs are excluded from the face amount of the policy  
Aggregate Limits are per 12-month policy period unless otherwise indicated

5.1.4	Employer's Liability	
	Bodily injury by accident	\$100,000 (each accident)
	Bodily injury by disease	\$100,000 (policy limit)
	Bodily injury by disease	\$100,000 (each employee)

5.2 All insurance policies must require on their face, or by endorsement, that the insurance carrier waives any rights of subrogation against the City, and that it shall give 30 days written notice to the City before they may be canceled. Within the 30 day period, Contractor shall provide other suitable policies in lieu of those about to be canceled, materially changed, or non-renewed so as to maintain in effect the required coverage. If Contractor does not comply with this requirement, the Director, at his or sole discretion, may:

5.2.1 Immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default, or

5.2.2 Purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Agreement.

## 6.0 WARRANTIES

6.1 Contractor represents and warrants that it shall perform all work in a good and workmanlike manner, meeting the standards of quality prevailing in Harris County, Texas for work of this kind. Contractor shall perform all work using trained and skilled persons having substantial experience performing the work required under this Agreement.

6.2 With respect to any parts and goods furnished by it, Contractor warrants:

6.1.1 that all items are free of defects in title, material, and workmanship,

6.1.2 that each item meets or exceeds the manufacturer's specifications and requirements for the equipment, structure, or other improvement in which the item is installed,

6.1.3 that each replacement item is new in accordance with original equipment manufacturer's specifications, and of a quality at least as good as the quality of the item which it replaces (when the replaced item was new), and

6.1.4 that no item or its use infringes any patent, copyright, or proprietary right.

## 7.0 LICENSES AND PERMITS

7.1 Contractor shall obtain and pay for all licenses, permits, and certificates required by any statute, ordinance, rule, or regulation.

## 8.0 COMPLIANCE WITH EQUAL OPPORTUNITY ORDINANCE

8.0 Contractor shall comply with the City's Equal Employment Opportunity Ordinance as set out in Exhibit "C".

## 9.0 MWBE COMPLIANCE

9.1 Contractor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts or supply agreements in at least 11% of the value of this Agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Affirmative Action Division and will comply with them.

- 9.2 Contractor shall require written subcontracts with all MWBE subcontractors and shall submit all disputes with MWBEs to binding arbitration in Houston, Texas if directed to do so by the Affirmative Action Division Director. MWBE subcontracts must contain the terms set out in Exhibit "D". If Contractor is an individual person (as distinguished from a corporation, partnership, or other legal entity), and the amount of the subcontract is \$50,000 or less, the subcontract must also be signed by the attorneys of the respective parties.

## **10.0 DRUG ABUSE DETECTION AND DETERRENCE**

- 10.1 It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.
- 10.2 Before the City signs this Agreement, Contractor shall file with the Contract Compliance Officer for Drug Testing ("CCODT"):
- 10.2.1 a copy of its drug-free workplace policy,
  - 10.2.2 the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "E", together with a written designation of all safety impact positions, and
  - 10.2.3 if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "F".
- 10.3 If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "G". Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed or if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.
- 10.4 Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.
- 10.5 Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection.

## **11.0 CONTRACTOR'S PERFORMANCE**

- 11.1 Contractor shall make citizen satisfaction a priority in providing services under this Agreement. Contractor shall train its employees to be customer service-oriented and to positively and politely interact with citizens when performing contract services. Contractor's employees shall be clean, courteous, efficient, and neat in appearance and committed to offering the highest quality of service to the public. If, in the Director's opinion, Contractor is not interacting in a positive and polite manner with citizens, he or she shall direct Contractor to take all remedial steps to conform to these standards.

## **12.0 PAYMENT OF EMPLOYEES AND SUBCONTRACTORS**

- 12.1 Contractor shall make timely payments in accordance with applicable state and federal law to all persons and entities supplying labor, materials or equipment for the performance of this Agreement including Contractor's employees.

- 12.2 Failure of Contractor to pay its employees as required by law shall constitute a default under this contract for which the Contractor and its surety shall be liable on Contractor's performance bond if Contractor fails to cure the default as provided under this Agreement.
- 12.3 Contractor shall defend and indemnify the City from any claims or liability arising out of Contractor's failure to pay its subcontractors as required by law. Contractor shall submit disputes relating to payment of M/WBE subcontractors to arbitration in the same manner as any other disputes under the M/WBE subcontract.

**13.0 CITY CONTRACTORS' PAY OR PLAY PROGRAM**

- 13.1 The requirement and terms of the City of Houston Pay or Play Policy, as set out in Executive Order 1-7, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order 1-7 and shall comply with its terms and conditions as they are set out at the time of City Council approval of this Agreement.

**III. DUTIES OF CITY**

**1.0 PAYMENT TERMS**

- 1.1 The City shall pay and Contractor shall accept fees provided in Exhibit "H" for all services rendered and the Deliverables furnished by Contractor. The fees must only be paid from Allocated Funds, as provided below.

**2.0 TAXES**

- 2.1 The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to the City must not contain assessments of any of these taxes. The Director will furnish the City's exemption certificate and federal tax identification number to Contractor if requested.

**3.0 METHOD OF PAYMENT**

- 3.1 The City shall pay Contractor on the basis of invoices submitted by Contractor and approved by the Director, showing the specific tasks completed in the preceding month and the corresponding prices. The City shall make payments to Contractor at its address for notices within 30 days of receipt of an approved invoice.

**4.0 METHOD OF PAYMENT - DISPUTED PAYMENTS**

- 4.1 If the City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Contractor of the dispute and request remedial action. After the dispute is settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

**5.0 LIMIT OF APPROPRIATION**

- 5.1 The City's duty to pay money to Contractor under this Agreement is limited in its entirety by the provisions of this Section.
- 5.2 In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum of \$736,521.00 to pay money due under this Agreement (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the

following procedures and remedies:

- 5.3 The City makes a supplemental allocation by sending a notice signed by the Director and the City Controller to Contractor and where appropriated, approved by motion, or ordinance of City Council in substantially the following form:

**"NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS"**

TO: [Name of Contractor]  
FROM: City of Houston, Texas (the "City")  
DATE: [Date of notice]  
SUBJECT: Supplemental allocation of funds for the purpose of the "[title of this Agreement]" between the City and (name of Contractor) countersigned by the City Controller on (Date of Countersignature) (the "Agreement").

I, (name of City Controller), City Controller of the City of Houston, certify that the supplemental sum of \$ \_\_\_\_\_, upon the request of the below-signed Director, has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This supplemental allocation has been charged to such appropriation.

The aggregate of all sums allocated for the purpose of such Agreement, including the Original Allocation, and all supplemental allocations (including this one), as of the date of this notice, is \$ \_\_\_\_\_.

SIGNED:  
(Signature of the City Controller)  
City Controller of the City

REQUESTED:  
(Signature of the Director)  
Director

- 5.4 The Original Allocation plus all supplemental allocations are the Allocated Funds. The City shall never be obligated to pay any money under this Agreement in excess of the Allocated Funds. Contractor must assure itself that sufficient allocations have been made to pay for services it provides. If Allocated Funds are exhausted, Contractor's only remedy is suspension or termination of its performance under this Agreement and it has no other remedy in law or in equity against the City and no right to damages of any kind.

**6.0 CHANGES**

- 6.1 At any time during the Agreement Term, the City Purchasing Agent or Director may issue a Change Order to increase or decrease the scope of services or change plans and specifications, as he or she may find necessary to accomplish the general purposes of this Agreement. Contractor shall furnish the services or deliverables in the Change Order in accordance with the requirements of this Agreement plus any special provisions, specifications, or special instructions issued to execute the extra work.

- 6.2 The City Purchasing Agent or Director will issue the Change Order in substantially the following form:

**CHANGE ORDER**

TO: [Name of Contractor]

FROM: City of Houston, Texas (the "City")  
DATE: [Date of Notice]  
SUBJECT: Change Order under the Agreement between the City and [Name of Contractor] countersigned by the City Controller on [Date of countersignature of the Agreement]

Subject to all terms and conditions of the Agreement, the City requests that Contractor provide the following:

[Here describe the additions to or changes to the equipment or services and the Change Order Charges applicable to each.]

Signed:  
[Signature of City Purchasing Agent or Director]

- 6.3 The City Purchasing Agent or Director may issue more than one Change Order, subject to the following limitations:
- 6.3.1 Council expressly authorizes the City Purchasing Agent or Director to approve a Change Order of up to \$50,000. A Change Order of more than \$50,000 over the approved contract amount must be approved by the City Council.
  - 6.3.2 If a Change Order describes items that Contractor is otherwise required to provide under this Agreement, the City is not obligated to pay any additional money to Contractor.
  - 6.3.3 The total of all Change Orders issued under this section may not increase the Original Agreement amount by more than 25%.
- 6.4 Whenever Contractor receives a Change Order, Contractor shall furnish all material, equipment, and personnel necessary to perform the work described in the Change Order. Contractor shall complete the work within the time prescribed. If no time for completion is prescribed, Contractor shall complete the work within a reasonable time. If the work described in any Change Order causes an unavoidable delay in any other work Contractor is required to perform under this Agreement, Contractor may request a time extension for the completion of the work. The City Purchasing Agent's or Director's decision regarding a time extension is final.
- 6.5 A product or service provided under a Change Order is subject to inspection, acceptance, or rejection in the same manner as the work described in the Original Agreement, and is subject to the terms and conditions of the Original Agreement as if it had originally been a part of the Agreement.
- 6.6 Change Orders are subject to the Allocated Funds provisions of this Agreement.

#### **IV. TERM AND TERMINATION**

##### **1.0 CONTRACT TERM**

- 1.1 This Agreement is effective on the Countersignature Date and expires two (2) years after the starting date specified in the Notice to Proceed unless sooner terminated according to the terms of this Agreement.

##### **2.0 NOTICE TO PROCEED**

- 2.1 Contractor shall begin performance under this Agreement on the date specified in a Notice to Proceed from the City Purchasing Agent.

3.0 **RESERVED**

4.0 **TIME EXTENSIONS**

4.1 If Department requests an extension of time to complete its performance, then the City Purchasing Agent may, in his or her sole discretion, extend the time so long as the extension does not exceed 120 days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for delay(s) regardless of the cause of the delay(s).

5.0 **TERMINATION FOR CONVENIENCE BY CITY**

5.1 The City Purchasing Agent or Director may terminate this Agreement at any time by giving 30 days written notice to Contractor. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies, which exist now or in the future.

5.2 On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. The City shall then pay the fees to Contractor for services actually performed, but not already paid for, in the same manner as prescribed in Section III unless the fees exceed the allocated funds remaining under this Agreement.

5.3 TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIED IN THIS SECTION), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CONVENIENCE.

6.0 **TERMINATION FOR CAUSE BY CITY**

6.1 If Contractor defaults under this Agreement, the City Purchasing Agent or Director may either terminate this Agreement or allow Contractor to cure the default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies, which exist now or in the future. Default by Contractor occurs if:

6.1.1 Contractor fails to perform any of its duties under this Agreement;

6.1.2 Contractor becomes insolvent;

6.1.3 all or a substantial part of Contractor's assets are assigned for the benefit of its creditors;  
or

6.1.4 a receiver or trustee is appointed for Contractor.

6.2 If a default occurs, the City Purchasing Agent or Director may, but is not obligated to, deliver a written notice to Contractor describing the default and the termination date. The City Purchasing Agent or Director, at his or her sole option, may extend the termination date to a

later date. If the City Purchasing Agent or Director allows Contractor to cure the default and Contractor does so to the City Purchasing Agent's or Director's satisfaction before the termination date, then the termination is ineffective. If Contractor does not cure the default before the termination date, then the City Purchasing Agent or Director may terminate this Agreement on the termination date, at no further obligation of the City.

- 6.3 To effect final termination, the City Purchasing Agent or Director must notify Contractor in writing. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement, and promptly cancel all orders or subcontracts chargeable to this Agreement.

## **7.0 TERMINATION FOR CAUSE BY CONTRACTOR**

- 7.1 Contractor may terminate its performance under this Agreement only if the City defaults and fails to cure the default after receiving written notice of it. Default by the City occurs if the City fails to perform one or more of its material duties under this Agreement. If a default occurs and Contractor wishes to terminate the Agreement, then Contractor must deliver a written notice to the Director describing the default and the proposed termination date.
- 7.2 The date must be at least 30 days after the Director receives notice. Contractor, at its sole option, may extend the proposed termination date to a later date. If the City cures the default before the proposed termination date, then the proposed termination is ineffective. If the City does not cure the default before the proposed termination date, then Contractor may terminate its performance under this Agreement on the termination date.

## **V. MISCELLANEOUS**

### **1.0 INDEPENDENT CONTRACTOR**

- 1.1 Contractor shall perform its obligations under this Agreement as an independent contractor and not as an employee of the City.

### **2.0 FORCE MAJEURE**

- 2.1 Timely performance by both parties is essential to this Agreement. However, neither party is liable for delays or other failures to perform its obligations under this Agreement to the extent the delay or failure is caused by Force Majeure. Force Majeure means fires, floods, explosions, and other acts of God, war, terrorist acts, riots, court orders, and the acts of superior governmental or military authority.
- 2.2 This relief is not applicable unless the affected party does the following:
- 2.2.1 uses due diligence to remove the Force Majeure as quickly as possible, and
  - 2.2.2 provides the other party with prompt written notice of the cause and its anticipated effect.
- 2.3 The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance does not constitute a default or breach of this Agreement by the City.
- 2.4 If the Force Majeure continues for more than 30 days, the City Purchasing Agent or Director may terminate this Agreement by giving 30 days written notice to Contractor. This termination is not a default or breach of this Agreement. **CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT AT THE TIME OF THE TERMINATION.**

### **3.0 SEVERABILITY**

3.1 If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.

### **4.0 ENTIRE AGREEMENT**

4.1 This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind exist between the Parties regarding this Agreement.

### **5.0 WRITTEN AMENDMENT**

5.1 Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance duly adopted by the City Council) and Contractor. The Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

### **6.0 APPLICABLE LAWS**

6.1 This Agreement is subject to the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction.

6.2 Venue for any litigation relating to this Agreement is Harris County, Texas.

### **7.0 NOTICES**

7.1 All notices required or permitted by this Agreement must be in writing and are deemed delivered on the earlier of the date actually received or the third day following: (1) deposit in a United States Postal Service post office or receptacle; (2) with proper postage (certified mail, return receipt requested); and (3) addressed to the other party at the address set out in the preamble of this Agreement or at such other address as the receiving party designates by proper notice to the sending party.

### **8.0 NON-WAIVER**

8.1 If either party fails to require the other to perform a term of this Agreement, that failure does not prevent the party from later enforcing that term and all other terms. If either party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.

8.2 An approval by the Director, or by any other employee or agent of the City, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard of performance other than that required by this Agreement and by law. The Director is not authorized to vary the terms of this Agreement.

### **9.0 INSPECTIONS AND AUDITS**

9.1 City representatives may perform, or have performed, (1) audits of Contractor's books and records, and (2) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least 3 years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

### **10.0 ENFORCEMENT**

10.1 The City Attorney or his or her designee may enforce all legal rights and obligations under this

Agreement without further authorization. Contractor shall provide to the City Attorney all documents and records that the City Attorney requests to assist in determining Contractor's compliance with this Agreement, with the exception of those documents made confidential by federal or State law or regulation.

#### **11.0 AMBIGUITIES**

11.1 If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

#### **12.0 SURVIVAL**

12.1 Contractor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, the indemnity provisions.

#### **13.0 PARTIES IN INTEREST**

13.1 This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Contractor only.

#### **14.0 SUCCESSORS AND ASSIGNS**

14.1 This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in the following paragraph. This Agreement does not create any personal liability on the part of any officer or agent of the City.

#### **15.0 BUSINESS STRUCTURE AND ASSIGNMENTS**

15.1 Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the City Purchasing Agent's or Director's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest under Section 9.406(c) of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

15.2 Contractor shall not delegate any portion of its performance under this Agreement without the City Purchasing Agent's or Director's prior written consent.

#### **16.0 REMEDIES CUMULATIVE**

16.1 Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative of all rights and remedies which exist now or in the future. Neither party may terminate its duties under this Agreement except in accordance with its provisions.

#### **17.0 CONTRACTOR DEBT**

17.1 If Contractor, at any time during the term of this agreement, incurs a debt, as the word is defined in Section 15-122 of the Houston City Code of Ordinances, it shall immediately notify the City Controller in writing. If the City Controller becomes aware that Contractor has incurred a debt, she shall immediately notify contractor in writing. If Contractor does not pay the debt within 30 days of either such notification, the City Controller may deduct funds in an amount equal to the debt from any payments owed to Contractor under this agreement, and Contractor waives any recourse therefore.

## **EXHIBIT A DEFINITIONS**

As used in this Agreement, the following terms have the meanings set out below:

"Agreement" means this contract between the Parties, including all exhibits, change orders, and any written amendments authorized by City Council and Contractor.

"City" is defined in the preamble of this Agreement and includes its successors and assigns.

"City Purchasing Agent" is defined as the person or duly authorized successor, authorized in writing to act for the City. The term includes, except as otherwise provided in this Contract, the authorized representative of the City Purchasing Agent acting within the limits of delegated authority.

"Contract Award Notice" means the official notification substantiated by the Notice to Proceed issued by the City Purchasing Agent to the Contractor.

"Contract Charges" means charges that accrue during a given month as defined in Article III.

"Contract Term" is defined in Article IV.

"Contractor" is defined in the preamble of this Agreement and includes its successors and assigns.

"Countersignature Date" means the date this agreement is countersigned by the City Controller.

"Director" mean the Directors of each of the Departments or the City Purchasing Agent for the City, or the person he or she designates.

"Effective Date" is defined as date contract is countersigned by the City Controller.

"Governing Body" means the Mayor and City Council of the City of Houston.

"Notice to Proceed" means a written communication from the City Purchasing Agent to Contractor instructing Contractor to begin performance.

"Parties" mean all the entities set out in the Preamble who are bound by this Agreement.

**EXHIBIT B  
SCOPE OF SERVICES**

**Group I, Tree Planting & Maintenance Services – Landscaping and Beautification of City Streets and Thoroughfares**

**1.0 General:**

- 1.1 The Contractor shall furnish all labor, tools, material, supplies, supervision, transportation, insurance, permits, clean-up and all other expenses necessary to complete the following project in strict accordance with the provisions of this Contract and Exhibits attached hereto and made a part hereof for all purposes. The work shall be performed at the sites specified. The contractor shall coordinate his performance of the services hereunder with the Parks and Recreation Department designated representative.
- 1.2 The contract term will be for a period of two (2) years from the date specified in the Notice to Proceed letter unless sooner terminated according to the terms of this contract. The guarantee period shall in any event survive the expiration of the twenty-four (24) month contract term that is, date of acceptance warranty begins on the date the tree is planted and/or replaced.

**2.0 Standards of Performance:**

- 2.1 The Contractor's performance shall be in accordance with the highest standard prevailing in the tree planting and maintenance industry. The Contractor shall be required to perform and complete the work described in this Contract in a thorough and professional manner and to furnish and provide all necessary labor, supervision, tools, equipment, materials and supplies. Any item primary, secondary or incidental to the performance of this contract shall be included in this service.
- 2.2 The Contractor shall contact the Director (hereinafter referred to as Director or its designee) by telephone and by E-mail, anytime work at a jobsite is interrupted for any reason, designated jobsite planting schedule is complete, or the Contractor is ready for the next scheduled tree planting.

**3.0 Personnel:**

The Contractor shall employ individuals skilled in their respective trades and skilled in the use of methods, tools and appliances developed to obtain the highest quality of workmanship. Any person that the Director or its designee may deem incompetent or disorderly must be promptly removed by the Contractor and not re-employed to work on this project.

**4.0 Power Tools and Equipment:**

- 4.1 Contractor shall provide, at its expense, all approved power tools, machines and equipment necessary to perform work as specified. All equipment must be maintained in first class condition to ensure safe and effective performance.
- 4.2 The Department will require acceptable evidence of the prospective contractor's ability to obtain required resources. Acceptable evidence normally consists of a commitment or explicit arrangement that will be in existence at the time of site-visit, to rent or purchase, or otherwise acquire the needed equipment, personnel or other resources.

- Five (5) man crew, two (2) of which must be capable of supervising. A competent

supervisor must be on site at all times during planting.

- One (1) Bobcat w/auger
- Two (2) watering vehicles (200 gallon Minimum)
- Two (2) stake drivers
- Steel stakes. Two (2) per tree 15 to 30 gallon.
- 4' feet "Arbor tape" per tree, or approved tree-tie.
- 1/3 cubic yards per tree of native hardwood mulch.
- Six (6) round point shovels.
- Six (6) sharpshooter shovels.
- One (1) "railroad bar" digging bar.
- Two (2) pickaxes
- One (1) cup per tree of 1200# Osmocote, Microlife or other slow-release fertilizer
- Pick up remaining trash/dirt excavated from planting holes.
- One-half (1/2) cup hydrogel per tree.

## **5.0 Contractor's Duties:**

- 5.1 The Contractor agrees to purchase all trees and associated supplies and materials to provide all services to install and maintain the trees in accordance with the provisions of this contract. The Contractor shall coordinate its performance of the services with the Director or its designee and such other persons as the Director or its designee may specify. The Contractor shall make periodic written and verbal reports and recommendations to the Director or its designee with respect to conditions, transactions, situations or circumstances encountered by the Contractor relating to the services to be performed under this contract and attend meetings determined to be necessary to the Director or its designee.
- 5.2 The Contractor guarantees that all of the trees planted shall remain alive at time of planting and healthy at least until the end of the two (2) year guarantee period (the "guarantee period") from time of planting. The guarantee period shall in any event survive the expiration of the twenty-four (24) month contract terms that is date of acceptance warranty begins on the date the tree is planted and/or replaced.
- 5.3 The Contractor will maintain relevant utility marks in planting area(s).

## **6.0 Tree Specifications**

- 6.1 Tree species and the location at which they are to be planted are listed in Fee Schedule "H". All trees shall be of first quality and shall be healthy representatives of their species and variety. Trees to be planted shall have straight trunks and uniformly shaped crowns. All trees shall be tagged with the scientific name and shall have been grown to standards of the American Association of Nurserymen. **The Director or its designee shall be notified 48 hours in advance of the arrival times (date, hour) of all trees on the job site for inspection and acceptance of each tree prior to planting.**
- 6.2 Substitution of sizes, grades, species or forms shall not be made without written permission from the Director or its designee.
- 6.3 All trees shall be container grown (no ball and burlap trees) with trunk caliper measured six (6) inches above soil level. All trees must meet the size criteria stated in Fee Schedule Exhibit "H".
- 6.4 All machine planted trees must have a trunk caliper measured 6" above the soil (DBH).
- 6.5 15-gallon plants shall have the following:

CALIPER: 1-1/4 – 1/2 INCHES  
HEIGHT: 6 – 8 FEET  
CROWN: 3 – 4 FEET

- 6.6 **All trees and grasses must be planted within twelve (12) weeks after a Notice-to-Proceed\ Is issued by the City Purchasing Agent.**
- 6.7 The Director or its designee shall have the authority to suspend the Contractor's operations in whole or in part for such period or periods of times, as it considers unfavorable for tree planting because of unsuitable weather or other conditions, which it considers unfavorable. The Director or its designee shall also have the authority to order the resumption of any operations that may have been suspended by the Contractor as a result thereof. Any notification to suspend or resume operations shall be through official correspondence signed by the Director or its designee.
- 6.8 Trees shall be transported and handled with adequate protection during delivery including covering trees to be planted hereunder with tarpaulin or transporting them in an enclosed truck. The Contractor is responsible for loading and unloading at the job site. The Contractor assumes all risk and expense of the storage of any and all unplanted trees. No trees shall be left unplanted without proper security.
- 6.9 The Director or its designee may determine that additional trees are required to the listed site(s). Upon written notification by the Director or its designee under the City's Add and Delete Services provisions, upon written notification, the Contractor shall furnish and install trees as requested at the price specified on the bid document fee schedule.

**7.0 Tree Planting Work Procedure:**

- 7.1 The Contractor shall follow the following guidelines for planting the trees herein: Holes for the trees shall be excavated to one and a-half (1 1/2) times in width than the diameter of the tree soil ball with the sides of the hole being vertical and the bottom horizontal. Trees are to be planted with the top of root ball one and a half (1.5) inches above existing grade. The contractor at their sole expense shall dispose of all surplus excavation materials. **Under no circumstances are holes to be left uncovered overnight.**
- 7.2 Trees will be set in an upright plumb position at depth one and a half (1.5) inches higher than they grew in the container unless otherwise specified by the Director or its designee. Care will be taken so as not to injure the root system, trunk or foliage.
- 7.3 The backfill shall consist of topsoil excavated from the planting hole. If there is insufficient topsoil, a supplement of similar topsoil, approved by the Director or its designee, will be furnished by the contractor at the Contractor's expense. Each planting hole will be back-filled with an approved soil and tamped lightly and carefully so as not to damage the tree roots. The tree will then be watered so as to settle soil around the roots. Each tree shall be fertilized utilizing "Osmocote" slow release fertilizer, "Microlife" organic fertilizer, or approved equal, per the manufacturer's recommended ratio. One-half (1/2) cup hydrogel per tree will be added as the hole is back filled. A product containing mycorrhizae (such as Mycor) shall be added with the fertilizer. After the water is absorbed a saucer will be constructed 6-8 inches above soil grade around planting hole a minimum of three (3) feet in diameter. This area shall be mulched with 3-4 inches of pine bark mulch and maintained free of weeds and grass. A final inspection will check for mulch thickness, depth of planting and trunk straightness (plumb).
- 7.4 Pruning shall be done according to recognized horticultural standards and the instructions of the

Director or its designee. All damaged limbs will be removed. The Contractor shall ensure that the tree maintains a shape appropriate to its species.

- 7.5 All trees must be staked within 24 hours of planting. All 15-gallon trees will be staked with two (2) stakes. All stakes will be six (6) foot steel t-posts type. All trees will be tied or guyed with a half-inch (1/2") web material arbor tie (tap) in a manner that is both secure and non-injurious to the tree and approved by the Director or its designee. The Contractor may use other types of securing ties or devices if he receives prior approval from the Director or its designee to do so. **Contractor must remove all stakes from the trees at the end of an 18-month period, except as directed by the Director or its designee.**
- 7.6 Coarse shredded and properly composted bark mulch (pine or hardwood) shall be placed loosely as a mulch around trees planted within forty-eight (48) hours after planting to a uniform depth 6" (inches). The mulch must be free of branches, roots or other foreign material. The mulched areas are to be maintained free of weeds and grass vegetation with a minimum of 3-4 inch mulch cover for the maintenance period of twenty-four (24) months. Grouping is determined as mulching areas that are surrounding and in between trees (generally 5 to 10 trees per grouping). **All trees are to be re-mulched 14-18 months after planting, or sooner if there is not 3-4 inches of mulch around any of the trees planted.**
- 7.7 Tree planting locations will be marked in the medians along the specified street. The Parks and Recreation will identify tree-planting locations that will be signified by a fluorescent orange "X".
- 7.8 All lawn areas will be left "fan rake clean". All driveways, walkways, roads, curbs, & any other asphalt, concrete, stone and similar surfaces in the vicinity of a work site shall be left "broom clean" when the site is vacated at the end of each day.
- 7.8.1 Per Exhibit "H" Fee Schedule, tree-planting locations will be marked in the medians along the specified street. The Director or his designee shall identify tree-planting locations that will be signified by a painted "X".
- 7.8.2 Trees will be at least seventy-five (75) feet from the esplanades nose at an intersection and at least fifty (50') feet from the esplanade nose at a mid-block opening.
- 7.8.3 Trees generally should be planted in a row on 10' centers as marked, alternating species until the project end. The marked location will be marked once and will be the Contractor's responsibility to maintain these marks until the trees are planted.
- 7.9 Disposal of all debris, trash, and remaining materials not needed will be considered the property of the Contractor who will dispose of them in a manner consistent with applicable municipal, state, and federal laws.

## 8.0 Tree Maintenance:

- 8.1 The Director or its designee shall inspect the initial work done under this contract to verify that the services provided are in accordance with the specifications and that it is accepted. The Contractor shall notify the Director or its designee in writing (work order or invoice) at least ten (3) days in advance of the desired date for the inspection to occur. After the inspection has occurred, the Director or its designee will notify the Contractor in writing that work performed is accepted and the date on which the guarantee period is to begin for each tree planted and accepted, or any trees planted that have not been accepted and deficiencies needing to be corrected.
- 8.2 The Director's designee shall inspect and recommend to the Contractor near the end (between

- 20 and 23 months) of the guarantee period, all of the trees planted under the contract to determine final acceptance before final service payment is made. The Contractor shall notify the Director or its designee in writing at least thirty- (30) days before the expiration of the guarantee period. All trees that are not correct from the final inspection shall be deducted from the final service payment of the contract.
- 8.3 The Contractor shall water all trees planted in accordance the following schedule (listed on Line item No. 1.7.4) established by the Director or its designee, to maintain healthy, live and thriving trees until the end of this Contract.
- 8.4 The contractor shall water the trees at a minimum of every twenty-one (21) days during the months of November, December, January and February; every fourteen (14) days during the months of October and March; and every seven (7) days during the months of April, May, June, July, August and September. Should a tree experience wilting and/or defoliation, or any other sign of stress, the Contractor shall water the trees as needed to ensure the trees remain healthy and vigorous and maintain an aesthetically pleasing appearance.
- 8.5 The Contractor will be required to provide a Tree Watering Schedule/Report for the trees planted and at minimum include tree location, times watered, dates and personnel assigned, to the Director or its designee on the last day of each month as completed. Adequate natural rainfall may affect the watering schedule and Contractor must issue a written request to revise the Tree Watering Schedule. Contractor may proceed with the revised schedule upon issuance of written acceptance by the Director or its designee
- 8.6 The twenty-four (24) month maintenance period shall commence after the initial inspection and approval date of the tree planting. Upon the direction of the Director and its designee the City, following the specifications contained in this contract, shall replace any tree killed and/or damaged beyond the Contractor's control, such as vandalized trees, and the City will bear the cost of the replacements in accordance with Contract pricing.
- 8.7 Any turf areas damaged by the Contractor shall be leveled and new sod to be placed and any horticultural plantings damaged shall also be replaced with the same to restore the area to its prior condition. In addition, damage to structures, utilities, signs, light fixtures, landscape furniture, or other City property shall be repaired or replaced. It is understood that any and all damages caused by person's engaged in the performance of the services under this contract will be repaired by the Contractor without undue delay and at its sole cost and expense. Any repair work will be performed by skilled workmen acceptable to the Director or its designee and all repairs and replacements must be approved by the Director or its designee prior to final payment hereunder.
- 8.8 Within two (2) weeks of the written notice from the Director or its designee, the Contractor shall replace, at its sole expense, any dead trees or trees that in the opinion of the Director or its designee, have become unhealthy, unsightly or have lost their natural shape as a result, improper pruning or maintenance. If a tree is replaced, the twenty-four (24) month guarantee period for that tree shall begin after the Director or its designee, has inspected it and approved it. **The Contractor shall straighten any leaning trees and bear entire cost thereof. At the time of each watering, contractor's employees will correct, or note need to correct, any missing or damaged stakes and or tree-to-stake ties.**
- 8.9 The Contractor shall dispose of any tree rejected by the Director or its designee due to not meeting specifications at any time at the sole expense of the Contractor.

## **9.0 Labor Supervision and Property Damage:**

- 9.1 The Contractor shall keep a competent supervisor on the work site at all times. That supervisor shall represent the Contractor in its absence and all directions given by and to the supervisor shall be binding as if given by and to the Contractor. The Contractor shall properly protect public and private property including, but not limited to streets, curbs, sidewalks, driveways, houses, trees, shrubbery, lawns, retaining walls, fences, gates and utilities. Any damage to such property by the Contractor's employees or equipment shall be repaired and restored to its original condition by the Contractor. The Contractor shall pay any and all such costs, which may be required in the repairing or replacement of any item that is damaged.
- 9.2 Contractor shall immediately report to the Director or its designee any damage to furnishings or property caused by Contractor's personnel or subcontractors while performing services pursuant to the Contract.
- 9.3 If it appears that a motor vehicle will hinder work operations hereunder, the Contractor shall be responsible for contacting the owner of the vehicle to have the owner move the vehicle. The Contractor shall take all necessary precautions for the safety of its employees and the public and shall provide and adequately maintain all necessary safeguards at all times as required by the conditions and progress of the work. The Contractor shall comply with all applicable provisions of federal, state, and local safety laws and codes to prevent accident or injury to persons or property. The Contractor shall place traffic cones or barricades where needed or directed on or near the work site.
- 9.4 The Director of Designee shall have underground utilities located. When subsurface utilities are encountered, the Contractor shall immediately notify the responsible utility agency, or company, and the Director or its designee. The Contractor, at his expense, shall restore to original condition all instructions, facilities, and other property damaged by his work.

## **10.0 Inspections:**

- 10.1 Federal, state, or other authorities shall inspect all trees to be planted hereunder before removal from the nursery as required by local law. Required certificates declaring that the trees are free of any diseases and insects shall accompany each order or shipment of trees. The City reserves the right to inspect and accept or refuse acceptance of any trees before they are removed from the delivery truck at the work site. A delivery truck driver, or other agent for the Contractor, shall notify the Director or its designee by telephone before leaving for a work site each day to facilitate these on-truck tree inspections.
- 10.2 The City reserves the right to perform and unscheduled inspection of any work site at any time without notice given to the Contractor. The Contractor shall notify the Director or its designee by telephone on the morning of each working day to inform the City of the location of the work to be performed hereunder for that day.

## **11.0 Payment and Compensation:**

- 11.1 For and in consideration of the services to be performed under this contract, the City agrees to pay and the Contractor agrees to accept the bid pricing in accordance with the schedule of Fees and Costs, Exhibit "H" Fee Schedule as full compensation for all work performed during this contract. To receive payment the Contractor must:
  - 11.1.1 Submit a monthly original invoice and one copy showing the corresponding services performed. Each invoice must be accompanied by a breakdown of the number and

species of trees planted or maintained, the location where the trees were planted or maintained, and the cost of trees.

- 11.1.2 Display Contract and Ordinance Numbers must be displayed on all invoices submitted, delivery and acceptance of Tree Planting and Maintenance Services by site.
- 11.2 If the Contractor has previously been paid for items or services that have later been found deficient, defective or otherwise unacceptable, subsequent invoices may be adjusted accordingly. In such instances, the City of Houston Public Works and Engineering will provide the Contractor a written explanation for such adjustments
- 11.3 The Contractor shall submit an original invoice for payment and a copy to Mr. Brad Hendricks and Joe Dumas to the addresses listed below for provision of Tree Planting & Maintenance Services (along with ordinance and contract number), which have been inspected and accepted by the City of Houston Parks & Recreation Department.

C.O.H. Parks & Recreation Department -  
Attn: Accounts Payable - Craig Foster  
P.O. Box 61449  
Houston, Texas 77028-1449  
713-837-0280

and a copy of the invoice to:

C. O. H.- Urban Forestry  
Attn: Brad Hendricks  
6501 Memorial Drive  
Houston, Texas 77007  
713-867-0378

C. O. H. - Public Works and Engineering  
Attn: Joe Dumas  
611 Walker - 24 floor  
Houston, Texas 77002  
713-837-0267

- 11.4 Any payment due to the Contractor for work completed under this contract shall be withheld until all property damage has been completely restored or proper arrangements have been made to accomplish the same to the satisfaction of the Director or its designee.
- 11.5 If the Contractor fails to complete all site in the Contract within 12 weeks after the Notice to Proceed or after receipt of purchase order, liquidated damages shall be charged. Liquidated damages in the amount of One Hundred Dollars (\$100.00) per calendar day shall be assessed for each calendar day the entire Contract/Project works remains incomplete. For all actions that require approval from the City, response must be received within twenty-four (24) hours after submission in writing. If no approval is submitted to the Contractor in writing, the Contractor shall proceed with all aspects of the scope of work that do not require the City's approval and proper relief in the schedule will be negotiated with the Contractor and liquidated damages will not be enforced.

## 12.0 **Additions & Deletions of Sites:**

- 12.1 During the term of the Contract, the City may elect to add and/or delete sites to the Contract, for purposes indicated in the Scope of Services. This option will be exercised by means of a written notice signed by the Director and its designee, provided however that the Contractor upon receipt of said notice is allowed two weeks prior to commencing operations at any new site that may be added.
- 12.2 If additional site(s) are added to the Contract, the rate(s) shall be based upon a similar site(s)

current included pricing in the Contract, as agreed upon between the Director, or its designee and the Contractor. Any site(s) removed from the Contract shall result in the appropriate amount being subtracted from the total.

- 12.3 If at anytime site(s) are added to the Contract after the initial tree planting period, the Contract may be extended to allow only for the warranty maintenance of planted trees, up to their twenty-four (24) month warranty period after the initial inspection and approval date of the tree planting.
- 12.4 Notwithstanding inspection and acceptance by the City or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The City shall give written notice of any defect or nonconformance to the Contractor within a one-year period from the date of acceptance by the City. This notice shall state either (1) that the Contractor shall correct or re-perform any defective or non-conforming services at no additional cost to the City, or (2) that the City does not require correction or re-performance.
- 12.5 If the Contractor is required to correct or re-perform, it shall be at no cost to the City, and any services corrected or re-performed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or re-perform, the City may, by contract or otherwise correct or replace with similar services and charge to the Contractor the cost occasioned to the City thereby, or make an equitable adjustment in the contract price.
- 12.6 If the City does not require correction or re-performance, the City shall make an equitable adjustment in the contract price.

### **13.0 Utilities**

- 13.1 The Contractor shall be responsible at its cost for any and all work, expenses, or special precautions caused by the existence or proximity of utilities encountered in performing the work hereunder. All workmen working in the vicinity of utility lines shall be fully briefed and instructed in safe working procedures appropriate to the voltage of the electrical apparatus on or near the work site.
- 13.2 Utilities are taken into account in the design prepared by the Director or its designee. Utilities will remain marked throughout the tree plantings. The Contractor may move the trees slightly, if it perceives interference by a utility line, but a movement of more than 18" must be pre-approved by the Director or its designee. The Contractor should ensure relevant markings are maintained to avoid damages.

### **14.0 Alternate Work Plan, Inclement Weather**

- 14.1 The Contractor shall contact the City of Houston designee immediately upon possible disruption of work by rain to be allowed as a rain day. Parks and Recreation Department contact person must confirm rain days before being allowed as a rain day. Rain Days will not be charged to the Contractor as liquidated damages if the City of Houston designees concur that the weather conditions merit a rain day and hence postponement of work. If the City of Houston designee does not concur that a rain day is not merited the Contractor will be penalized for the delays by way of liquidated damages.

## **15.0 Licenses and Permits**

15.1 The Contractor shall be responsible for determining and securing, at his expense, any and all licenses and permits that are required in any manner connect with providing the Work under this Contract. Such fee, unless otherwise specified shall be included in the costs bid in this Contract for the Work. The Contractor shall notify the Parks and Recreation Department designated representative in writing at any time during the Contract Term, within (2) days of any of suspension, revocation and renewal.

## **16.0 Equipment**

16.1 All safety equipment for the purpose for which it is being used must OSHA approved.

## **17.0 Methods of Operation – Work Week/Hours**

17.1 The normal workweek for providing the services under this Contract shall be Monday through Friday from 7:00 am to 7:00 pm only. Any change in the workweek, shall be only by mutual agreement (immediately confirmed in writing) between the Contractor and the Parks and Recreation Department designated representative.

## **18.0 Addition & Deletions**

The City, by written notice from the City Purchasing Agent to the Contractor, at any time during the term of this contract, may add or delete like or similar equipment, supplies, locations and/or services to the list of equipment, supplies, locations, and/or services to be provided. Any such written notice shall take effect on the date stated in the notice from the City. Similar equipment, supplies, services, or locations added to the contract shall be in accordance with the contract specification/scope of services, and the charges or rates for items added shall be the same as specified in the fee schedule. In the event that the additional equipment, supplies, locations and/or services are not identical to the item(s) already under contract, the charges therefore will then be the Contractor's normal and customary charges or rates for the equipment, supplies, locations and/or services classified in the fee schedule.

## **19.0 Estimated Quantities Not Guaranteed**

The estimated quantities specified herein are not a guarantee of actual quantities, as the City does not guarantee any particular quantity of services during the term of this contract. The quantities may vary depending upon the actual needs of the user Department. The quantities specified herein are good faith estimates of usage during the term of this contract. Therefore, the City shall not be liable for any contractual agreements/obligations the Contractor enters into based on the City purchasing/requiring all the quantities specified herein.

## **20.0 Warranty of Services**

*Definitions:* "Acceptance" as used in this clause, means the act of an authorized representative of the City by which the City assumes for itself, approval of specific services as partial or complete performance of the contract.

"Correction" as used in this clause, means the elimination of a defect.

Notwithstanding inspection and acceptance by the City or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The City shall give written notice of any defect or nonconformance to the Contractor within a one-year period from the date of acceptance by the City. This notice shall state either (1) that the

Contractor shall correct or re-perform any defective or non-conforming services at no additional cost to the City, or (2) that the City does not require correction or re-performance.

If the Contractor is required to correct or re-perform, it shall be at no cost to the City, and any services corrected or re-performed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or re-perform, the City may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the City thereby, or make an equitable adjustment in the contract price.

If the City does not require correction or re-performance, the City shall make an equitable adjustment in the contract price.

## **SCOPE OF SERVICES**

### **Group II – Tree Planting Services for Parks and Recreation Department – Hope Neighborhood Tree Planting**

#### **1.0 General:**

- 1.1 The Contractor shall furnish all labor, tools, material, supplies, supervision, transportation, insurance, permits, clean-up and all other expenses necessary to complete the following project in strict accordance with the provisions of this Contract and Exhibits attached hereto and made a part hereof for all purposes. The work shall be performed at the sites specified. The contractor shall coordinate his performance of the services hereunder with the Parks and Recreation Department designated representative. The Contractor shall make periodic verbal or written reports and recommendations to the Parks and Recreation Department designated representative with respect to conditions, transactions, situations or circumstances encountered by the Contractor relating to the services to be performed under this Contract and attend meetings determined to be necessary by the Parks and Recreation Department designated representative.
- 1.2 The Contractor shall warranty all trees and workmanship for a contract term that shall be for a period of two (2) years from the date specified in the Notice to Proceed letter unless sooner terminated according to the terms of this contract. The guarantee period shall in any event survive the expiration of the twenty-four (24) month contract term that is, date of acceptance warranty begins on the date the tree is planted and/or replaced.

#### **2.0 Standards of Performance:**

- 2.1 The Contractor's performance shall be in accordance with the highest standard prevailing in the tree planting and maintenance industry. The Contractor shall be required to perform and complete the work described in this Contract in a thorough and professional manner and to furnish and provide all necessary labor, supervision, tools, equipment, materials and supplies. Any item primary, secondary or incidental to the performance of this contract shall be included in this service.
- 2.2 The Contractor shall contact the Director (hereinafter referred to as Director or its designee) by telephone and by E-mail, anytime work at a jobsite is interrupted for any reason, designated jobsite planting schedule is complete, or Contractor is ready for the next scheduled tree planting.

### **3.0 Personnel:**

Contractor shall employ individuals skilled in their respective trades and skilled in the use of methods, tools and appliances developed to obtain the highest quality of workmanship. Any person that the Director or its designee may deem incompetent or disorderly must be promptly removed by the Contractor and not re-employed to work on this project.

### **4.0 Power Tools and Equipment:**

4.1 Contractor shall provide, at its expense, all approved power tools, machines and equipment necessary to perform work as specified. All equipment must be maintained in first class condition to ensure safe and effective performance.

4.2 The Department shall require acceptable evidence of the prospective contractor's ability to obtain required resources. Acceptable evidence normally consists of a commitment or explicit arrangement that shall be in existence at the time of site-visit, to rent or purchase, or otherwise acquire the needed equipment, personnel or other resources.

- Five (5) man crew, two (2) of which must be capable of supervising. A competent supervisor must be on site at all times during planting.
- One (1) Bobcat w/auger
- Two (2) watering vehicles (200 gallon Minimum)
- Two (2) stake drivers
- Steel stakes. Two (2) per tree 15 to 30 gallon.
- 4' feet "Arbor tape" per tree, or approved tree-tie.
- 1/3 cubic yards per tree of native hardwood mulch.
- Six (6) round point shovels.
- Six (6) sharpshooter shovels.
- One (1) "railroad bar" digging bar.
- Two (2) pickaxes
- One (1) cup per tree of 1200# Osmocote, Microlife or other slow-release fertilizer
- Pick up remaining trash/dirt excavated from planting holes.
- One-half (1/2) cup hydrogel per tree.

### **5.0 Contractor's Duties:**

5.1 The Contractor agrees to purchase all trees and associated supplies and materials to provide all services to install/plant of the trees in accordance with the provisions of this contract. The Contractor shall coordinate his performance of the services with the Director or its designee and such other persons as the Director or its designee may specify. The Contractor shall make periodic written and verbal reports and recommendations to the Director or its designee with respect to conditions, transactions, situations or circumstances encountered by the Contractor relating to the services to be performed under this contract and attend meetings determined to be necessary to the Director or its designee.

5.2 The Contractor guarantees that all of the trees planted shall remain alive at time of planting and healthy at least until the end of the two (2) year guarantee period (the "guarantee period") from time of planting. The guarantee period shall in any event survive the expiration of the twenty-four (24) month contract terms that is date of acceptance warranty begins on the date the tree is planted and/or replaced.

5.3 The Contractor shall maintain relevant utility marks during planting period.

## 6.0 Tree Specifications

- 6.1 Tree species and the location at which they are to be planted are listed on the last sheet(s) of this section. All trees shall be of first quality and shall be healthy representatives of their species and variety. Trees to be planted shall have straight trunks and uniformly shaped crowns. All trees shall be tagged with the scientific name and shall have been grown to standards of the American Association of Nurserymen. **The Director or its designee shall be notified 48 hours in advance of the arrival times (date, hour) of all trees on the job site for inspection and acceptance of each tree prior to planting.**
- 6.2 Substitution of sizes, grades, species or forms shall not be made without written permission from the Director or its designee.
- 6.3 All trees shall be container grown (no ball and burlap trees) with trunk caliper measured six (6) inches above soil level. All trees must meet the size criteria stated in the Exhibit H.
- 6.4 All machine planted trees must have a trunk caliper measured 6" above the soil (DBH).
- 6.5 **30-gallon:**                      **CALIPER: 2 – 2.5 INCHES**  
   **HEIGHT: 8 – 10 FEET**  
   **CROWN: 3 – 5 FEET**
- 6.6 **45-gallon:**                      **CALIPER: 2 – 2.75**  
   **HEIGHT: 9 – 12 FEET**  
   **CROWN: 5 – 6 FEET**

**Note: Some species shall not meet these specifications, and must be approved by the Director or his Designee.**

- 6.7 **All trees and grasses must be planted within twelve (12) weeks after a Notice-to-Proceed is issued by the City Purchasing Agent.**
- 6.8 The Director or its designee shall have the authority to suspend the Contractor's operations in whole or in part for such period or periods of times, as he considers unfavorable for tree planting because of unsuitable weather or other conditions, which he/she considers unfavorable. The Director or its designee shall also have the authority to order the resumption of any operations that may have been suspended by the Contractor as a result thereof. Any notification to suspend or resume operations shall be through official correspondence signed by the Director or its designee.
- 6.9 Trees shall be transported and handled with adequate protection during delivery including covering trees to be planted hereunder with tarpaulin or transporting them in an enclosed truck. The Contractor is responsible for loading and unloading at the job site. The Contractor assumes all risk and expense of the storage of any and all unplanted trees. No trees shall be left unplanted without proper security.
- 6.10 The Director or its designee may determine that additional trees are required to the listed site(s). Upon written notification by the Director or its designee under the City's Add and Delete Services provisions, upon written notification, the Contractor shall furnish and install trees as requested at the price specified on the bid document fee schedule.

## 7.0 Tree Planting Work Procedure:

- 7.1 The Contractor shall follow the following guidelines for planting the trees herein: Holes for the trees shall be excavated to one and a-half (1 1/2) times in width than the diameter of the tree soil ball with the sides of the hole being vertical and the bottom horizontal. Trees are to

be planted with the top of root ball one and a half (1.5) inches above existing grade. The contractor at their sole expense shall dispose of all surplus excavation materials. **Under no circumstances are holes to be left uncovered overnight.**

- 7.2 Trees shall be set in an upright plumb position at depth one and a half (1.5) inches higher than they grew in the container unless otherwise specified by the Director or its designee. Care shall be taken so as not to injure the root system, trunk or foliage.
- 7.3 The backfill shall consist of topsoil excavated from the planting hole. If there is insufficient topsoil, a supplement of similar topsoil, approved by the Director or its designee, shall be furnished by the contractor at the Contractor's expense. Each planting hole shall be back-filled with an approved soil and tamped lightly and carefully so as not to damage the tree roots. The tree shall then be watered so as to settle soil around the roots. Each tree shall be fertilized utilizing Osmocote slow release fertilizer microlife organic fertilizer, or approved equal, per the manufacturer's recommended ratio. One-half (1/2) cup hydrogel per tree shall be added as the hole is back filled. A product containing mycorrhizae (such as Mycor) shall be added with the fertilizer. After the water is absorbed a saucer shall be constructed 6-8 inches above soil grade around planting hole a minimum of three (3) feet in diameter. This area shall be mulched with 3-4 inches of pine bark mulch and maintained free of weeds and grass. A final inspection shall check for mulch thickness, depth of planting and trunk straightness (plumb).
- 7.4 Pruning shall be done according to recognized horticultural standards and the instructions of the Director or its designee. All damaged limbs shall be removed. The Contractor shall ensure that the tree maintains a shape appropriate to its species.
- 7.5 All trees must be staked within 24 hours of planting. All 15-gallon trees shall be staked with two (2) stakes. All stakes shall be six (6) foot steel t-posts type. All trees shall be tied or guyed with a half-inch (1/2") web material arbor tie (tap) in a manner that is both secure and non-injurious to the tree and approved by the Director or its designee. The Contractor may use other types of securing ties or devices if he receives prior approval from the Director or its designee to do so.
- 7.6 Coarse shredded and properly composted bark mulch (pine or hardwood) shall be placed loosely as a mulch around trees planted within forty-eight (48) hours after planting to a uniform depth 6" (inches). The mulch must be free of branches, roots or other foreign material. The mulched areas are to be free of weeds and grass vegetation with a minimum of 3-4 inch mulch cover. Grouping is determined as mulching areas that are surrounding and in between trees (generally 5 to 10 trees per grouping).
- 7.7 Tree planting locations shall be marked in the medians along the specified street. The Parks and Recreation shall identify tree-planting locations that shall be signified by a fluorescent orange "X".
- 7.8 All lawn areas shall be left "fan rake clean". All driveways, walkways, roads, curbs, & any other asphalt, concrete, stone and similar surfaces in the vicinity of a work site shall be left "broom clean" when the site is vacated at the end of each day.
- 7.9 Per Exhibit "H" Fee Schedule, tree-planting locations shall be marked in the medians along the specified street. The Director or his designee shall identify tree-planting locations that shall be signified by a painted "X".
- 7.10 Trees shall be at least seventy-five (75) feet from the esplanades nose at an intersection and at least fifty (50') feet from the esplanade nose at a mid-block opening.

- 7.11 Trees generally should be planted in a row on 10' centers as marked, alternating species until the project end. The marked location shall be marked once and shall be the Contractor's responsibility to maintain these marks until the trees are planted.
- 7.12 Disposal of all debris, trash, and remaining materials not needed shall be considered the property of the Contractor who shall dispose of them in a manner consistent with applicable Municipal, state, and federal laws.

**8.0 Tree Maintenance:**

- 8.1 The Director or its designee shall inspect the initial work done under this contract to verify that the services provided are in accordance with the specifications and that it is accepted. The Contractor shall notify the Director or its designee in writing (work order or invoice) at least ten (3) days in advance of the desired date for the inspection to occur. After the inspection has occurred, the Director or its designee shall notify the Contractor in writing that work performed is accepted and the date on which the guarantee period is to begin for each tree planted and accepted, or any trees planted that have not been accepted and deficiencies needing to be corrected.
- 8.2 The twenty-four (24) month warranty period shall commence after the initial inspection and approval date of the tree planting. Upon the direction of the Director and its designee the City, following the specifications contained in this contract, shall replace any tree killed and/or damaged beyond the Contractor's control, such as vandalized trees, and the City shall bear the cost of the replacements in accordance with Contract pricing.
- 8.3 Any turf areas damaged by the Contractor shall be leveled and new sod to be placed and any horticultural plantings damaged shall also be replaced with the same to restore the area to its prior condition. In addition, damage to structures, utilities, signs, light fixtures, landscape furniture, or other City property shall be repaired or replaced. It is understood that any and all damages caused by person's engaged in the performance of the services under this contract shall be repaired by the Contractor without undue delay and at his sole cost and expense. Any repair work shall be performed by skilled workmen acceptable to the Director or its designee and all repairs and replacements must be approved by the Director or its designee prior to final payment hereunder.
- 8.4 Within two (2) weeks of the written notice from the Director or its designee, the Contractor shall replace, at his sole expense, any dead trees or trees that in the opinion of the Director or its designee, have become unhealthy, unsightly or have lost their natural shape as a result, improper pruning or maintenance. If a tree is replaced, the twenty-four (24) month guarantee period for that tree shall begin after the Director or its designee, has inspected it and approved it.
- 8.5 The Contractor shall dispose of any tree rejected by the Director or its designee due to not meeting specifications at any time at the sole expense of the Contractor.

**9.0 Labor Supervision and Property Damage:**

- 9.1 The Contractor shall keep a competent supervisor on the work site at all times. That supervisor shall represent the Contractor in his absence and all directions given by and to the supervisor shall be binding as if given by and to the Contractor. The Contractor shall properly protect public and private property including, but not limited to streets, curbs, sidewalks, driveways, houses, trees, shrubbery, lawns, retaining walls, fences, gates and utilities. Any damage to such property by the Contractor's employees or equipment shall be repaired and restored to its original condition by the Contractor. The Contractor shall pay any and all such costs, which may be required in the repairing or replacement of any item

that is damaged.

- 9.2 Contractor shall immediately report to the Director or its designee any damage to furnishings or property caused by Contractor's personnel or subcontractors while performing services pursuant to the Contract.
- 9.3 If it appears that a motor vehicle shall hinder work operations hereunder, the Contractor shall be responsible for contacting the owner of the vehicle to have the owner move the vehicle. The Contractor shall take all necessary precautions for the safety of its employees and the public and shall provide and adequately maintain all necessary safeguards at all times as required by the conditions and progress of the work. The Contractor shall comply with all applicable provisions of federal, state, and local safety laws and codes to prevent accident or injury to persons or property. The Contractor shall place traffic cones or barricades where needed or directed on or near the work site.
- 9.4 The Director or Designee shall have underground utilities located. When subsurface utilities are encountered, the Contractor shall immediately notify the responsible utility agency, or company, and the Director or its designee. The Contractor, at his expense, shall restore to original condition all instructions, facilities, and other property damaged by his work.

#### **10.0 Inspections:**

- 10.1 Federal, state, or other authorities shall inspect all trees to be planted hereunder before removal from the nursery as required by local law. Required certificates declaring that the trees are free of any diseases and insects shall accompany each order or shipment of trees. The City reserves the right to inspect and accept or refuse acceptance of any trees before they are removed from the delivery truck at the work site. A delivery truck driver, or other agent for the Contractor, shall notify the Director or its designee by telephone before leaving for a work site each day to facilitate these on-truck tree inspections.
- 10.2 The City reserves the right to perform and unscheduled inspection of any work site at any time without notice given to the Contractor. The Contractor shall notify the Director or its designee by telephone on the morning of each working day to inform the City of the location of the work to be performed hereunder for that day.

#### **11.0 Payment and Compensation:**

- 11.1 For and in consideration of the services to be performed under this contract, the City agrees to pay and the Contractor agrees to accept the bid pricing in accordance with the schedule of Fees and Costs, Exhibit "H" as full compensation for all work performed during this contract. To receive payment the Contractor must:
  - 1) Submit a monthly original invoice and one copy showing the corresponding services performed. Each invoice must be accompanied by a breakdown of the number and species of trees planted or maintained, the location where the trees were planted or maintained, and the cost of trees.
  - 2) Display Contract and Ordinance Numbers must be displayed on all invoices submitted, delivery and acceptance of Tree Planting and Maintenance Services by site.
  - 3) If the Contractor has previously been paid for items or services that have later been found deficient, defective or otherwise unacceptable, subsequent invoices may be adjusted accordingly.

11.2 The Contractor shall submit an original invoice for payment and a copy to Mr. Brad Hendricks and to the addresses listed below for provision of Tree Planting & Maintenance Services (along with ordinance and contract number), which have been inspected and accepted by the City of Houston Parks & Recreation Department.

C.O.H. Parks & Recreation Department  
Attn: Accounts Payable - Gina Chaney  
6200 Wheeler  
Houston, Texas 77023  
713-845-8095

and a copy of the invoice to:

C. O. H.- Urban Forestry  
Attn: Brad Hendricks  
6501 Memorial Drive  
Houston, Texas 77007  
713-867-0378

11.3 Any payment due to the Contractor for work completed under this contract shall be withheld until all property damage has been completely restored or proper arrangements have been made to accomplish the same to the satisfaction of the Director or its designee.

11.4 If the Contractor fails to complete all site in the Contract within 12 weeks after the Notice to Proceed or after receipt of purchase order, liquidated damages shall be charged. Liquidated damages in the amount of One Hundred Dollars (\$100.00) per calendar day shall be assessed for each calendar day the entire Contract/Project works remains incomplete. For all actions that require approval from the City, response must be received within twenty-four (24) hours after submission in writing. If no approval is submitted to the Contractor in writing, the Contractor shall proceed with all aspects of the scope of work that do not require the City's approval and proper relief in the schedule shall be negotiated with the Contractor and liquidated damages shall not be enforced.

**12.0 Additions & Deletions of Sites:**

12.1 During the term of the Contract, the City may elect to add and/or delete sites to the Contract, for purposes indicated in the Scope of Services. This option shall be exercised by means of a written notice signed by the Director and its designee, provided however that the Contractor upon receipt of said notice is allowed two weeks prior to commencing operations at any new site that may be added.

12.2 If additional site(s) are added to the Contract, the rate(s) shall be based upon a similar site(s) current included pricing in the Contract, as agreed upon between the Director, or its designee and the Contractor. Any site(s) removed from the Contract shall result in the appropriate amount being subtracted from the total.

12.3 If at anytime site(s) are added to the Contract after the initial tree planting period, the Contract may be extended to allow only for the warranty maintenance of planted trees, up to their twenty-four (24) month warranty period after the initial inspection and approval date of the tree planting.

12.4 Notwithstanding inspection and acceptance by the City or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract shall, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The City shall give written notice of any defect or nonconformance to the Contractor within a one-year period from the date of acceptance by

the City. This notice shall state either (1) that the Contractor shall correct or re-perform any defective or non-conforming services at no additional cost to the City, or (2) that the City does not require correction or re-performance.

- 12.5 If the Contractor is required to correct or re-perform, it shall be at no cost to the City, and any services corrected or re-performed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or re-perform, the City may, by contract or otherwise correct or replace with similar services and charge to the Contractor the cost occasioned to the City thereby, or make an equitable adjustment in the contract price.
- 12.6 If the City does not require correction or re-performance, the City shall make an equitable adjustment in the contract price.

### **13.0 Utilities**

- 13.1 The Contractor shall be responsible at its cost for any and all work, expenses, or special precautions caused by the existence or proximity of utilities encountered in performing the work hereunder. All workmen working in the vicinity of utility lines shall be fully briefed and instructed in safe working procedures appropriate to the voltage of the electrical apparatus on or near the work site.
- 13.2 Utilities are taken into account in the design prepared by the Director or its designee. Utilities shall remain marked throughout the tree plantings. The Contractor may move the trees slightly, if he/she perceives interference by a utility line, but a movement of more than 18" must be pre-approved by the Director or its designee. The Contractor should ensure relevant markings are maintained to avoid damages.

### **14.0 Alternate Work Plan, Inclement Weather**

- 14.1 The Contractor shall contact the City of Houston designee immediately upon possible disruption of work by rain to be allowed as a rain day. Parks and Recreation Department contact person must confirm rain days before being allowed as a rain day. Rain Days shall not be charged to the Contractor as liquidated damages if the City of Houston designees concur that the weather conditions merit a rain day and hence postponement of work. If the City of Houston designee does not concur that a rain day is not merited the Contractor shall be penalized for the delays by way of liquidated damages.

### **15.0 Licenses and Permits**

- 15.1 The Contractor shall be responsible for determining and securing, at his expense, any and all licenses and permits that are required in any manner connect with providing the Work under this Contract. Such fee, unless otherwise specified shall be included in the costs bid in this Contract for the Work. The Contractor shall notify the Parks and Recreation Department designated representative in writing at any time during the Contract Term, within (2) days of any of suspension, revocation and renewal.

### **16.0 Equipment**

- 16.1 All safety equipment for the purpose for which it is being used must OSHA approved.

### **17.0 Methods of Operation – Work Week/Hours**

- 17.1 The normal workweek for providing the services under this Contract shall be Monday through Friday from 7:00 am to 7:00 pm only. Any change in the workweek, shall be only by mutual

agreement (immediately confirmed in writing) between the Contractor and the Parks and Recreation Department designated representative.

## **CITY OF HOUSTON, TEXAS EQUAL EMPLOYMENT OPPORTUNITY CLAUSE**

Pursuant to City Council Ordinance No. 78-1538, passed August 9, 1978, all contracts entered into by the City of Houston involving the expenditure of Ten Thousand (\$10,000.00) Dollars, or more, shall incorporate the following Equal Employment Opportunity Clause:

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier, or lessee agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.

2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.

3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives or workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or workers' representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.

5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and workforce statistics of the contractor, subcontractor, vendor, supplier, or lessee.

6. In the event of the contractor's, subcontractor's, vendor's, supplier's or lessee's non-compliance with the nondiscrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.

7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965 so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. The contractor shall file and shall cause each of his subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.



### Sample Letter of Intent

To: City of Houston  
Administering Department

Date: 2-4-08

Project Name and Number TREE Planting & Maintenance Services

Bid Amount: 736,521.00 M/W/DBE Goal: 11%

Statewide Tree Service Inc Prime Contractor agrees to enter into a contractual agreement with Land Pro M/W/DBE Subcontractor who will provide the following goods/services in connection with the above referenced contract:

for an estimated amount of \$ 81,017.31 or 11 % of the total contract value.

Land Pro (M/W/DBE Subcontractor) is currently certified with the City of Houston's Affirmative Action and Contract Compliance Office to function in the aforementioned capacity.

Statewide Tree Service Inc Prime Contractor Land Pro, Inc M/W/DBE Subcontractor

intend to work on the above-named contract in accordance with the M/W/DBE Participation Section of the City of Houston Bid Provisions, contingent upon award of the contract to the aforementioned Prime Contractor.

[Signature]  
Signed (Prime Contractor)

[Signature]  
Signed (M/W/DBE Subcontractor)

CAROL ALISON JR.  
Printed Signature

George W. Marks  
Printed Signature

President  
Title

President  
Title

Date

Date

**DRUG POLICY COMPLIANCE AGREEMENT**

I, \_\_\_\_\_ as an owner or officer of  
(Name) (Print/Type) (Title)

\_\_\_\_\_ (Contractor)  
(Name of Company)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.
4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

\_\_\_\_\_  
Date

Contractor Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

ATTACHMENT C

Contractor's Certification of No Safety Impact Positions  
In Performance of a City Contract

I, CAMELL Allison Jr. President as an owner or officer of  
(Name) (Print/Type) (Title)

Statewide Tree Services Inc. (Contractor) have authority to bind the Contractor with respect to its bid, and I hereby certify that Contractor has no employee safety impact positions as defined in §5.18 of Executive Order No. 1-31 that will be involved in performing this City Contract. Contractor agrees and covenants that it shall immediately notify the City's Director of Personnel if any safety impact positions are established to provide services in performing this City Contract.

1-29-2008  
Date

Contractor Name Statewide Tree Services Inc.  
Signature CAMELL Allison Jr.  
Title President

ATTACHMENT D

CONTRACTOR'S CERTIFICATION OF NON-APPLICATION OF  
CITY OF HOUSTON DRUG DETECTION AND DETERRENCE PROCEDURES  
FOR CONTRACTORS

I, CAMELL Allison Jr. President as an owner or officer of  
(Name) (Print/Type) (Title)

Statewide Tree Services Inc. (Contractor) have authority to bind the Contractor with respect to its bid, and I hereby certify that Contractor has fewer than fifteen (15) employees during any 20-week period during a calendar year and also certify that Contractor has no employee safety impact positions as defined in 5.18 of Executive Order No. 1-31 that will be involved in performing this City Contract. Safety impact position means a Contractor's employment position involving job duties that if performed with inattentiveness, errors in judgment, or diminished coordination, dexterity, or composure may result in mistakes that could present a real and/or imminent threat to the personal health or safety of the employee, co-workers, and/or the public.

1-29-2008  
Date

Contractor Name Statewide Tree Services Inc.  
Signature CAMELL Allison Jr.  
Title President

Exhibit G  
**CONTRACTOR'S CERTIFICATION  
 DRUG POLICY COMPLIANCE DECLARATION**

I, \_\_\_\_\_ as an owner or officer of  
 \_\_\_\_\_  
 (Name) (Print/Type) (Title) (Contractor)  
 \_\_\_\_\_  
 (Name of Company)

have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from \_\_\_\_\_ to \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_ A written Drug Free Workplace Policy has been implemented and employees notified.  
 Initials The policy meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Policy).

\_\_\_\_\_ Written drug testing procedures have been implemented in conformity with the Mayor's  
 Initials Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31. Employees have been notified of such procedures.

\_\_\_\_\_ Collection/testing has been conducted in compliance with federal Health and Human  
 Initials Services (HHS) guidelines.

\_\_\_\_\_ Appropriate safety impact positions have been designated for employee positions  
 Initials performing on the City of Houston contract. The number of employees in safety impact positions during this reporting period is \_\_\_\_\_.

\_\_\_\_\_ From \_\_\_\_\_ to \_\_\_\_\_ the following test has occurred  
 Initials (Start date) (End date)

	<u>Random</u>	<u>Reasonable Suspicion</u>	<u>Post Accident</u>	<u>Total</u>
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Number Employees Tested

Number Employees Positive

Percent Employees Positive

\_\_\_\_\_ Any employee who tested positive was immediately removed from the City worksite  
 Initials consistent with the Mayor's Policy and Executive Order No. 1-31.

\_\_\_\_\_ I affirm that falsification or failure to submit this declaration timely in accordance with  
 Initials established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration are within my personal knowledge and are true and correct.

\_\_\_\_\_  
 (Date)

\_\_\_\_\_  
 (Typed or Printed Name)

\_\_\_\_\_  
 (Signature)

\_\_\_\_\_  
 (Title)

**EXHIBIT H  
FEES AND COSTS**

**Group 1 - Landscaping and Beautification of City Streets and Thoroughfares Location Reed Road/Alameda-SH288**

<b>Item #</b>	<b>Description</b>	<b>Unit of Measure</b>	<b>Unit Price</b>
1	Trees - Sawtooth Oak, 15 Gallon	Each	\$75.00
2	Trees - Mexican White Oak (Polymorpha) 15 Gallon	Each	\$75.00
3	Crape Myrtle (Dallas Red) 15 Gallon	Each	\$75.00
4	Trees - Trident Maple, 15 Gallon	Each	\$75.00
5	Trees - Sweetgum, 15 Gallon	Each	\$75.00
6	Trees - Cedar Elm	Each	\$75.00

**Group 1 - Landscaping and Beautification of City Streets and Thoroughfares Scott/Orem-Airport**

<b>Item #</b>	<b>Description</b>	<b>Unit of Measure</b>	<b>Unit Price</b>
7	Trees - Live Oak, 15 Gallon	Each	\$75.00
8	Trees - Cedar Elm, 15 Gallon	Each	\$75.00
9	Trees - Crape Myrtle (Dallas Red), 15 Gallon	Each	\$75.00
10	Trees - Chinese Pistache, 15 Gallon	Each	\$75.00

**Group 1 - Landscaping and Beautification of City Streets and Thoroughfares Ella/Pinemont-West Little York**

<b>Item #</b>	<b>Description</b>	<b>Unit of Measure</b>	<b>Unit Price</b>
11	Trees - Mexican White Oak, 15 Gallon	Each	\$75.00
12	Trees - Southern Magnolia, 15 Gallon	Each	\$75.00
13	Trees - Savannah Holly, 15 Gallon	Each	\$82.00
14	Trees - Yaupon, 15 Gallon	Each	\$75.00

**Group 1 - Landscaping and Beautification of City Streets and Thoroughfares San Felipe/Yorktown - Chimney Rock, these trees will be planted San Felipe/Augusta-Buffalo Bayou - Trees**

<b>Item #</b>	<b>Description</b>	<b>Unit of Measure</b>	<b>Unit Price</b>
15	Trees - Live Oak, 15 Gallon	Each	\$75.00
16	Trees - Chinese Elm, 15 Gallon	Each	\$75.00
17	Trees - Mexican Plum, 15 Gallon	Each	\$75.00
18	Trees - Chinese Fringe tree, 15 Gallon	Each	\$75.00
19	Trees - Sawtooth Oak, 15 Gallon	Each	\$75.00
20	Trees - Mexican White Oak (Polymorpha), 15 Gallon	Each	\$75.00

**Group 1 - Landscaping and Beautification of City Streets and Thoroughfares Ley Road/Grade Separation at UPRR**

Item #	Description	Unit of Measure	Unit Price
21	Yaupon - 15 Gallon	Each	\$75.00
22	Trees - Sawtooth Oak, 15 Gallon	Each	\$75.00
23	Trees - Loblolly Pine, 15 Gallon	Each	\$75.00
24	Trees - Mexican Plum, 15 Gallon	Each	\$75.00

**Group 1- Landscaping and Beautification of City Streets and Thoroughfares El Dorado/I45-Beamer**

Item #	Description	Unit of Measure	Unit Price
25	Trees - Cedar Elm - 15 Gallon	Each	\$75.00
26	Trees - Burr Oak, 15 Gallon	Each	\$85.00
27	Trees - Mexican Buckeye, 15 Gallon	Each	\$85.00
28	Trees - Sawtooth Oak, 15 Gallon	Each	\$85.00
29	Tree - Chinese Fringe	Each	\$85.00

**Group 1- Landscaping and Beautification of City Streets and Thoroughfares Elysian Street Viaduct - Trees**

Item #	Description	Unit of Measure	Unit Price
30	Trees - Burr Oak, 30 Gallon	Each	\$175.00
31	Trees - Crape Myrtle "Basham Party Pink" 30 Gallon	Each	\$175.00
32	Trees, Mexican Plum, 30 Gallon	Each	\$175.00
33	Trees, Cedar Elm, 30 Gallon	Each	\$175.00

**Group 1 - Landscaping and Beautification of City Streets and Thoroughfares WestPark Bridge**

Item #	Description	Unit of Measure	Unit Price
34	Tress, Crape Myrtle "Basham Party Pink) 65 Gallon	Each	\$365.00
35	Trees, Live Oaks 100 Gallon	Each	\$775.00

**Group 1 - Landscaping and Beautification of City Streets and Thoroughfares Scott Street/South Acres-Orem-Trees**

Item #	Description	Unit of Measure	Unit Price
36	Trees, Yaupon 15 Gallon	Each	\$65.00
37	Trees, Texas Ash 15 Gallon	Each	\$65.00
38	Trees, Mexican Plum	Each	\$75.00

39	15 Gallon Trees, Cedar Elm	Each	\$75.00
40	15 Gallon Trees, Crape Myrtle "Choctaw" or "Chica Pink"	Each	\$100.00
41	15 Gallon Trees, Crape Myrtle "Dynamite"	Each	\$75.00

**Group 1 - Landscaping and Beautification of City Streets and Thoroughfares Barker Cypress (N of Park Row to I-10**

Item #	Description	Unit of Measure	Unit Price
42	Trees, Nuttall's Oak 30 Gallon	Each	\$185.00
43	Trees, Cedar Elm 15 Gallon	Each	\$85.00
44	Trees, Burr Oak 15 Gallon	Each	\$85.00
45	Trees, Evergreen Elm 30 Gallon	Each	\$175.00
46	Trees, Mexican Plum 15 Gallon	Each	\$100.00

**Group 1 - Landscaping and Beautification of City Streets and Thoroughfares Central/Lawndale - Trees**

Item #	Description	Unit of Measure	Unit Price
47	Trees, Mexican Plum 15 Gallon	Each	\$100.00
48	Trees, Chinese Fringetree 15 Gallon	Each	\$100.00
49	Trees, Burr Oak 30 Gallon	Each	\$200.00
50	Trees, Cedar Elm	Each	\$200.00
51	Trees, Chinese Elm 30 Gallon	Each	\$175.00

**Group 1 - Landscaping and Beautification of City Streets and Thoroughfares W. Little York Bridge over Vogel Creek**

Item #	Description	Unit of Measure	Unit Price
52	Trees, Chinese Pitache 30 Gallon	Each	\$200.00
53	Trees, Chinese Fringetre 30 Gallon	Each	\$200.00

54	Trees, Sweetgum 30 Gallon	Each	\$200.00
55	Trees, Shumard Oak 30 Gallon	Each	\$175.00
56	Trees, Cedar Elm 30 Gallon	Each	\$175.00
57	Trees, Redbud 30 Gallon	Each	\$200.00
58	Trees, Sawtooth Oak 30 Gallon	Each	\$200.00
59	Trees, Evergreen Elm 30 Gallon	Each	\$200.00
60	Trees, Mexican Plum 30 Gallon	Each	\$175.00

**Group 1 - Landscaping and Beautification of City Streets and Thoroughfares Park Row/S.H.6 - Eldridge - Trees**

Item #	Description	Unit of Measure	Unit Price
61	Trees, Chinese Pistache 30 Gallon	Each	\$195.00
62	Trees, Shumard Oaks 30 Gallon	Each	\$179.00
63	Trees, Chinese Fringetree 30 Gallon	Each	\$195.00
64	Trees, Cedar Elm 30 Gallon	Each	\$179.00
65	Trees, Leyland Cypress 15 Gallon	Each	\$95.00
66	Trees, Burr Oak 30 Gallon	Each	\$175.00
67	Trees, Live Oak 30 Gallon	Each	\$185.00

**Group 1 - Landscaping and Beautification of City Streets and Thoroughfares Woodway Bridge over Buffalo Bayou/Archery Range - Trees**

Item #	Description	Unit of Measure	Unit Price
68	Trees, Burr Oak 30 Gallon	Each	\$195.00
69	Trees, Loblolly Pine 30 Gallon	Each	\$195.00
70	Trees, Mexican Plum 30 Gallon	Each	\$195.00
71	Trees, Redbud 30 Gallon	Each	\$195.00

**Group 1 - Landscaping and Beautification of City Streets and Thoroughfares - Monthly Maintenance**

Item #	Description	Unit of Measure	Unit Price
72	Monthly Tree Maintenance	Each	\$3.75
73	Monthly Native Grass Maintenance	Each	\$1.00
74	Re-mulch after 14-18 months	Each	\$15.00
75	Remove Stakes @18-22 months as needed	Each	\$1.00

**Group 2 - Hope Neighborhood Tree Planting Acres Homes - Area 1 - W. Montgomery/Granville-Wilberforce**

Item #	Description	Unit of Measure	Unit Price
76	Crape Myrtle "Natchez" 30 Gallon	Each	\$165.00
77	Crape Myrtle "Catawba" 30 Gallon	Each	\$165.00
78	Crape Myrtle "Bashum" 45 Gallon	Each	\$245.00
79	Crape Myrtle "Muskogee" 45 Gallon	Each	\$245.00

**Group 2 - Hope Neighborhood Tree Planting - Wheatley (Ella)/Granville-Wilberforce**

Item #	Description	Unit of Measure	Unit Price
80	Yaupon 30 Gallon	Each	\$195.00
81	Savanah Holly 45 Gallon	Each	\$225.00
82	Mexican White Oak 30 Gallon	Each	\$205.00
83	Savanah Holly 30 Gallon	Each	\$185.00
84	Southern Magnolia	Each	\$225.00
85	Yaupon (50% female) 30 gallon	Each	\$225.00
86	Southern Magnolia 30 Gallon	Each	\$225.00
87	Mexican White Oak 30 Gallon	Each	\$200.00

**Group 2 - Hope Neighborhood Tree Planting - Acres Home - Area 3: Victory/Virgil W. to Carver**

Item #	Description	Unit of Measure	Unit Price
88	Drake Elm, 30 Gallon	Each	\$200.00

89	Chinese Fringetree, 30 Gallon	Each	\$205.00
90	Trident Maple, 30 Gallon	Each	\$205.00
91	Nuttall Oak, 30 Gallon	Each	\$200.00
92	Redbud "Forest Pansy" 30 Gallon	Each	\$175.00
93	Vitex, 30 Gallon	Each	\$195.00
94	Yaupon (50% female) 30 Gallon	Each	\$195.00
95	Possumhaw 30 Gallon	Each	\$225.00
96	Mexican Buckeye 30 Gallon	Each	\$195.00

**Group 2 - Hope Neighborhood Tree Planting - W. Montgomery Victory-Esther**

Item #	Description	Unit of Measure	Unit Price
97	Cedar Elm 30 Gallon	Each	\$185.00
98	Yaupon (50% female) 30 Gallon	Each	\$195.00
99	Mexican Plum, 30 Gallon	Each	\$185.00

**Group 2 - Hope Neighborhood Tree Planting - Acres Homes -Area 4: 1/2 esplanade Victory at Sunnyhill**

Item #	Description	Unit of Measure	Unit Price
100	Chinese Fringetree 30 Gallon	Each	\$195.00
101	Redbud "Forest Pansy" 30 Gallon	Each	\$205.00
102	Cedar Elm 30 Gallon	Each	\$185.00
103	Polymorpha Oak 30 Gallon	Each	\$185.00

**Group 2 - Hope Neighborhood Tree Planting - Settegast - Area 2: N. Wayside/Sexton-Attwater:**

Item #	Description	Unit of Measure	Unit Price
104	Burr Oak 30 Gallon	Each	\$195.00
105	Cedar Elm, 30 Gallon	Each	\$185.00
106	Mexican Plum	Each	\$185.00
107	Chinese Fringe Tree 30 Gallon	Each	\$205.00

**Group 2 - Hope Neighborhood Tree Planting - Sunnyside - Area 1: Holmes Road/Canyon - Scott**

Item #	Description	Unit of Measure	Unit
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			Price
108	Burr Oak, 30 Gallon	Each	\$185.00
109	Cedar Elm, 30 Gallon	Each	\$185.00
110	Sweetgum, 30 Gallon	Each	\$175.00
111	Mexican Plum, 30 Gallon	Each	\$185.00
112	Crape Myrtle "Catawba" 30 Gallon	Each	\$185.00
113	Crape Myrtle "Basham" 45 Gallon	Each	\$195.00
114	Crape Myrtle "Natchez" 30 Gallon	Each	\$185.00

**Group 2 - Hope Neighborhood Tree Planting - Scott/Holmes-Bellfort**

Item #	Description	Unit of Measure	Unit Price
115	Cedar Elm, 30 Gallon	Each	\$175.00
116	Burr Oak, 30 Gallon	Each	\$180.00
117	Chinese Elm, 30 Gallon	Each	\$185.00
118	Mexican Plum, 30 Gallon	Each	\$175.00
119	Texas Ash, 30 Gallon	Each	\$165.00
120	Crape Myrtle "Basham" 45 Gallon	Each	\$195.00
121	Crape Myrtle "Natchez" 30 Gallon	Each	\$175.00

**Group 2 - Hope Neighborhood Tree Planting - Bellfort/Canon-Scott**

Item #	Description	Unit of Measure	Unit Price
122	Cedar Elm, 30 Gallon	Each	\$175.00
123	Burr Oak, 30 Gallon	Each	\$175.00
124	Crape Myrtle "Basham" 45 Gallon	Each	\$205.00
125	Texas Ash, 30 Gallon	Each	\$175.00
126	Yaupon (50% Female) 30 Gallon	Each	\$190.00
127	Mexican Plum 30 Gallon	Each	\$190.00

**Group 2 - Hope Neighborhood Tree Planting - Sunnyside-Area 2: Bellfort/Cullen-Scott**

Item #	Description	Unit of Measure	Unit Price
128	Burr Oak, 30 Gallon	Each	\$175.00
129	Yaupon (50% female) 30 Gallon	Each	\$175.00
130	Crape Myrtle "Tuscarora"	Each	\$175.00

	30 Gallon		
131	Cedar Elm, 30 Gallon	Each	\$185.00
132	Mexican Plum, 30 Gallon	Each	\$175.00

**Group 2 - Hope Neighborhood Tree Planting-Scott/Larkspur-Bellfort**

Item #	Description	Unit of Measure	Unit Price
133	Mexican Plum, 30 Gallon	Each	\$175.00
134	Burr Oak, 30 Gallon	Each	\$175.00
135	Cedar Elm, 30 Gallon	Each	\$175.00
136	Yaupon (50% female) 30 Gallon	Each	\$175.00

**Group 2 - Hope Neighborhood Tree Planting - Sunnyside - Area 3: Reed Road/W of Kish-Rosehaven**

Item #	Description	Unit of Measure	Unit Price
137	Chinese Pistache 30 Gallon	Each	\$195.00
138	Crape Myrtle "Natchez" 30 Gallon	Each	\$175.00
139	Crape Myrtle "Bashan" 45 Gallon	Each	\$195.00
140	Cedar Elm, 30 Gallon	Each	\$175.00
141	Yaupon (50% female) 30 Gallon	Each	\$175.00

**Group 2 - Hope Neighborhood Tree Planting - Trinity/Houston Gardens - Area 1: Crosstimebers/Lockwood-RRX**

Item #	Description	Unit of Measure	Unit Price
142	Crape Myrtle "Comanche" 30 Gallon	Each	\$175.00
143	Crape Myrtle "Natchez" 30 Gallon	Each	\$175.00
144	Crape Myrtle "Muskogee" 45 Gallon	Each	\$195.00

**Group 2 - Hope Neighborhood Tree Planting - Lockwood/Denmakr-RRX**

Item #	Description	Unit of Measure	Unit Price
145	Crape Myrtle "Dallas Red" 45 Gallon	Each	\$195.00
146	Crape Myrtle "Natchez" 30 Gallon	Each	\$175.00
147	Mexican Plum, 30 Gallon	Each	\$175.00

**Group 2 - Hope Neighborhood Tree Planting - Lockwood/1 esplanade N. of Crosstimbers**

<b>Item #</b>	<b>Description</b>	<b>Unit of Measure</b>	<b>Unit Price</b>
148	Crape Myrtle "Dallas Red" 45 Gallon	Each	\$195.00
149	Crape Myrtle "Natchez" 30 Gallon	Each	\$175.00
150	Chinese Fringe Tree 30 Gallon	Each	\$175.00
151	Mexican Plum, 30 Gallon	Each	\$195.00

**Group 2 - Hope Neighborhood Tree Planting - Homestead/N of RRX**

<b>Item #</b>	<b>Description</b>	<b>Unit of Measure</b>	<b>Unit Price</b>
152	Crape Myrtle "Dallas Red" 45 Gallon	Each	\$205.00
153	Crape Myrtle "Natchez" 30 Gallon	Each	\$200.00
154	Mexican Plum	Each	\$195.00

**Group 2 - Hope Neighborhood Tree Planting - Fulton/Boundary-Morris**

<b>Item #</b>	<b>Description</b>	<b>Unit of Measure</b>	<b>Unit Price</b>
155	Yaupon (Female) 30 Gallon	Each	\$195.00
156	Mexican Plum 30 Gallon	Each	\$195.00

**Group 2 - Hope Neighborhood Tree Planting - Lockwood/S of Market-Clinton**

<b>Item #</b>	<b>Description</b>	<b>Unit of Measure</b>	<b>Unit Price</b>
157	Burr Oak 30 Gallon	Each	\$195.00
158	Trident Maple 30 Gallon	Each	\$195.00
159	Mexican Plum 30 Gallon	Each	\$195.00
160	Chinese Fringe Tree 30 Gallon	Each	\$195.00

**Group 2 - Hope Neighborhood Tree Planting - Hirsch (Waco)/N of Clinton to I10**

<b>Item #</b>	<b>Description</b>	<b>Unit of Measure</b>	<b>Unit Price</b>
161	Burr Oak, 30 Gallon	Each	\$195.00
162	Mexican Plum 30 Gallon	Each	\$195.00
163	Chinese Fringe Tree 30 Gallon	Each	\$195.00
164	Yaupon (50% female) 30 Gallon	Each	\$195.00

**Group 2 - Hope Neighborhood Tree Planting - Gregg Street South of I-10**

<b>Item #</b>	<b>Description</b>	<b>Unit of Measure</b>	<b>Unit Price</b>
165	Crape Myrtle "Dallas Red" 45 Gallon	Each	\$195.00
166	Crape Myrtle "Natchez" 30 Gallon	Each	\$195.00
167	Cedar Elm 30 Gallon	Each	\$195.00
168	Mexican Plum 30 Gallon	Each	\$195.00

160	Chinese Fringe Tree 30 Gallon	Each	\$195.00
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**Group 2 - CDBG - Hope Neighborhood Tree Planting - Hirsch (Waco)/N of Clinton to I10**

Item #	Description	Unit of Measure	Unit Price
161	Burr Oak, 30 Gallon	Each	\$195.00
162	Mexican Plum 30 Gallon	Each	\$195.00
163	Chinese Fringe Tree 30 Gallon	Each	\$195.00
164	Yaupon (50% female) 30 Gallon	Each	\$195.00

**Group 2 - CDBG - Hope Neighborhood Tree Planting - Gregg Street South of I-10**

Item #	Description	Unit of Measure	Unit Price
165	Crape Myrtle "Dallas Red" 45 Gallon	Each	\$195.00
166	Crape Myrtle "Natchez" 30 Gallon	Each	\$195.00
167	Cedar Elm 30 Gallon	Each	\$195.00
168	Mexican Plum 30 Gallon	Each	\$195.00



City of Houston

Form POP-1A  
7.1.07

Pay or Play Program  
Acknowledgement Form

**What this form does.** This form acknowledges your awareness of the Pay or Play program. Your signature affirms that you will comply with the requirements of the program if you are the successful bidder/proposer, and ensure the same on behalf of subcontracts subject to the Pay or Play Program.

If you cannot make this assurance now, do not return this form.

For more information, contact the Contract Administrator.

Routing. Return this form with your bid or proposal.

I declare under penalty of perjury under the laws of the State of Texas that if awarded a contract, I will comply with the requirements of the Pay or Play Program.

Candace L.

Signature

12-18-07

Date

CAMELL ALBSON JR.

Print Name

\_\_\_\_\_

City Vendor ID

Statewide Tree Service Inc

Company Name

713-864-3368

Phone Number

StatewideTree@SBC

Email Address

Global.NET