



February 14, 2012

Bidder:

The City of Traverse City will receive sealed proposals in the Office of the City Manager, Second floor, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan, 49684, until **Thursday, March 8, 2012, at 10:00 a.m.** for the following:

Downtown Street Tree Replacement Project
(Specifications attached)

If the specifications are obtained from the City's website at www.ci.traverse-city.mi.us (services) it is the sole responsibility of the Bidder to check the website for updates and addendums prior to the proposal being submitted. You may also register on the website to receive notifications when requests for proposals or bids, updates and addendums are posted.

The City of Traverse City reserves the right to accept or reject any or all proposals, waive irregularities, and to accept the proposals either on an entire or individual basis that is in the best interest of the City.

The City accepts no responsibility for any expense incurred by the Bidder in the preparation and presentation of a proposal. Such expenses shall be borne exclusively by the Bidder.

Only the successful Bidder will be notified. If you so desire, you may call for results.

You must indicate on the outside of the sealed envelope that the proposal is for the **"Street Trees."**

You must submit the proposal to the City Manager's Office prior to the above-indicated time and date or the proposal will not be accepted. Telefaxed or E-Mail proposals will not be accepted.

Please note that if you have previously submitted an informal quote, you will still need to submit a sealed proposal prior to the date and time specified above in order to be considered. Please ensure that all requirements listed in the specifications are met.

If you have any questions, please contact Rob Bacigalupi, Deputy Director, Traverse City DDA, at (231) 922-2050 before the proposal is submitted.

PLEASE SUBMIT PROPOSAL TO:

Julie Dalton, Purchasing Agent
City Manager's Office, Governmental Center
Second Floor, 400 Boardman Avenue
Traverse City, MI 49684

PROPOSAL DUE DATE: March 8, 2012 AT 10:00 A.M.

**Request for Proposals
City of Traverse City
Downtown Street Tree Replacement Project**

INTENT

The City of Traverse City is seeking to engage the services of a qualified firm to enter into a contract to carefully remove and replace approximately 80 street trees in the downtown streetscapes. The City intends to select the contractor whose proposal best addresses the work identified in the Scope of Work

BACKGROUND

The existing street trees to be replaced are Ash trees which have reached the limit of growth in the streetscape environment and may have been damaged from ash-bore insects. The locations are noted on the attached listing of street tree locations by address.

SCOPE of WORK

Contractor shall perform the following work:

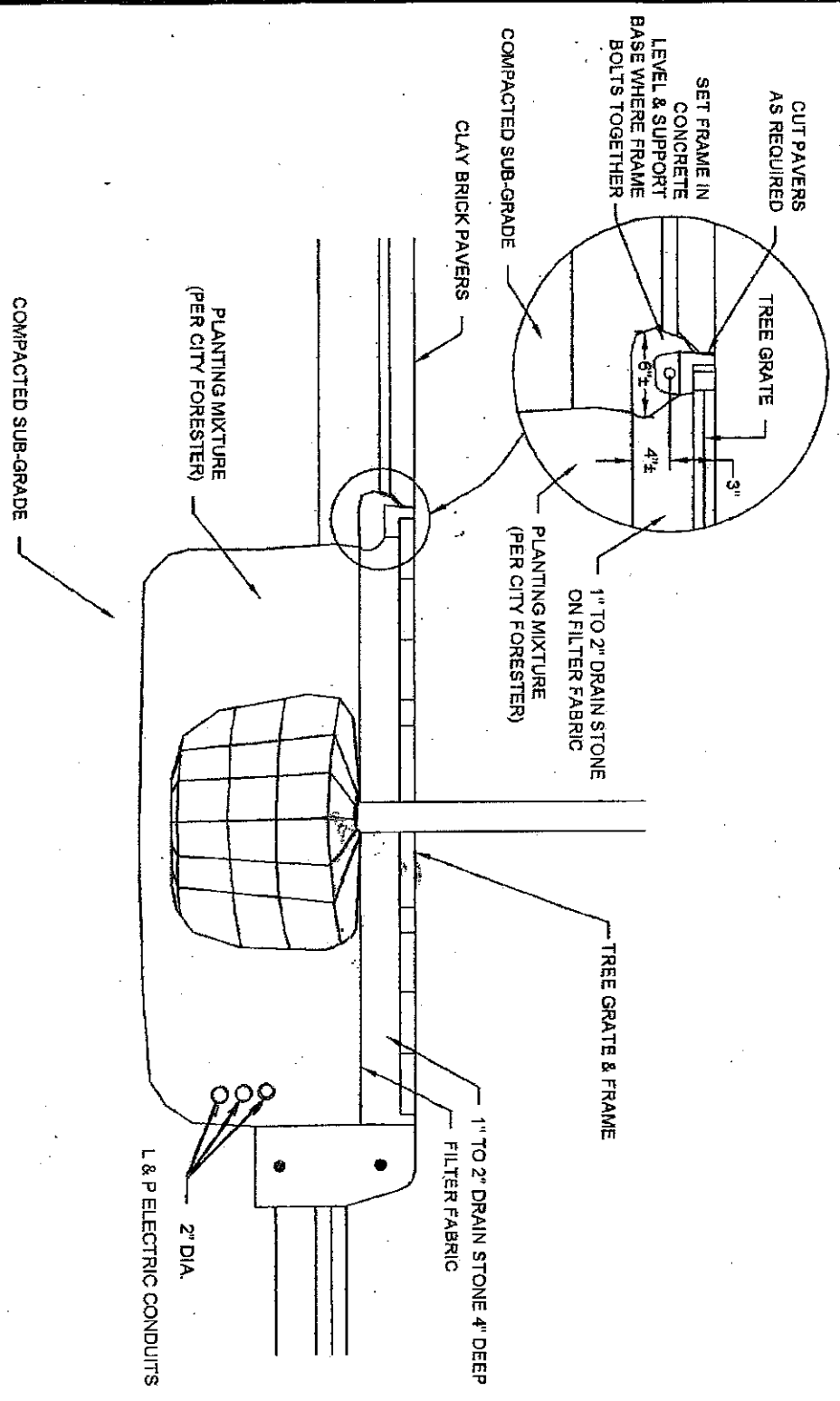
- Identify and locate trees by address from the attached listing and clearly mark the tree for removal with marking paint.
- Carefully remove tree including root ball including removal and disposal of the tree branches and trunk, removal and salvaging of the tree grate as may be required, brush removal, excavation using hydro demolition methods with vector truck, hand work, hand sawing and related work including the protection of any underground utilities and irrigation systems.
- Excavate soils, provide planting mixture and plant tree replacement. Install salvaged tree grate and place filter fabric and 4" thick drainage stone as shown in Standard Detail V-114A. Replacement trees shall be minimum 2 ½ " caliper *Pyrus calleryana* 'Red Spire' or approved equal and pruned to meet International Society of Arboriculture Standards, with a one year warranty.
- Provide clean-up and removal of excess materials.
- Protect existing drains with filter fabric to prevent entry of sediments and similar materials during performance of the work.
- Provide traffic maintenance and control during work operations.

COORDINATION

The work shall be coordinated with the Auto-Parking System for parking space use. The City may elect to remove the tree branches and the contractor may offer a credit to the item for tree branch removal as indicated on the bid form. Cost shall be based on 80 trees and a cost for additional or fewer trees on an each basis shall be provided in the bid form.

ASH TREES

- 1 430 E. Front
- 1 414 E. Front
- 2 415 E. Front
- 1 416 E. Front
- 1 314 E. Front
- 1 309 E. Front
- 1 237 E. Front
- 1 240 E. Front
- 1 238 E. Front
- 1 236 E. Front
- 1 232 E. Front
- 1 229 E. Front
- 1 228 E. Front
- 2 225 E. Front
- 2 211 E. Front
- 1 210 E. Front
- 1 208 E. Front
- 1 205 E. Front
- 1 206 E. Front
- 1 204 E. Front
- 1 302 W. Front
- 3 130 Hall
- 3 Parking Lot X
- 10 Parking Lot T
- 3 203 S. Union on State
- 2 129 S. Union on State
- 5 142 E. State
- 2 160 E. State
- 3 Parking Lot O
- 5 223 Lake
- 2 401 S. Union on Lake
- 2 310 Cass
- 1 Parking Lot A
- 1 117 S. Union
- 1 121 S. Union
- 3 500 S. Union
- 2 8TH Across from playhouse
- 1 208 E. 8TH
- 1 224 E. 8TH
- 1 226 E. 8TH
- 1 236 E. 8TH
- 1 238 E. 8TH
- 3 300 E. State on Washington



CONTRACTOR WILL BE REQUIRED TO
 CUT TREE DOWN, REMOVE AND SAVE
 TREE GRATE. CAREFULLY REMOVE TREE
 ROOT BALL USING HYDRO DEMO METHODS
 WITH VAC TRUCK. HAND WORK, HAND SAWING, ETC.
 WHILE PROTECTING THE EXISTING COUNDRIT
 BANK, CURBING, SIDEWALK AND BRICK AREA.

EXISTING STREET TREE DETAIL

N.T.S.



The City of Traverse City
 Engineering Department
 GOVERNMENTAL CENTER
 400 Boardman Avenue
 Traverse City, Michigan 49684
 (231) 922-4461

DRAWN BY: JDM
 APP. BY: *[Signature]*
 DATE: 8-3-04

REVISION #	APPROVED BY:	DATE:

DETAIL #
 V-114A

DRAFT
CITY OF TRAVERSE CITY
CONTRACTOR AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2012, by and between the CITY OF TRAVERSE CITY, a Michigan municipal corporation, of 400 Boardman, Traverse City, Michigan, 49684, (the "City"), and _____, a (sole proprietorship/partnership/corporation) of _____, (if a corporation, state of incorporation) (the "Contractor");

WHEREAS, the City desires to engage the services of the Contractor to furnish technical and professional assistance concerning the project which is described as:

Downtown Street Tree Replacement Project

and the Contractor wishes to furnish such technical and professional service to the City and has represented that the Contractor has the education, expertise, capability and the necessary licenses to perform such services;

THEREFORE, the parties mutually agree as follows:

1. Agreement Documents. The following shall be deemed to be a part of this Agreement and incorporated herein.
 - A. Notice
 - B. Request for Proposals/Bids
 - C. Contractor's Proposal/Bid
 - D. Schedule of Payments
 - E. Timetable for Activities
2. Scope of Services. The Contractor shall provide services in accordance with and as set forth in the Agreement documents.
3. Compensation and Method of Payment. The City shall pay to the Contractor and the Contractor agrees to accept as full compensation for services under this Agreement the total sum of \$ _____ in accordance with the Schedule of Payments.
4. Period of Performance. The services to be rendered under this Agreement shall commence within _____ working days of execution hereof. Performance shall be in accordance with the Timetable for Activities.
5. Independent Contractor. The relationship of the Contractor to the City is that of an independent contractor and in accordance therewith, the Contractor covenants and agrees to conduct itself consistent with such status and that neither it nor its employees, officers or agents will claim to be an officer, employee or agent of the City or make any claim, demand or application to or for any rights or privileges applicable to any officer or employee of same,

including but not limited to worker's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit. The parties do not intend the services provided by the Contractor to be a joint venture.

6. The Contractor's Responsibility. The Contractor shall perform the work in a good and workmanlike manner and assumes the risk in performing under this Agreement. The Contractor shall be solely responsible and answerable in damages for all improper work, accidents or injuries to person or property.

7. Recovery of Money. Whenever, under this Agreement, any sum of money shall be recoverable from or payable by the Contractor to the City, the same amount may be deducted from any sum due to the Contractor under this Agreement or under any other contract between the Contractor and the City. The rights of the City are in addition and without prejudice to any other right the City may have to claim the amount of any loss or damage suffered by the City on account of the acts or omissions of the Contractor.

8. Disclosure by City Commissioner. Pursuant to 1968 Public Act 317, a City Commissioner with a pecuniary interest in a business submitting a bid for which the City may enter into a contract or issue a service/purchase order is required to publicly disclose their pecuniary interest prior to awarding the contract or issuing the service/purchase order. A form is provided and should be included with the bid.

9. Indemnity. The Contractor shall indemnify and save harmless the City, its officers, agents and employees from and against any and all claims, liabilities, losses, damages, actual attorney fees and settlement expenses arising from bodily injury or death of any persons and damage or loss of any property resulting or arising out of or in connection with the willful or negligent acts, omissions, or errors of the Contractor or its employees, agents, servants and subcontractors. Losses include damages the City may sustain as a result of the failure of the Contractor to comply with the provisions of this Agreement. The Contractor shall not be obligated to indemnify the City for the City's own negligence. This indemnification provision shall not be limited by reason of insurance coverage of any type. This provision is not intended to waive the defense of governmental immunity that may be asserted by the City in an action against them.

The City hereby reserves the right to select its own counsel, in defense of any matter arising hereunder, and no payment or acknowledgment of liability, loss, fine, penalty or charge shall be made against the City without its express written consent. This indemnity shall survive the expiration and termination of this Agreement. However, this survival shall be no longer than the expiration of the applicable statute of limitation.

The Contractor expressly acknowledges and agrees that this indemnification provision is intended to be as broad and inclusive as is permitted by law and that if any portion thereof is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect. This provision shall survive the termination of this Agreement.

10. Insurance. The Contractor agrees not to change and agrees to maintain the following insurance throughout the period of performance of this Agreement. The Contractor

will upon execution of this Agreement provide a certificate of insurance to the City Clerk. The policy shall contain endorsements stating that at least a 10-day notice will be given to the City prior to termination or any change in the policy; and in the case where Contractor is required to name the City as additional insured, shall provide an endorsement stating that the City has been named as an additional insured onto such policy for all claims arising out of the Contractor's work. Should any required insurance be cancelled, materially reduced or expired, all activities under this Agreement shall immediately cease until substitute insurance in compliance with all requirements hereof has been procured and evidence thereof presented to the City.

A. Commercial General Liability. The Contractor shall acquire and maintain commercial general liability insurance coverage in the amount of \$1,000,000 per occurrence with the City being named as additional insured for all claims arising out of the Contractor's work, including completed operations coverage (if required in the Request for Proposals/Bids).

B. Automobile Liability. The Contractor shall acquire and maintain during the life of this Agreement, automobile liability insurance, including applicable "no-fault" coverage, combined single limit bodily injury and property damage and shall include all owned vehicles, all non-owned vehicles and all hired vehicles.

C. Workers Compensation. The parties shall maintain suitable workers compensation insurance pursuant to Michigan law and the Contractor shall provide a certificate of insurance or copy of state approval for self insurance to the City Clerk upon execution of this Agreement.

11. Compliance with Regulations. The Contractor shall comply with all applicable statutes, rules and regulations of all federal, state and local governments and agencies having jurisdiction, and bears the risk of any such authorities or changes thereto.

12. Standard of Conduct. The Contractor shall render all services under this Agreement according to generally accepted professional practices for the intended use of the work or project.

13. The City's Obligation. The City shall provide the Contractor with all information currently available to the City upon request of the Contractor. The City Manager shall designate a City employee to be the City's representative for purposes of this Agreement.

14. Non-Discrimination. The parties agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity. Breach of this covenant may be regarded as a material breach of this Agreement.

15. Prohibition Against Assignment. This Agreement is intended to secure the service of the Contractor because of its ability and reputation and none of the Contractor's duties under this Agreement shall be assigned, subcontracted, or transferred without the prior written consent of the City Manager. Any assignment, subcontract or transfer of the Contractor's duties under this Agreement must be in writing.

16. Third Party Participation. The Contractor agrees that despite any subcontract entered into by the Contractor for execution of activities or provision of services related to the completion of this project, the Contractor shall be solely responsible for carrying out the project pursuant to this Agreement. The Contractor shall specify in any such subcontract that the subcontractor shall be bound by this Agreement and any other requirements applicable to the Contractor in the conduct of the project unless the City Manager and the Contractor agree to modification in a particular case. The Contractor shall not subcontract unless agreed upon in writing by the City.

17. Third Party Beneficiaries. This Agreement confers no rights or remedies on any third party, other than the parties to this Agreement and their respective successors and permitted assigns.

18. Interest of the Contractor. The Contractor represents that its officers and employees have no interest and covenant that they will not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of the Contractor's services and duties hereunder. The Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed. The Contractor further covenants that neither it nor any of its principals are in default to the City.

19. Covenant Against Contingent Fees. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach of violation of this warranty, the City shall have the right to annul this Agreement without liability, or in its discretion, to deduct from this Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

20. Qualifications of the Contractor. The Contractor specifically represents and agrees that its officers, employees, agents and consultants have and shall possess the experience, knowledge, and competence necessary to qualify them individually for the particular duties they perform hereunder.

21. Notice. Whenever it is provided in this Agreement that a notice or other communication is to be given or directed to either party, the same shall be given or directed to the respective party at its address as specified in this Agreement, or at such other address as either party may, from time to time, designate by written notice to the other.

22. Amendments. This Agreement may be modified from time to time, but such modifications shall be in writing and signed by both parties.

23. Termination.

A. For Fault. If the City Manager determines that the Contractor has failed to perform or will fail to perform all or any part of the services, obligations, or duties required by this Agreement, the City Manager may terminate or suspend this Agreement in whole or in part upon written notice to the Contractor specifying the portions of this Agreement and in the case of suspension shall specify a reasonable period not more than thirty (30) days nor less than fifteen (15) days from receipt of the notice, during which time the Contractor shall correct the violations referred to in the notice. If the Contractor does not correct the violations during the period provided for in the notice, this Agreement shall be terminated upon expiration of such time. Upon termination, any payment due the Contractor at time of termination may be adjusted to cover any additional costs occasioned the City by reason of the termination. This provision for termination shall not limit or modify any other right to the City to proceed against the Contractor at law or under the terms of this Agreement.

B. Not for Fault. Whenever the City Manager determines that termination of this Agreement in whole or in part is in the best interest of the City or in the event that termination is required by any state or federal agency, the City Manager may terminate this Agreement by written notice to the Contractor specifying the services terminated and the effective date of such termination. Upon termination, the Contractor shall be entitled to and the City shall pay the costs actually incurred in compliance with this Agreement until the date of such termination.

24. Force Majeure. If because of force majeure, either party is unable to carry out any of its obligations under this Agreement (other than obligations of such party to pay or expend money for or in connection with the performance of this Agreement), and if such party promptly gives to the other party concerned written notice of such force majeure, then the obligations of the party giving such notice will be suspended to the extent made necessary by such force majeure and during its continuance, provided the effect of such force majeure is eliminated insofar as possible with all reasonable dispatch. "Force Majeure" means unforeseeable events beyond a party's reasonable control and without such party's fault or negligence, including, but not limited to, acts of God, acts of public enemy, acts of the federal government, acts of another party to this Agreement, fire, flood, inclement weather, epidemic, quarantine restrictions, strikes and embargoes, labor disturbances, the unavailability of raw materials, legislation, charter amendments or referendum, orders or acts of civil or military authority, injunctions, or other causes of a similar nature which wholly or substantially prevent performance. If the suspension of work lasts for more than 30 days, the City may terminate this Agreement.

25. Delay. If the Contractor is delayed in the completion of the work due to force majeure or otherwise, the time for completion may be extended for a period determined by the City in its sole discretion to be equivalent to the time of such delay. The City may terminate this Agreement if the delay lasts for more than 30 days. Upon termination by the City, the Contractor shall be entitled to the costs actually incurred in compliance with this Agreement less

any costs incurred by the City as a result of the delay until the date of such termination, but not more than the maximum Agreement amount.

26. Interpretation. This Agreement shall be governed by the laws of the State of Michigan, both as to interpretation and performance. This Agreement was drafted at the joint direction of the parties. The pronouns and relative words used herein are written in the neuter and singular. However, if more than one person or entity joins in this Agreement on behalf of the Contractor, or if a person of masculine or feminine gender joins in this Agreement on behalf of the Contractor, such words shall be interpreted to be in the plural, masculine or feminine as the sense requires. In the event that any term, clause or provision of this Agreement conflicts with any term, clause, or provision contained in any attachments to this Agreement, this Agreement's terms shall prevail.

27. Venue. Any and all suits for any and every breach of this Agreement may be instituted and maintained in any court of competent jurisdiction in the County of Grand Traverse, State of Michigan.

28. Dispute Resolution. If any party has a dispute with another regarding the meaning, operation, or enforcement of any provision of this Agreement, the disputing parties agree to meet and confer to negotiate a resolution of the dispute. They further agree as follows:

A. Mediation. If they are unable to resolve the dispute themselves and before formally instituting any other dispute mechanism, they shall utilize the services of a mutually acceptable neutral mediator, who meets the qualifications of MCR 2.411, to bring them together in at least one mediation session.

B. Arbitration. If they are unable to resolve the dispute through mediation, it may be decided by final and binding arbitration according to the rules and procedures of Arbitration Services of Northern Michigan or a similar agreed to organization. Judgment upon the award rendered by the arbitrator may be entered in Circuit Court.

C. Venue. All meetings, hearings and actions to resolve the dispute shall be in Grand Traverse County.

D. Notice. Written notice of a claim shall be given to the other party not later than 90 days after the occurrence giving rise to the dispute becomes known or should have become known. Negotiations and mediation shall occur within 60 days after such notice. Unless a longer time is agreed upon, arbitration must be demanded within 120 days after such notice and, if not, the claim is deemed waived. Arbitration must be demanded within this time limit even if negotiation or mediation has not occurred, but the arbitrator must direct the parties to mediation before issuing an award.

29. Reuse of Documents. All documents and electronic files delivered to the City are instruments of service in respect of the project. Nevertheless, all documents and electronic files delivered to the City shall become property of the City upon completion of the work and payment in full of all monies due the Contractor. Copies of the City-furnished data that may be

relied upon by the Contractor are limited to the printed copies (also known as hard copies) that are delivered to the Contractor. Files on electronic media of text, data or graphics or of other types that are furnished by the City to the Contractor are only for convenience of the Contractor. Any conclusion of information obtained or derived from such electronic files will be at the user's sole risk. Economic benefit to the City for having these files is predicated on the files being media form, software release number and hardware operating system number as utilized by the Contractor. Copies of documents that may be relied upon by the City are limited to the printed copies (also known as hard copies) that are signed or sealed by the Contractor. Files on electronic media of text, data or graphics or of other types that are furnished by the Contractor to the City shall be in a compatible software format for use by the City. Any conclusions or information obtained or derived from such electronic files will be at the user's sole risk. Electronic file copies of drawings will not contain the Contractor's seal or the identification of the Contractor in the title block.

30. Freedom of Information Act. The Contractor acknowledges that the City may be required from time to time to release records in its possession by law. The Contractor hereby gives permission to the City to release any records or materials received by the City as it may be requested to do so as permitted by the Freedom of Information Act, MCL 15.231 *et seq.* Provided; however, that the Contractor shall not be held liable for any reuse of the documents prepared by the Contractor under this Agreement for purposes other than anticipated herein.

31. Digital Signatures. The parties hereto acknowledge and agree under the Uniform Electronic Transactions Act, MCL 450.832, *et seq.* that this Agreement may be executed with the electronic signature of any person authorized and required to sign on behalf of the parties hereto.

32. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.

33. No Waiver. No waiver by any party of any default by another party in the performance of any portion of this Agreement shall operate or be construed as a waiver of any future default, whether like or different in character.

34. Entire Agreement. This Agreement, together with all items incorporated herein by reference, constitutes the entire agreement of the parties and there are no valid promises, conditions or understandings which are not contained herein. It is understood that should the Contractor recommend further work concerning the project, the City is under no obligation to engage the Contractor in such work.

35. Authority to Execute. The parties agree that the signatories appearing below have the authority and are duly authorized to execute this Agreement on behalf of the party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

CITY OF TRAVERSE CITY

By _____
Michael Estes, Mayor

By _____
Benjamin C. Marentette, City Clerk

CONTRACTOR

By _____
Signature

APPROVED AS TO SUBSTANCE:

R. Ben Bifoss, City Manager

APPROVED AS TO FORM:

Lauren Tribble-Laucht, City Attorney

Name and Title (print or type)

SCOPE OF SERVICES

[Request for Proposals/Bids and the Contractor's Proposal/Bid inserted here]

SCHEDULE OF PAYMENTS

Payments may be made to the Contractor after satisfactory service and upon receipt of a valid invoice approved by the City.

Final payment shall be made upon completion of all the Contractor's services. Total payment including expenses shall be \$_____.

TIMETABLE FOR ACTIVITIES

The Contractor's services shall commence within ____ working days after execution of this Agreement. The schedule of activities shall follow the City's Request for Proposals/Bids and the Contractor's Proposal/Bid attached hereto and incorporated herein by reference.

Services shall be completed not later than _____.

BID PAGE

Timeframe for completing work after Contract issued: _____

Cost of 80 Tree Removals : \$ _____

Cost of 80 Tree Replacements: \$ _____

Total Cost Downtown Street Tree Replacement Project: \$ _____

Credit for Each Tree Branch Removal if performed by City: \$ _____/Each

Cost or Deduct for Each Tree Removal and Replacement more or less than the 80 trees estimated: \$ _____/Each

Bidder - Please complete and return

BID SUMMARY

TITLE: Downtown Street Tree Replacement Project
DUE DATE: Thursday, March 8, 2012, 10 AM

Please direct ALL questions to: Rob Bacigalupi, Deputy Director, Traverse City DDA, at 231-922-2050 prior to the proposal being submitted.

Having carefully examined the attached specifications and any other applicable information, the undersigned proposes to furnish all items necessary for and reasonably incidental to the proper completion of this proposal. Bidder submits this proposal and agrees to meet or exceed all requirements and specifications unless otherwise indicated in writing and attached hereto.

Bidder certifies that as of the date of this proposal the Company or he/she is not in arrears to the City of Traverse City for debt or contract and is in no way a defaulter as provided in Section 152, Chapter XVI of the Charter of the City of Traverse City.

Bidder understands and agrees, if selected as the successful Bidder, to accept a purchase/service order and to provide proof of the required insurance.

The Bidder shall comply with all applicable federal, state, local and building codes, laws, rules and regulations and obtain any required permits for this work.

The Bidder certifies that it is in compliance with the City's Nondiscrimination Policy as set forth in Administrative Order No. 47 and Chapter 605 of the City's Codified Ordinances.

Bidder understands that the City reserves the right to accept any or all proposals in whole or part and to waive irregularities in any proposal in the best interest of the City. The proposal will be evaluated and awarded on the basis of the best value to the City. The criteria used by the City may include, but will not be limited to: ability, qualifications, timeframe, experience, price, type and amount of equipment, accessories, options, insurance, permits, licenses, other pertinent factors and overall capability to meet the needs of the City. The City is sales tax exempt – Government.

Bidder agrees that the proposal may not be withdrawn for a period of sixty (60) days from the actual date of the opening of the proposal.

Submitted by:

Signature

Company Name

Name and Title (Print)

Company Address

Phone

Fax

City,

State,

Zip

Sole proprietorship/partnership/corporation

If corporation, state of corporation

REFERENCES: (include name of organization, address, contact person, daytime phone number, and length of time services have been performed).

1. _____

2. _____

3. _____

SUBCONTRACTORS: (include name of organization, address, contact person, daytime phone number, and services to be performed).

1. _____

2. _____

3. _____