

**FIRST AMENDMENT TO THE CONTRACTOR AGREEMENT
(Right-of-Way Vegetation Management)**

THIS FIRST AMENDMENT (“Amendment”) to the Contractor Agreement (Right-of-Way Vegetation Management) is made as of the day of _____, 2021, by and between the **City of Lake Worth Beach**, Florida, a municipal corporation of the State of Florida (“CITY”) and, **The Davey Tree Expert Company**, a corporation authorized to do business in the State of Florida, with its principle office located at 1500 N. Mantua Street, Kent, OH 44240-5193 (“CONTRACTOR”)

WHEREAS, the CITY issued an Invitation for Bid #19-100 (“IFB”) for the procurement of responsible and experienced tree trimming contractors to cut clear and maintain the City’s easements and rights-of-way; and,

WHEREAS, on December 13, 2018, the CITY and the CONTRACTOR entered into an agreement for right-of-way vegetation management services (“Agreement”) for the period of three (3) years with the two (2) additional single year renewals; and

WHEREAS, the CITY and CONTRACTOR wish to amend the Agreement to extend the term of the Agreement for an additional one (1) year; and

WHEREAS, the CONTRACTOR submitted a revised rate schedule for the services to be provided under this Amendment, which the CITY has determined is a reasonable increase in the CONTRACTOR’s rates; and

WHEREAS, the CITY finds amending the Agreement as set forth herein serves a valid public purpose.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged by each party hereto, the CITY and the CONTRACTOR agree to amend the Agreement, as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.

2. **Term of Agreement.** The parties agree that the term of the Agreement is hereby extended to December 14, 2022.

3. **Rate Schedule.** The parties agree that the rates to be charged by the CONTRACTOR for all services to be provided under this Amendment are set forth in **Exhibit “A”**, which is attached hereto and incorporated herein.

4. **Entire Contract.** The CITY and the CONTRACTOR agree that the Agreement and this Amendment set forth the entire contract between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Amendment may be added to, modified, superseded or otherwise

altered, except by written instrument executed by the parties hereto. Except for the provisions of the Agreement specifically modified by this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

5. **Counterparts.** This Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Either or both parties may sign this Amendment via electronically or digitally and send the same via facsimile or email and such signature is as valid as the original signature of such party.

6. **E-Verify.** Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the CONTRACTOR shall:

a. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;

b. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

c. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;

d. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;

e. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,

f. Be aware that if the CITY terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the CONTRACTOR may not be awarded a contract for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the CITY as a result of the termination of the Agreement.

7. **Scrutinized Companies.**

a. The CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

b. If this Agreement is for one million dollars or more, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors are placed on the Scrutinized Companies with

Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

c. The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

d. The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the CITY for the term of this Agreement, including any and all renewals.

e. The CONTRACTOR agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the CONTRACTOR shall immediately notify the CITY of the same.

f. As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have made and executed this First Amendment to the Contractor Agreement (Right-of-Way Vegetation Management Services) on the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Betty Resch, Mayor

ATTEST:

By: _____
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Bruce T. Miller, Financial Services Director

DAVEY TREE EXPERT COMPANY.

By: Thea R. Sears
Print Name: Thea R. Sears
Title: Vice President & Controller

[Corporate Seal]

STATE OF OHIO)
COUNTY OF PORTAGE)

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this 8th day of December 2021, by Thea R. Sears, as the Vice President & Controller of Davey Tree Expert Company, a corporation authorized to do business in the State of Florida, who is personally known to me or who has produced Personally Known as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

Todd Sedivy

Notary Public Signature

Notary Seal:



TODD CHRISTOPHER SEDIVY
Notary Public, State of Ohio
My Commission Expires:
December 15, 2025

EXHIBIT "A"

November 19, 2021

Mr. Walt Gill
City of Lake Worth
1900 2nd Ave N.
Lake Worth, FL 33461

Dear Walt,

The Davey Tree Expert Company appreciates the opportunity to extend our current contract and submit the enclosed rate proposal for 2022. In the current utility landscape, it's easy to fall into contracts that are not mutually beneficial, which is why we take such pride in the relationship we have established with your team. We appreciate the opportunities that have been provided for our crews to continue working on the Lake Worth property.

The last few years we have seen a significant shift in the labor market for utility line clearance. We have seen a steady increase in industry wages, but we have not had any correlating increases to our rates. The attached rates reflect the wage increases that we would be providing to our crews, increase of 30% for some employees. The increase in pay will help ensure that we are able to stay fully staffed and ensure that we are able to keep qualified employees on property. Additionally, we have seen an increase in equipment cost of ownership. The current rates that we have in our contract were reflected upon pricing and fuel for 2019. Recently, our average cost per gallon of fuel over the last 12 months has risen by 33%. That trend shows no signs of changing with some projecting fuel rates over \$4.00/gallon in the next 12 months.

Our team would like to work with you in getting this resolved where the contract would be beneficial to all parties. If you have any questions, please feel to contact me at 330-673-9511.

Sincerely,

Marc Owens

Marc Owens

Manager, Finance Administration – Utility Services

<u>ITEM #</u>	<u>DESCRIPTION</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>UNIT</u>	<u>UNIT PRICE</u>
GENERAL CONDITIONS					
LABOR RATES					
1	Tree Crew Foreman	Daily	\$ 316.60	Hourly	\$ 31.66
2	Mowing Crew Foreman	Daily	\$ 282.00	Hourly	\$ 28.20
3	Tree Trimmer	Daily	\$ 236.20	Hourly	\$ 23.62
4	Groundman	Daily	\$ 230.50	Hourly	\$ 23.05
5	Groundman W/CDL	Daily	\$ 253.50	Hourly	\$ 25.35
6	General Foreman	Daily	\$ 368.00	Hourly	\$ 36.80
Equipment Rates					
1	2WD Aerial 55'	Daily	\$ 168.50	Hourly	\$ 16.85
2	2WD Aerial 70'	Daily	\$ 239.50	Hourly	\$ 23.95
3	4WD Mini Bucket w/ Dump	Daily	\$ 193.10	Hourly	\$ 19.31
4	Disc Chipper	Daily	\$ 62.50	Hourly	\$ 6.25
5	Gas Saw	Daily	\$ 7.60	Hourly	\$ 0.76
6	Zero Turn Mower	Daily	\$ 85.70	Hourly	\$ 8.57
7	Trailer	Daily	\$ 11.50	Hourly	\$ 1.15
8	Weed Eater	Daily	\$ 10.00	Hourly	\$ 1.00
9	Pick Up	Daily	\$ 120.50	Hourly	\$ 12.05

**** For any hours worked over the standard 40 hours, a 1.4 Labor Overtime Adder will be applied****