

**CONTRACT FOR TREE SERVICES  
WITH RIVARD CONTRACTING**

THIS AGREEMENT is made this 17th day of June, 2024 by and between Rivard Companies, Inc d/b/a as Rivard Contracting, a tree removal company located at 19801 Hwy 65 NE, East Bethel, MN 55011 (“Contractor”), and the City of St. Francis, Minnesota, a Minnesota municipal corporation located at 23340 Cree Street NW St. Francis, MN 55070 (the “City”):

**RECITALS**

- A. Contractor is engaged in the business of tree services.
- B. The City desires to hire Contractor to provide tree services.
- C. Contractor represents that it has the professional expertise and capabilities to provide the City with the requested work.
- D. The City desires to engage Contractor to provide the work described in this Agreement and Contractor is willing to provide such work on the terms and conditions in this Agreement.

NOW, THEREFORE, in consideration of the terms and conditions expressed herein, the City and Contractor agree as follows:

**AGREEMENT**

1. **The Work.** Contractor shall perform the work more fully described in the attached **Exhibit A – The Work**. The Work includes all work and services required by this Agreement, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by Contractor to fulfill Contractor’s obligations. All Work shall be completed according to the specifications set forth in the attached **Exhibit B**.
2. **Time for Completion.** The Contractor shall proceed diligently and shall complete the Work to the satisfaction and approval of the City’s authorized agent according to the length of time set forth in **Exhibit A - The Contract Time**. Contractor shall notify the City in writing of any cause of delay of the Work within 24 hours after such cause of delay arises. If Contractor fails to complete the Work during the Contract Time, the City may immediately, or at any time thereafter, proceed to complete the Work at the Contractor’s expense. If Contractor gives written notice of a delay over which Contractor has no control, the City may at its discretion, extend the Contract Time.
3. **Consideration.** In consideration of the performance of the Work, the City shall pay to Contractor the amount set forth herein **Exhibit C - The Contract Price**. The consideration shall be for both the Work performed by Contractor and the expenses incurred by Contractor in performing the Work. Contractor shall submit statements to the City containing a detailed list of project labor and hours, rates, titles, and amounts undertaken by Contractor during the relevant billing period. The City shall pay Contractor within thirty (30) days after receiving a statement from Contractor.
4. **Extra Work.** Unless approved by the City in writing, Contractor shall make no claim for extra work done or materials furnished, nor shall Contractor do any work or furnish any materials not covered by the plans and specifications of this Agreement.

5. **Contract Documents.** The Contract Documents shall consist of this Agreement; all exhibits to this Agreement, which are incorporated herein by reference; any supplementary drawings, plans, and specifications; and other documents listed herein.

In the event of a conflict among the various provisions of the Contract Documents, the terms shall be interpreted in the following order of priority:

- a. Modifications to this Agreement
- b. This Agreement, including all exhibits
- c. Supplementary drawings, plans, specifications
- d. Other documents listed in this Agreement

6. **Expense Reimbursement.** Contractor shall not be compensated separately for necessary incidental expenses. All expenses of Contractor shall be built into Contractor's fixed compensation rate, unless reimbursement is provided for an expense that received the prior written approval of the City, which approval may be provided via electronic mail.

7. **Approvals.** Contractor shall secure the City's written approval before making any expenditures, purchases, or commitments on the City's behalf beyond those listed in the Work. The City's approval may be provided via electronic mail.

8. **Protection of Persons and Property.** Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Work. Contractor shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:

- a. Persons performing the Work and other persons who may be affected by the Work;
- b. The Work and materials and equipment to be incorporated therein; and
- c. Other property at the site or adjacent to the site, such as trees, shrubs, lawns, walks, pavement, roadways, structures and utilities.

Contractor shall promptly remedy damage and loss to property caused in whole or in part by Contractor or any of its subcontractors, agents, or anyone directly or indirectly employed by any of them.

9. **Acceptance of the Work.** All of the Contractor's work and labor shall be subject to the inspection and approval of the City. If any materials or labor are rejected by the City as defective or unsuitable, then the materials shall be removed and replaced with other approved materials and the labor shall be done to the satisfaction and approval of the City at the Contractor's sole cost and expense. Contractor shall replace at Contractor's expense any loss or damage to the Work, however caused, which occurs during the construction thereof or prior to the final delivery to and acceptance of the Work by the City. Any payment made to Contractor, shall not be construed as operating to relieve Contractor from responsibility for the construction and delivery of Work. Acceptance of the completed Work shall be evidenced only by a Certificate of Final Completion issued by the City, which shall state the date on which the City accepts the completed Work (the "Final Completion Date").

10. **Warranty.** Contractor represents and warrants that it has the requisite training, skills, and experience necessary to complete the Work, is appropriately licensed by all applicable agencies and governmental entities, and will complete the Work in a manner consistent with the level of care and skill ordinarily exercised by professionals currently providing similar work.

**11. Termination.** This Agreement shall remain in force and effect commencing from the effective date and continuing until the completion of all of the parties' obligations hereunder, unless terminated by the City or amended pursuant to the Agreement. Notwithstanding any other provision hereof to the contrary, this Agreement may be terminated as follows:

- a. The parties, by mutual written agreement, may terminate this Agreement at any time;
- b. Contractor may terminate this Agreement in the event of a breach of the Agreement by the City upon providing thirty (30) days' written notice to the City;
- c. The City may terminate this Agreement at any time at its option, for any reason or no reason at all; or
- d. The City may terminate this Agreement immediately upon Contractor's failure to have in force any insurance required by this Agreement.

In the event of a termination, the City shall pay Contractor for Work performed to the date of termination and for all costs or other expenses incurred prior to the date of termination.

**12. Amendments.** No amendments may be made to this Agreement except in a writing signed by both parties.

**13. Remedies.** In the event of a termination of this Agreement by the City because of a breach by Contractor, the City may complete the Work either by itself or by contract with other persons or entities, or any combination thereof. These remedies provided to the City for breach of this Agreement by Contractor shall not be exclusive. The City shall be entitled to exercise any one or more other legal or equitable remedies available because of Contractor's breach.

**14. Records/Inspection.** Pursuant to Minnesota Statutes § 16C.05, subd. 5, Contractor agrees that the books, records, documents, and accounting procedures and practices of Contractor, that are relevant to the contract or transaction, are subject to examination by the City and the state auditor or legislative auditor for a minimum of six years. Contractor shall maintain such records for a minimum of six years after final payment. The parties agree that this obligation will survive the completion or termination of this Agreement.

**15. Indemnification.** To the fullest extent permitted by law, Contractor, and Contractor's successors or assigns, agree to protect, defend, indemnify, save, and hold harmless the City, its officers, officials, agents, volunteers, and employees from any and all claims; lawsuits; causes of actions of any kind, nature, or character; damages; losses; and costs, disbursements, and expenses of defending the same, including but not limited to attorneys' fees, professional services, and other technical, administrative or professional assistance resulting from or arising out of Contractor's (or its subcontractors, agents, volunteers, members, invitees, representatives, or employees) performance of the duties required by or arising from this Agreement, or caused in whole or in part by any negligent act or omission or willful misconduct by Contractor, or arising out of Contractor's failure to obtain or maintain the insurance required by this Agreement. Nothing in this Agreement shall constitute a waiver or limitation of any immunity or limitation on liability to which the City is entitled. The parties agree that these indemnification obligations shall survive the completion or termination of this Agreement.

**16. Insurance.** Contractor shall maintain reasonable insurance coverage throughout this Agreement. Contractor agrees that before any work related to the approved project can be performed, Contractor shall maintain at a minimum:

- a. Worker's Compensation Insurance as required by Minnesota Statutes, section 176.181;
- b. Business Auto Liability covering vehicles owned by Contractor and non-owned vehicles used by Contractor, with policy limits not less than \$1,000,000.00 per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of such motor vehicles, along with any statutorily required automobile coverage;
- c. Commercial General Liability in an amount of not less than \$1,000,000.00 per occurrence, \$2,000,000 general aggregate, and \$2,000,000 for products-completed operations hazard, providing coverage for claims including:
  - i. Damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
  - ii. Personal and advertising injury;
  - iii. Damages because of physical damage to or destruction of property, including loss of use of such property;
  - iv. Bodily injury or property damage arising out of completed operations; and
  - v. Contractor's indemnity obligations under this Agreement.

To meet the Commercial General Liability and Business Auto Liability requirements, Contractor may use a combination of Excess and Umbrella coverage. Prior to commencement of the Work, Contractor shall provide the City with a current certificate of insurance including the following language: "The City of St. Francis is named as an additional insured with respect to the commercial general liability, business automobile liability and umbrella or excess liability, as required by the contract. The umbrella or excess liability policy follows form on all underlying coverages." Such certificate of liability insurance shall list the City as an additional insured and contain a statement that such policies of insurance shall not be canceled or amended unless 30 days' written notice is provided to the City, or 10 days' written notice in the case of non-payment.

**17. Assignment.** Neither the City nor Contractor shall assign this Agreement or any rights under or interest in this Agreement, in whole or in part, without the other party's prior written consent.

**18. Independent Contractor.** Contractor is an independent contractor. Contractor's duties shall be performed with the understanding that Contractor has special expertise as to the Work which Contractor is to perform and is customarily engaged in the independent performance of the same or similar work for others. Contractor shall provide or contract for all required equipment and personnel. Contractor shall control the manner in which the Work is performed; however, the nature of the Work and the results to be achieved shall be specified by the City. The parties agree that this is not a joint venture and the parties are not co-partners. Contractor is not an employee or agent of the City and has no authority to make any binding commitments or obligations on behalf of the City except to the extent expressly provided in this Agreement. All Work provided by Contractor pursuant to this Agreement shall be provided by Contractor as an independent contractor and not as an employee of the City for any purpose, including but not limited to: income tax withholding, workers' compensation, unemployment compensation, FICA taxes, liability for torts and eligibility for employee benefits.

**19. Entire Agreement.** The Contract Documents shall constitute the entire agreement between the City and Contractor, and supersede any other written or oral agreements between the City and Contractor.

**20. Third Party Rights.** The parties to this Agreement do not intend to confer any rights under this Agreement on any third party.

21. **Choice of Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Anoka County, Minnesota.

22. **Agreement Not Exclusive.** The City retains the right to hire other professionals, contractors and service providers for this or other matters, in the City's sole discretion.

23. **Data Practices Act Compliance.** Any and all data provided to Contractor, received from Contractor, created, collected, received, stored, used, maintained, or disseminated by Contractor pursuant to this Agreement shall be administered in accordance with, and is subject to the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13. Contractor agrees to notify the City within three business days if it receives a data request from a third party. This paragraph does not create a duty on the part of Contractor to provide access to public data to the public if the public data are available from the City, except as required by the terms of this Agreement. These obligations shall survive the termination or completion of this Agreement.

24. **No Discrimination.** In the hiring of employees to perform work under this Agreement, the Contractor shall not discriminate against any person by reason of any characteristic or classification protected by state or federal law.

25. **Authorized Agents.** The City's authorized agent for purposes of administration of this contract is Paul Carpenter, or designee. Contractor's authorized agent for purposes of administration of this contract is Mike Rivard, or designee who shall perform or supervise the performance of all Work.

26. **Notices.** Any notices permitted or required by this Agreement shall be deemed given when personally delivered or upon deposit in the United States mail, postage fully prepaid, certified, return receipt requested, addressed to:

CONTRACTOR  
Mike Rivard

19801 Hwy 65 NE,  
East Bethel, MN 55011

THE CITY  
City of St. Francis

Attn: Public Works Director

23340 Cree Street NW

St. Francis, MN 5507

27. **Payment of Prevailing Wage:** As funding for this contract comes from the Minnesota Department of Natural Resources ReLeaf program, this contract is subject to all prevailing wage rules per Minnesota Statue 177.41 through 177.44. Consequently, the bid request and any contracts entered into by the City of St. Francis must state the project is subject to prevailing wage. These rules require that the wages of laborers and workers should be comparable to wages paid for similar work in the community as a whole. A prevailing wage form should accompany pay request submittals under this agreement. The City of St. Francis may refuse to issue payment until appropriate certification and documentation is received and approved by City staff.

28. **Waiver.** No waiver of any provision or of any breach of this Agreement shall constitute a waiver of any other provisions or any other or further breach, and no such waiver shall be effective unless made in writing and signed by an authorized representative of the party to be charged with such a waiver.

29. **Headings.** The headings contained in this Agreement have been inserted for convenience of reference only and shall in no way define, limit or affect the scope and intent of this Agreement.

30. **Severability.** In the event that any provision of this Agreement shall be illegal or otherwise unenforceable, such provision shall be severed, and the balance of the Agreement shall continue in full force and effect.

31. **Signatory.** Each person executing this Agreement ("Signatory") represents and warrants that they are duly authorized to sign on behalf of their respective organization. In the event Contractor did not authorize the Signatory to sign on its behalf, the Signatory agrees to assume responsibility for the duties and liability of Contractor, described in this Agreement, personally.

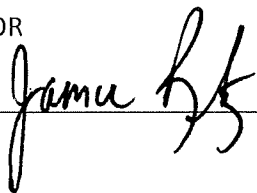
32. **Counterparts and Electronic Communication.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. This Agreement may be transmitted by electronic mail in portable document format (pdf) and signatures appearing on electronic mail instruments shall be treated as original signatures.

33. **Recitals.** The City and Contractor agree that the Recitals are true and correct and are fully incorporated into this Agreement.

IN WITNESS WHEREOF, the City and Contractor have caused this Independent Contractor Agreement to be executed by their duly authorized representatives in duplicate on the respective dates indicated below.

CONTRACTOR

By: \_\_\_\_\_  
Mike Rivard



6/11/24

CITY OF ST. FRANCIS

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
City Clerk

## Exhibit A

### Description of Work and Contract Time

#### Scope of Work

Proposer shall provide all labor, supervision, equipment, locates (gopher one), services and expertise required to perform:

- the removal and disposal of ash trees,
- stump grinding, repair disturbed areas with black dirt/seed in groomed park areas,
- the ordering/purchasing of trees,
- the planting of other non-disease species to replace all ash tree removal as outlined in **Exhibit B**,
- Placing mulch around the base of each newly planted tree as defined in the DNR Best Planting Practices, go to [https://www.dnr.state.mn.us/treecare/residential\\_plant.html](https://www.dnr.state.mn.us/treecare/residential_plant.html)
- City will provide the mulch, the bark guard and gator bags,
- Proposer will install mulch, bark guard, and gator bags and will follow DNR's Best Planting Practices. Proposer will provide stakes, if needed
- Diameter of trees to cut: Small Trees < 6 inches DBH; Medium Trees 6"-14" DBH; Large Trees > 14" DBH, see **Exhibit B**

#### Specified Products

Proposer shall install trees based on the replacement schedule as outlined in **Exhibit B**. Trees shall be ¾ inch to 2 inches in diameter, container trees (#20 or smaller).

#### Project Location

Work will be performed in City owned public parks and one City owned boulevard. The location of the boulevard and each park by name and address as well as the number of trees being removed and the number and type of trees to be planted at each location are identified in **Exhibit B**.

#### Schedule of Work to be Completed:

- Work to begin removing trees, any time after June 1, 2024, will commence upon receipt of signed, binding contract along with insurance documentation.
- Work to install new plantings based on DNR's Best Planting Practices as soon as purchasing and conditions allow.
- All tree removals to be completed by October 31, 2024.
- All tree plantings must be completed by October 31, 2025.
- All work must be completed as weather and conditions permit prior to October 31, 2025.

## Exhibit B

### Contract Specifications

<u>Project Location</u>	<u>Site Information</u> Tree Species to plant:	<u>Tree</u> <u>Planting</u>	<u>Tree</u> <u>Removal</u>	<u>Tree Removal Size(s)</u>
Seelye Brook 1 acre 4540 229 <sup>th</sup> Ave NW	Kentucky Coffee Tree -1, Pin Cherry -2	3	0	0
Community 15 acres 22825 St. Francis Blvd NW	White Paper Birch -5, Yellow Birch -5, Hackberry (Disease free Elm), Mulberry and Quaking Aspen	20	29	4 trees < 6" DBH 15 trees 6"-14" DBH 10 trees > 14" DBH
Highland Woods 1 acre 3060 233 <sup>rd</sup> LN NW	River Birch -4 Red Mulberry - 1	5	2	2 trees 6"-14" DBH
Yukon Blvd NW	Pin Cherry -3	3	3	3 trees 6"-14" DBH
Rum River Woods 1 acre 22635 Vintage St NW	Butternut -2 Black Walnut -3	5	1	1 tree 6"-14" DBH
Deer Creek 27 acres 4138 232 <sup>nd</sup> Ave NW	Basswood	1	1	1 tree > 14" DBH
Siwek 8 acres 3550 237 <sup>th</sup> Ave NW	Shagbark Hickory, Blue Beech/Ironwood	5	1	1 tree > 14" DBH



Hidden Ponds 6.7 acres 23950 Roanoke St NW	Balsam Poplar – 4, Mulberry -3, Black Cherry -3, Basswood -3, Black Willow -3, Disease Resistant Elm -3, Ironwood -3, Black Walnut -3, Bitternut Hickory -3	30	0	0
Edgewild 4.5 acres 1800 242 <sup>nd</sup> Ave NW	Tree species: Shagbark Hickory-15, Black Walnut-15 and Hackberry (Disease free Elm) -10	40	0	0
Durigan Locher 1 acre 23248 Woodbine St NW	-	0	8	4 trees 6"-14" DBH 4 trees > 14" DBH
Woodbury Under 1 acre 3646 Bridge St NW	Pin Cherry	1	1	1 tree > 14" DBH
Water Tower Lot Under 1 acre - 3913 233 <sup>rd</sup> Ave NW	Black Cherry - 4	4	4	4 trees 6"-14" DBH
Dellwood 10 acres 22854 Silverod St NW	-	0	54	15 trees < 6" DBH 29 trees 6"-14" DBH 10 trees > 14" DBH
<b>Total Trees =</b>		<b>117</b>	<b>104</b>	<b>104</b>

## Exhibit C

### Contract Price

Proposer shall provide all labor, supervision, equipment, locates (gopher one), services and expertise required to perform:

- the removal and disposal of ash trees,
- stump grinding, repair disturbed areas with black dirt/seed in groomed park areas,
- the ordering/purchasing of trees,
- the planting of other non-disease species to replace all ash tree removal as outlined in **Exhibit B**,
- placing mulch around the base of each newly planted tree as defined in the DNR Best Planting Practices, see [https://www.dnr.state.mn.us/treecare/residential\\_plant.html](https://www.dnr.state.mn.us/treecare/residential_plant.html),
- City will provide the mulch, the bark guard and gator bags,
- Proposer will install mulch, bark guard, and gator bags and will follow DNR's Best Planting Practices. Proposer will provide stakes, if needed,
- Diameter of trees to cut: Small Trees < 6 inches DBH; Medium Trees 6"-14" DBH; Large Trees > 14" DBH, see **Exhibit B**,
- All work performed within the Scope shall be managed under MN Prevailing wage requirements including pay rates and submission of all paystubs and required documentation to the City.

Scope of Work Total Cost: \$ \$123,000.00