

This Agreement ("Agreement") is made on the 6 day of March, 2023, between the City of Farmington, Minnesota (hereinafter "City"), whose business address is 430 Third Street, Farmington, Minnesota 55024, and Rainbow Tree Company, a Minnesota Corporation (hereinafter "Vendor") whose business address is 11571 K-Tel Drive, Minnetonka, Minnesota 55343.

Preliminary Statement

The purpose of this Agreement is to set forth the terms and conditions for the provision of services by Vendor for Tree Injection for Emerald Ash Borer (EAB) hereinafter referred to as the "Work".

The City and Vendor agree as follows:

1. **Scope of Work.** The Vendor agrees to provide, perform, and complete all the provisions of the Work in accordance with the specifications, and quotes attached as Exhibit A. The terms of this Contract shall take precedence over any provisions of the Vendor's proposal and/or general conditions. All Work under the Municipal Program shall be initiated by a notice to proceed from the City.
2. **Term of Contract.** All Work under this Contract shall be provided, performed and/or completed by September 30, 2023. At the expiration of the initial contract term, the City, at its sole discretion may extend the contract for up to four (4) additional years.
3. **Compensation for Services.** City agrees to pay the Vendor based on the fees submitted in the proposal as full and complete payment for the goods, labor, materials and/or services rendered pursuant to this Contract.
4. **Method of Payment.** Payment shall be made to the Contractor providing Tree Injection services for the City only for work requested by the City through a Work Order. The Contractor is required to submit one invoice per Work Order after satisfactory completion of the work and each invoice shall include the following: date work was completed, address/facility/area where work was performed, any rate charges, and any other pertinent information. No travel time will be paid. Invoices shall be submitted to

accountspayable@farmingtonmn.gov

City of Farmington

Attn: Finance Department

430 Third St.

Farmington, MN 55024

5. **Staffing.** The Vendor has designated Ryan Spencer to manage the Work. They shall be assisted by other staff members as necessary to facilitate the completion of the Work in accordance with the terms established herein. Vendor may not remove or replace the designated staff without the approval of the City.

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6. **Standard of Care.** Vendor shall exercise the same degree of care, skill and diligence in the performance of its services as is ordinarily exercised by members of the profession under similar circumstances in Dakota County, Minnesota.
 7. **Insurance.**
 - a. **General Liability.** Vendor shall maintain a general liability insurance policy with limits of at least \$1,500,000.00 for each person, and each occurrence, for both personal injury and property damage. The coverage may be provided by a single policy or a combination of policies, including umbrella insurance policies. Vendor shall provide City with a Certificate of Insurance verifying insurance coverage before providing service to the City.
 - b. **Worker's Compensation.** Vendor shall secure and maintain such insurance as will protect Vendor from claims under the Worker's Compensation Acts and from claims for bodily injury, death, or property damage which may arise from the performance of Vendor's services under this Contract.
 8. **Indemnification.** Vendor will defend and indemnify City, its officers, agents, and employees and hold them harmless from and against all judgments, claims, damages, costs and expenses, including a reasonable amount as and for its attorney's fees paid, incurred or for which it may be liable resulting from any breach of this Contract by Vendor, its agents, contractors and employees, or any negligent or intentional act or omission performed, taken or not performed or taken by Vendor, its agents, contractors and employees, relative to this Contract. City will indemnify and hold Vendor harmless from and against any loss for injuries or damages arising out of the negligent acts of the City, its officers, agents or employees.
 9. **Termination.** This Contract may be terminated by either party by thirty (30) days' written notice delivered to the other party at the addresses written above. Upon termination under this provision if there is no fault of the Vendor, the Vendor shall be paid for services rendered until the effective date of termination.
 10. **Independent Contractor.** At all times and for all purposes herein, the Vendor is an independent contractor and not an employee of the City. No statement herein shall be construed so as to find the Vendor an employee of the City.
 11. **Non-Discrimination.** During the performance of this Contract, the Vendor shall not discriminate against any employee or applicants for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, familial status, disability, sexual orientation, or age. The Vendor shall post in places available to employees and applicants for employment, notices setting forth the provision of this non-discrimination clause and stating that all qualified applicants will receive consideration for employment. The Vendor further agrees to comply with all aspects of the Minnesota Human Rights Act, Minnesota Statutes 363A.01, et. seq., Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990, as amended.
 12. **Subcontract or Assignment.** Vendor shall not subcontract any part of the services to be provided under this Contract; nor may Vendor assign this Contract, or any interest arising herein, without the prior written consent of the City.
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13. **Services Not Provided For.** No claim for services furnished by Vendor not specifically provided for in Exhibit A shall be honored by the City.
 14. **Compliance with Laws and Regulations.** Vendor is responsible for knowing of and abiding by all statutes, ordinances, rules and regulations pertaining to the type of services provided pursuant to this Contract; including, as applicable, the Minnesota Data Practices Act, Minnesota Statutes Section 13, as amended, and Minnesota Rules promulgated pursuant to Chapter 13.
 15. **Audits and Data Practices.** The books, records, documents, and accounting procedures and practices of the Vendor or other parties relevant to this agreement are subject to examination by the City and either Legislative Auditor or the State Auditor for a period of six years after the effective date of this contract. This Contract is subject to the Minnesota Government Data Practice Act, Minnesota Statutes Chapter 13 (Data Practices Act). All government data, as defined in the Data Practices Act Section 13.02, Subd 7, which is created, collected, received, stored, used, maintained, or disseminated by Vendor in performing any of the functions of the City during performance of this Contract is subject to the requirements of the Data Practice Act and Vendor shall comply with those requirements as if it were a government entity. All subcontracts entered into by Vendor in relation to this Contract shall contain similar Data Practices Act compliance language.
 16. **Conflicts.** No salaried officer or employee of the City and no member of the Council, or Commission, or Board of the City shall have a financial interest, direct or indirect, in this contract. The violation of this provision renders the contract void. Any federal regulations and applicable state statutes shall not be violated.
 17. **Utilities.** The Contractor shall be obligated to protect all public and private utilities, streets or roadways, whether occupying a street or public or private property. If such utilities, streets or roadways are damaged by reason of the Contractor's performance of the services required under the contract, the Contractor shall repair or replace the same, or failing to do so promptly, the City shall cause repairs or replacement to be made and the cost of doing so shall be deducted from payment to be made to the Contractor for tree services.
 18. **Damages.** In the event of a breach of this Contract by the City, Vendor shall not be entitled to recover punitive, special or consequential damages or damages for loss of business.
 19. **Governing Law.** This Contract shall be controlled by the laws of the State of Minnesota.
 20. **Severability.** The provisions of this Contract are severable. If any portion hereof is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision shall not affect the remaining provisions of this Contract.
 21. **Entire Agreement.** The entire agreement of the parties is contained herein. This Contract supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the



STANDARD AGREEMENT FOR CONTRACT SERVICES

provisions of this Contract shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.

Executed as of the day and year first written above.

CITY OF FARMINGTON

Joshua Hoyt, Mayor

Lynn Gorski, City Administrator

VENDOR

By: _____
DocuSigned by:
Ryan Spencer
C8D802E98B08456...
Its: Municipal Consulting Arborist