

Contract for Services

This document, along with the attached proposal from Natural Path Urban Forestry (Natural Path), shall constitute the Contract issued or approved by the Village of Homer Glen (“the Village”) for professional services to provide tree inventory services and shall also constitute an integral part of any contract, agreement, proposal, or other contract documents to which it is affixed, and to the extent this Addendum is inconsistent with such other document(s).

1. **Acceptance of Contract.** This Contract is part of the Village’s offer to purchase the goods and/or services described on the contract documents from the Contractor/Vendor. The Village’s approval hereof is expressly conditioned upon the acceptance by the Contractor/Vendor of all the terms and conditions of purchase contained on or attached to this Addendum. The Contractor/Vendor agrees to furnish all materials, supplies, tools, equipment, labor, and other services necessary to commence and complete the Work as described on the Contract (hereinafter sometimes collectively referred to as the “Work”) in accordance with the terms and conditions stated herein, all of which are made a part hereof by reference.
2. **Control and Inspection of Work.** All Work performed by the Contractor/Vendor shall be done in conformance with the specifications of this Addendum and the specifications of this Addendum take precedence unless the Contractor/Vendor and an authorized agent of the Village otherwise agree in writing. Any Work or material that is not found to meet specifications of this Addendum during the time of application and the twelve (12) months immediately following completion of the Work, shall be redone or replaced at the Contractor’s/Vendor’s expense.
3. **Payment.** Final payments will be made when the Village has received final delivery and satisfied with the outcomes provided.
4. **Permits and Licenses.** The Contractor/Vendor shall obtain, at its own expense, all permits and licenses which may be required to complete the related Contract and the Work contemplated therein.
5. **Insurance.** (a) Prior to Commencement of Work: Prior to commencement of any Work under the related Contract, Contractor/Vendor shall supply certificates of insurance as specified below, provided, however, these insurance requirements shall not be applicable to any Contract which is only for the purchase of goods by the Village. Contractor/Vendor shall not start the Work under the related Contract until Contractor/Vendor has obtained all insurance required under this Paragraph, and all such insurance coverage has been obtained and approved.

(b) Duration: Such insurance shall be maintained during the entire term of the Contract.

(c) Certificates of Insurance Required: The Contractor/Vendor shall submit with the accepted Contract Certificate(s) of Insurance showing the following coverage, but none of the required insurance shall preclude any common law indemnity:

- (i) Workers' Compensation (as required by State law) Statutory Limited Employees' Liability \$500,000 per accident;
- (ii) Public liability bodily insurance of not less than one million dollars (\$1,000,000.00) for injuries, including death, to any one person, two million dollars (\$2,000,000.00) each occurrence, and two million dollars (\$2,000,000.00) aggregate limit.
- (iii) Public liability property damage insurance of not less than one million dollars (\$1,000,000.00) on account of any one occurrence with an aggregate limit of not less than two million dollars (\$2,000,000.00);
- (iv) Automobile public liability bodily injury insurance of not less than one million dollars (\$1,000,000.00) each person, two million dollars (\$2,000,000.00) each occurrence, with an aggregate limit of not less than two million dollars (\$2,000,000.00).
- (v) Underground property damage and structural property damage insurance on single limit basis of not less than five hundred thousand dollars (\$500,000.00).
- (vi) Contractual insurance of the same limits as required under Paragraph (ii) above.

(d) Form of Certificates: On Certificates of Insurance, under the description of operation, location, vehicles, restrictions, special items, the following wording is required: "No endorsements or additional forms modify or limit the coverage provided to the additional insured. Coverage is afforded on a Primary Basis for Additional Insured." The Certificate of Insurance shall be worded as follows: "Additional Insured: Village of Homer Glen as an additional insured, together with its officers, trustees, employees, agents, and volunteers."

(e) Notice of Cancellation Required: Each insurance policy, or the Certificate of Insurance for same, required by this Paragraph shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Village.

(f) Acceptability of Insurers: Insurance shall be placed with insurers with a Best's rating of no less than A-VII and licensed to do business in the State of Illinois.

(g) Verification of Coverage: The certificates and endorsement for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements may be on forms provided by the Village and are to be received and approved by the Village before any Work commences.

(h) Policies May Be Required: The Village reserves the right to request full-certified copies of the insurance policies and endorsements.

(i) Subcontractors: Contractor/Vendor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

(j) Village Shall Not Waive Any Rights of Subrogation: Notwithstanding any other provision in any contract document, the Village has not and shall not, in any manner, be

deemed or intended to have waived any right of subrogation which either it, or its insurance carrier or any self-insured risk pool of which it is a member, may have against the Contractor/Vendor or a subcontractor of any tier, for any property or other damage caused by any Contractor/Vendor or any subcontractor of any tier, or any of their employees, agents, consultants, officers and directors.

(k) Insurance Certifications: In addition to providing Certificates of Insurance as required by the contract documents, the Contractor/Vendor shall submit to the Village a signed certification with each Request for Payment, stating that all the insurance required of the Contractor/Vendor remains in force. Failure to submit such a certification shall be grounds to withhold payment in full or in part.

(l) Insurance Obtained Shall Be Primary Insurance: All insurance required of the Contractor/Vendor and all subcontractors of any tier shall state that the coverage afforded to the Additional Insureds shall be primary insurance of the Additional Insureds with respect to claims arising out of operations performed by or on their behalf. If the Additional Insureds have other insurance which is applicable to the loss, it shall be on an excess or contingent basis.

(m) Insurance Requirements Cannot Be Waived by Village: Under no circumstances shall the Village be deemed to have waived any of the insurance requirements of the related Contract by any act or omission, including, but not limited to: (1) allowing the Work to commence by the Contractor/Vendor or any subcontractor of any tier before receipt of Certificates of Insurance; (2) failing to review any Certificates of Insurance received; (3) failing to advise the Contractor/Vendor or any subcontractor of any tier that any Certificate of Insurance fails to contain all the required insurance provisions, or is otherwise deficient in any manner; or (4) issuing any payment without receipt of a Sworn Statement from the Contractor/Vendor and all subcontractors of any tier stating that all the required insurance is in force. The Contractor/Vendor agrees that the obligation to provide the insurance required by this Addendum or any of the contract documents is solely its responsibility and that this is a requirement which cannot be waived by any conduct, action, inaction or omission by the Village. Contractor/Vendor shall also protect the Village by specifically incorporating this Paragraph into every subcontract entered into relative to the Work contemplated herein and also requiring that every subcontractor incorporate this Paragraph into every sub-subcontract it enters into relative to the Work contemplated herein.

(n) Liability of Contractor/Vendor and Subcontractor is Not Limited by Purchase of Insurance: Nothing contained in the insurance requirements of this Addendum or any contract documents is to be construed as limiting the liability of the Contractor/Vendor or the liability of any subcontractor of any tier, or either of their respective insurance carriers. The Village does not, in any way, represent that the coverages or limits of insurance specified is sufficient or adequate to protect the Village, the Contractor/Vendor, or any subcontractor's interest or liabilities, but are merely required minimums. The obligation of the Contractor/Vendor and every subcontractor of any tier to purchase insurance shall not, in any way, limit their obligations to the Village in the event that the Village should suffer an injury or loss in excess of the amount recoverable

through insurance, or any loss or portion of the loss which is not covered by either the insurance of the Contractor/Vendor or any subcontractor's insurance.

(o) Notice of Personal Injury or Property Damage: The Contractor/Vendor shall notify the Village, in writing, of any actual or possible claim for personal injury or property damage relating to the Work, or of any occurrence which might give rise to such claim, promptly upon obtaining first knowledge of same.

(p) Updated Proof Required: The Contractor/Vendor agrees that at any time upon the demand of the Village, updated proof of such insurance coverage will be submitted to the Village. There shall be no additional charge to the Village for said insurance. To the extent other insurance requirements of the contract documents contradict this paragraph, the more expansive and higher standard, in terms of type and amount of coverage, shall govern.

6. **Indemnity.** To the fullest extent permitted by law, the Contractor/Vendor hereby agrees to and shall defend, indemnify, and hold harmless the Village, its officials, trustees, employees, agents, and volunteers against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, cost, and expenses, which may in anyway arise or accrue against the Village, its officials, trustees, employees, agents, and volunteers, arising in whole or in part or in consequence of the performance of this Work and/or sale of goods or material by the Contractor/Vendor, its employees, or subcontractors, or which may anyway result therefrom, including but not limited to or on account of or in consequence of any neglect in safeguarding said Work or on account or in consequence of using unacceptable materials in performing said Work, or because of any act or omission, neglect or misconduct of Contractor/Vendor and its Subcontractor(s) or because of any claims or amount recovered by reason of any infringement of any patent, trademark or copyright or by any reason of the violation of any law, ordinance, order or decree, or any loss, damage, injury or liability to the Village, its officers, trustees, employees, agents and volunteers by reason of any theft or other cause from the acts or negligence of the employees of the Contractor/Vendor or of the Subcontractors of Contractor/Vendor, whether such loss, damage, injury or liability is contributed to by the negligence of the Village or by the Village's premises themselves or any equipment thereon whether latent or patent, or from other causes whatsoever, except where such loss, damage, injury, or liability is due solely to the negligence of the Village, its officers, trustees, employees, agents and/or volunteers. The Contractor/Vendor shall, at its own expense, appear, defend and pay all charges of attorneys' (of counsel selected by the Village) and all costs and other expenses arising therefrom or incurred in connections therewith, and, if any judgment shall be rendered against the Village, its officials, trustees, employees, agents, and volunteers in any such action, the Contractor/Vendor shall, at its own expense, satisfy and discharge the same. Contractor/Vendor expressly understands and agrees that any performance bond or insurance policies required by this Addendum, or otherwise provided by the Contractor/Vendor pursuant to any other contract documents shall in no way limit the responsibility of the Contractor/Vendor to indemnify, keep and save harmless and defend the Village, its officials, trustees, employees, agents, and volunteers as herein provided. Such indemnity shall not be limited by reason of the enumeration of any insurance coverage herein provided. Nothing herein contained should be construed as prohibiting the Village, its officers, trustees,

employees, agents and volunteers from defending any actions or suit brought against them arising out of or in any way related to the goods and/or services to be provided by the Contractor/Vendor, and Contractor/Vendor shall likewise be liable for the attorneys' fees and other costs of defense incurred by the Village, its officer, trustees, employees, agents, and volunteers in defense of any such suit. In any and all claims against the Village, its officers, trustees, employees, agents, and volunteers by any employee of Contractor/Vendor and Subcontractor, anyone who is directly or indirectly employed by any of them or anyone for whose acts any of them may not be liable, the indemnification obligation under this provision shall not be limited in any way by any limitation on the amounts or type of damages, compensation or benefits payable by or for Contractor/Vendor or any Subcontractor under Workers Compensation acts, or other employee benefit acts. The provisions of this Paragraph 6 shall survive any termination of the Contract.

7. **Compliance with Laws.** Contractor/Vendor shall comply with all federal, state, and local laws, ordinances, rules and regulations, and any and all orders and decrees of any court, administrative body or tribunal applicable to the performance of the Contract, including but not limited to the American Recovery and Reinvestment Act of 2009, where applicable.
8. **Equal Employment Opportunity.** The Contractor/Vendor shall be required to comply with the President's Executive Order No. 11246, as amended. The requirements for Bidders and Contractors under this order are explained in 41 CFR 60-4. The Contractor/Vendor shall also comply with the Illinois Human Rights Act. The Contractor/Vendor shall not discriminate against any other person by reason of race, creed, color, religion, age, sex, or physical or mental handicaps with respect to the hiring, application for employment, tenure, terms or conditions, or employment of any person.
9. **Employment of Illinois Workers on Public Works Act:** If at the time the Contract for this Work is executed, or if during the term of the Contract, there is excessive unemployment in Illinois as defined in the Employment of Illinois Workers on Public Works Act, 30 ILCS 570/0.01 et seq., as two consecutive months of unemployment exceeding 5%, the Contractor/Vendor agrees to employ Illinois laborers in accordance with the "Employment of Illinois Workers on Public Works Act". An "Illinois laborer" is defined as any person who has resided in Illinois for at least thirty (30) days and intends to become or remain an Illinois resident.
10. **Standard Specifications:** All Work performed by Contractor/Vendor that is associated with the fulfillment of this Addendum and/or the related Purchaser Order/Contract shall conform to the terms of the latest edition of the Illinois Department of Transportation Standard Specifications for Road and Bridge Construction where this document is otherwise silent.
11. **Drawings and Plans:** Notwithstanding anything contained in any other contract documents to the contrary, the Contractor/Vendor and its subcontractors hereby release to the Village any and all right, title, and interest in and to any and all Contractor/Vendor work product, including but not limited to the Tree Inventory, Tree Inventory Software, and the EAB Management Plan, and all related documents ("work product"), relating to

the Work which is the subject of this Addendum and the related Contract Documents, and any and all of which work product shall become the sole property of the Village. The Contractor/Vendor, and its subcontractors, further warrant to the Village that they have the legal right to convey said work product to the Village. The Work contemplated by this Addendum and the related Contract Documents shall not be considered complete until and unless a legible and complete copy of all such work product has been delivered to the Village meeting the Data Standards required by the Village.

12. **Contractor/Vendor is an Independent Contractor:** It is mutually understood and agreed that the Contractor/Vendor shall have full control of the ways and means of performing the Work referred to above and/or which is the subject of this Addendum and the related Contract and that the Contractor/Vendor or his/its employees, representatives or subcontractors are in no sense employees of the Village, it being specifically agreed that in respect to the Village, the Contractor/Vendor and any party employed by the Contractor/Vendor bears the relationship to the Village of an independent contractor.

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13. **Dates of Commencement and Completion:** The Work to be performed under the Contract shall commence no later than ~~April 1, 2013~~ ^{September 1, 2013} (hereinafter the "Commencement Date"), and shall be completed no later than ~~May 10, 2013~~ ^{January 1, 2014} (hereinafter the "Completion Date"), barring only Acts of God, due to which the Completion Date may be modified in writing by the Village. If the Contractor/Vendor fails to complete the Work by the Completion Date, the Village shall thereafter have the right to have the Work completed by another independent contractor, and in such event, the Village shall have the right to deduct the cost of such completion so incurred by the Village from payments otherwise due to the Contractor/Vendor for the Work.

14. **Restoration of Work Site:** The Contractor/Vendor shall be obligated to remove all debris from the Work site at the Contractor's/Vendor's expense. The Contractor/Vendor shall, at its sole cost and expense, as part of the Work required by this Addendum and the related Contract, replace and restore any grass, vegetation or plantings disturbed or removed by the Contractor/Vendor, to their condition before the performance of the Work, and such removal shall only occur after approval in advance in writing by the Village Manager, or her designee. Without limiting the generality of the foregoing, the Contractor/Vendor shall be obligated to: (1) re-grade and re-seed the ground surface, (2) replace any damaged vegetation, other than trees and bushes removed pursuant to the authorized of the Village Manager, or her designee, with new plantings of good health and quality with species consistent with the recommendation of the Village Manager, or her designee, and (3) repair any damage to any paved surfaces disturbed by the Work. While the Work is in progress and until all required restoration work is completed, the Contractor/Vendor shall comply with customary and usual initial erosion practices consistent with good engineering procedures and the requirements of the Village of Homer Glen Village Code.

15. **Right to Hire Others:** The Village retains the right to hire another independent contractor to fulfill any obligations of this Addendum and the related Contract which it deems not completed or not adequately performed by Contractor/Vendor.

16. **Right to Alter Plans Reserved:** The Village reserves the right to alter the plans, extend or shorten the improvements, add to the Work as may be necessary, and increase or decrease the quantities of the Work, including the deduction or cancellation of any one or more of the unit price items, or the cancellation of the Contract.
17. **Venue and Choice of Law:** The parties herein agree that the venue for any and all disputes shall solely be in the county in which the Village's Village Hall is located. This Addendum and the related Contract and all other contract documents shall be construed and interpreted in accordance with the laws of the State of Illinois.
18. **Arbitration Deleted from Contract Documents; No Attorneys' Fees:** Any provision in the Contract and any other contract documents referring to the submission of claims or disputes to arbitration shall herein be deleted. Notwithstanding anything contained in the Contract and any other contract documents to the contrary, it is the intent of the parties that arbitration is a remedy which shall not exist under the Contract and any other contract documents, and no party shall be entitled to recover attorneys' fees or court costs in any action to enforce or interpret this Addendum and the related Contract.
19. **Duration:** This Addendum and the related Contract shall be in effect from the date of this Contract until the completion of the Work, but the obligations of the Contractor/Vendor under Paragraph 6 shall continue after such termination.
20. **Nonassignability.** The Contractor/Vendor shall not assign this Contract, or any part thereof, to any other person, firm, or corporation without the prior written consent of the Village, and in no case shall such consent relieve the Contractor/Vendor or its surety from the obligations herein entered into by the same or change the terms of this Addendum and the related Contract.
21. **Advertisement.** The Contractor/Vendor is specifically denied the right to use in any form or medium the name of the Village for public advertising unless express permission is granted by the Village.
22. **Amendments.** No agreement or understanding to modify this Addendum or the related Contract shall be binding upon the Village unless in writing and signed by the Village's authorized agent. All specifications, drawings, and data submitted to the Contractor/Vendor with this Addendum or the related Contract are hereby incorporated and made part thereof.
23. **Termination.** The following shall constitute events of default under this Addendum and the related Contract: a) any material misrepresentation made by the Contractor/Vendor to the Village, b) any failure by the Contractor/Vendor to perform any of its obligations under this Addendum and the related Contract including, but not limited to, the following: (i) failure to commence performance of this Addendum and the related Contract at the time specified in the Contract due to a reason or circumstance within the reasonable control of the Contractor/Vendor, (ii) failure to perform this Addendum and the related Contract with sufficient personnel and equipment or with sufficient material to ensure the completion of this Contract within the specified time due (i.e., by the

Completion Date) to a reason or circumstance within the Contractor's/Vendor's reasonable control, (iii) failure to perform this Addendum and the related Contract in a manner reasonably satisfactory to the Village, (iv) failure to promptly re-perform within reasonable time the services that were rejected by the Village as erroneous or unsatisfactory, (v) failure to comply with a material term of this Addendum and the related Contract, and (vi) any other acts specifically and expressly stated in this Addendum and the related Contract as constituting a basis for termination for cause. At least ten (10) days prior to the date that the Contractor/Vendor shall be declared in default of the Contract, the Village shall give written notice by certified mail to the Contractor/Vendor. This notice shall state the reasons that the Contractor/Vendor is being declared in default of the Contract. Failure by the Contractor/Vendor to correct the stated deficiencies within the notice period shall result in the contractor/Vendor being declared in default of the Contract. Issuance of the notice by the Village shall be an indication of the intentions of the Village to take the work out of the hands of the Contractor/Vendor and to hire others to complete the defaulted work. The Village may also terminate this Addendum and the related Contract for its convenience upon ten (10) days prior written notice to the Contractor/Vendor.

24. **Notices.** All notices required by the Contract Documents shall be given in writing.

25. **Supersede.** The terms, conditions and specifications set forth herein shall supersede, govern, and prevail over any inconsistent terms, conditions, and/or specifications on any other contract documents.

APPROVED AND ACCEPTED this 23rd day of July, 2013.

CONTRACTOR/VENDOR

VILLAGE OF HOMER GLEN

[Name] NATURAL PATH URBAN
FORESTRY

By: Mark Duntemann
[Name] MARK DUNTEMANN
Its Authorized Agent

By: James P. Daley, Jr.
[Name] James P. Daley, Jr.
Its Authorized Agent