



Home of the Tualatin River National Wildlife Refuge

CERTIFIED ARBORIST AND TREE SERVICES

REQUEST FOR PROPOSAL

Issued On: May 25, 2022
Date Due: June 8, 2022
Time Due: 2:00 PM local time

May 2022

RFP Questions:

Rich Sattler, Utility Manager
City of Sherwood, Public Works Department
15527 SW Willamette Street
Sherwood, OR. 97140
503-925-2319
SattlerR@SherwoodOregon.gov

Owner

City of Sherwood
Public Works Department
15527 SW Willamette Street
Sherwood, OR. 97140
503-625-5722

SECTION 1 **INTRODUCTION**

The City of Sherwood is requesting proposals from qualified individuals or companies to provide certified arborist duties as required: hazardous tree evaluation, tree removal, climbing services, tree falling, root shaving, chemical root killing, inspections and reports, tree plantings, tree planting plans, and tree pruning. The areas where service is to be performed include City property and public right-of-way. The work involved will be on an “as needed” basis for a period of three years with possible extensions up to two additional years. It is the City’s intent to award a primary contractor with a possible secondary contractor.

SECTION 2 **PROPOSER’S SPECIAL INSTRUCTIONS**

A. PROPOSED TIMELINES

Wednesday May 25, 2022	Release of Proposal
Monday June 8, 2022 at 2:00 PM	Deadline for Submission of Proposals
Tuesday June 14, 2022	Interviews (if necessary)
June 21, 2022	To City Council for Review/Approval
June 22, 2022	Award of Contract (pending Council Approval)
July 1, 2022	Commencement of Services

NOTE: The City reserves the right to modify this schedule at the City’s discretion. Proper notification of changes will be made to all interested parties.

B. GENERAL

By submitting a proposal, the Proposer certifies that the Proposal has been arrived at independently and has been submitted without any collusion designed to limit competition.

C. PROPOSAL SUBMITTAL

The proposal and all amendments must be signed and submitted no later than June 8, 2022 at 2:00 PM by mail (see below) or electronically to Rich Sattler (SattlerR@SherwoodOregon.gov). Each proposal must include the title Certified Arborist and Tree Services. To assure that your mailed proposal receives priority treatment, please mark as follows:

Certified Arborist and Tree Services
June 8, 2022
City of Sherwood Public Works Department
Attention: Rich Sattler, Utility Manager
15527 SW Willamette Street
Sherwood, OR 97140

It is the Proposer’s responsibility to ensure that proposals are received prior to the stated closing time. The City shall not be responsible for the proper identification and handling of any proposals submitted incorrectly. Late proposals, late modification or late withdrawals shall not be considered accepted after the stated bid opening date and time and shall be returned unopened.

D. **PROTEST OF SCOPE OF WORK OR TERMS**

A proposer who believes any details in the scope of work or terms detailed in the proposal packet and sample contract are unnecessarily restrictive or limit competition may submit a protest in writing, to the Utility Manager. A protest may be submitted electronically using email. Any such protest shall include the reasons for the protest and shall detail any proposed changes to the scope of work or terms. The Utility Manager shall respond to any protest and, if necessary, shall issue any appropriate revisions, substitutions, or clarification via addenda to all interested Proposers.

To be considered, protests must be received at least five (5) days before the proposal closing date. The City shall not consider any protest against award due to the content of proposal scope of work or contract terms submitted after the established protest deadline. All protests should be directed to Rich Sattler, Utility Manager and be marked as follows:

RFP Specification/Term Protest
City of Sherwood Public Works Department
Attention: Rich Sattler
15527 SW Willamette Street
Sherwood, OR 97140
SattlerR@Sherwoodoregon.gov

If a protest is received in accordance with section above, the proposal opening date may be extended if necessary to allow consideration of the protest and issuance of any necessary addenda to the proposal documents.

E. **PROPOSAL SUBMISSION AND SIGNING**

All requested forms and attachments (Signature Page, Acknowledgement Addendum, Statement of Proposal, etc.) must be submitted with the Proposal and in the required format. The submission and signing of a proposal shall indicate the intention of the firm to adhere to the provisions described in this RFP.

F. **COST OF PREPARING A PROPOSAL**

The RFP does not commit the City to paying any costs incurred by Proposer in the submission or presentation of a proposal, or in making the necessary studies for the preparation thereof.

G. **INTERPRETATIONS AND ADDENDA**

All questions regarding this project proposal shall be directed to Rich Sattler, SattlerR@SherwoodOregon.gov. If necessary, interpretations or clarifications in response to such questions will be made by issuance of an "Addendum" to all prospective Proposers within a reasonable time prior to proposal closing, but in no case less than 72 hours before the proposal closing. If an addendum is necessary after that time, the City, at its discretion, can extend the closing date.

Any Addendum issued, as a result of any change in the RFP, must be acknowledged by submitting the "Acknowledgement of Addendum" with proposal. Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

H. **BUSINESS TAX/FEDERAL TAX ID REQUIRED**

The City of Sherwood Business License is required. Chapter 5.04 of the City of Sherwood Municipal Code states any business doing business in the City of Sherwood shall pay a city of Sherwood Business License. No contracts shall be signed prior to the obtaining of the City of Sherwood Business License.

I. **PROPOSAL VALIDITY PERIOD**

Each proposal shall be irrevocable for a period of sixty (60) days from the Proposal Opening Date.

J. **FORM OF CONTRACT**

A copy of the City's standard Professional Services Contract, which the City expects the successful firm or individual to execute, is included as "Attachment C". The contract will incorporate the terms and conditions from this RFP document and the successful proposer's response documents. Firms taking exception to any of the contract terms shall submit a protest or request for change in accordance with Section 2.D "Protest of Scope of Work or Terms" or their exceptions will be deemed waived.

K. **TERM OF CONTRACT**

The term of the contract shall be a period of three (3) years with the option to renew for an additional two (2) years. The total term of the contract will not exceed five (5) years.

L. **TERMINATION**

The contract may be terminated by mutual consent of both parties or by the City at its discretion with a 30 days' written notice. If the agreement is so terminated, Contractor shall be paid in accordance with the terms of the agreement.

M. **NON-COLLUSION**

Proposer certifies that this proposal has been arrived at independently and has been submitted without collusion designed to limit independent bidding or competition.

N. **PUBLIC RECORD**

All bid material submitted by bidder shall become the property of the City and is public record unless otherwise specified. A bid that contains any information that is considered trade secret under ORS 192.338 should be segregated and clearly identified as such. This information will be kept confidential and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS 192. The above restrictions may not include cost or price information, which must be open to the public.

SECTION 3
BACKGROUND

The need for professional expertise and highly skilled workers to deal with issues involving trees on public property within the City of Sherwood has grown significantly. The Certified Arborist and Tree Contract will provide the City of Sherwood with the professional expertise needed for hazard tree evaluation, tree removal, climbing services, tree falling, root shaving, chemical root killing, inspections and reports, and tree pruning. Traffic control to be provided as needed. The contractor will provide specialized equipment and gear to carry out the duties agreed upon in the contract.

SECTION 4

SCOPE AND SCHEDULE OF WORK

These specifications are for arborists duties, tree pruning, tree removal, root shaving, chemical root killing, inspections and reports, and stump grinding services on City property and public right-of-way on an “as needed” basis for a period of three years.

City staff shall dispatch work by telephone or email. The Contractor shall begin each job promptly:

- Tree pruning shall begin no longer than two working days after it was dispatched (unless otherwise permitted by the City).
- Tree removal shall begin no longer than two working days after it was dispatched (unless otherwise permitted by the City).
- Root shaving shall begin no longer than two working days after it was dispatched (unless otherwise permitted by the City).
- Chemical root killing shall begin no longer than two working days after it was dispatched (unless otherwise permitted by the City).
- Stump grinding shall begin no longer than two working days after it was dispatched (unless otherwise permitted by the City).
- Certified Arborist tree evaluation and reports shall begin no longer than two working days after it was dispatched (unless otherwise permitted by the City).
- Emergency issues shall begin no longer than four hours after it was dispatched (unless otherwise permitted by the City).

Once the Contractor commences work at a site, it shall be completed in a timely manner – no more than three working days, unless otherwise specified herein.

A. DETAILED SPECIFICATION

Work shall include, but shall not be limited to the following:

1. Required Qualifications of Bidders

Contractors bidding on the Certified Arborist and Tree Services RFP shall be limited to individuals, partnerships and corporations actively engaged in the field or arboriculture and/or stump grinding. Bidders shall be able to demonstrate competence, experience, and financial capability to carry out the terms of this contract. The City considers bidders competent by being fully licensed, bonded and insured. Contractors with at least one ISA certified arborist and PWN-ISA certified tree risk assessor (could be the same person) are given preference.

All bidders must have in their employ, possession of, or available to them by formal agreement at the time of bidding personnel, trucks, devices, chippers, hand tools, aerial and other equipment and supplies which are necessary to perform the work as outlined in these specifications.

2. Work Standards

All work described shall be performed according to the American National standard for Tree Care Operations – Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush – Safety Requirements (ANSI Z133.1), and the American National Standard for Tree Care Operations – Tree, Shrub and Other Woody Plant Maintenance – Standard Practices (Most current version of ANSI A300). These standards are made part of this contract by reference. Work shall also be done in accordance with the City of Sherwood Municipal Code.

a. Tree Removal

The Contractor shall remove the trees in accordance with all safety standards and regulations listed herein and with the following minimum requirements:

- 1) The Contractor shall begin each job promptly; no longer than two workdays after it is dispatched by the City (unless otherwise permitted by the City).
- 2) Extreme care shall be taken to prevent limbs, branches, and trunks from falling and crating damage to adjacent homes, driveways, streets, sidewalks, landscaping, and other property.
- 3) Branches that are larger than 6 inches in diameter at one end shall be lowered to the ground using ropes or other mechanical devices. They shall not be dropped or allowed to fall.
- 4) Stumps shall not be left higher than 6 inches above ground level (unless otherwise permitted by the operations supervisor).
- 5) The Contractor shall clean up all wood, sawdust, and debris each day before the work crew leaves a site, unless permission is given by the City to do otherwise. All lawn areas shall be raked, all streets and sidewalks swept, and all brush, branches and logs shall be removed from the site, in the case of dispute, the City of Sherwood may remove the wood and debris and charge the cost to the Contractor, as the City of Sherwood shall determine to be just.
- 6) All wood products removed under this contract shall become the property of the Contractor and be disposed of by him/her.
- 7) The Contractor shall restore any damaged turf areas and repair any other damage caused by the tree removal operation.
- 8) Once the Contractor commences work at a site, it shall be completed in a timely manner; no more than two workdays unless permission is given by the City to extend the completion time.

b. Tree Stump Removal

The Contractor shall remove tree stumps in accordance with all safety standards and regulations listed herein and with the following minimum requirements.

- 1) The Contractor shall begin each job promptly; no longer than five workdays after it is dispatched by the City.
- 2) Stumps and bracing roots shall be ground to at least 18 inches below grade. Additionally, the Contractor shall remove root flares and surface roots up to three feet from the stump to eliminate "humps" in the lawn area adjacent to the stump. These roots shall be ground down 4 inches below the ground line. The area then shall be restored with topsoil to the level of the adjoining grade. Grade shall be defined as the level or surrounding ground not lifted by tree roots.
- 3) Stumps to be removed shall be designated by the City or representative.
- 4) Within twenty-four hours after grinding (removal) of a tree stump and buttress roots, the Contractor shall remove all stump grindings and associated debris from the site. Grinding debris generated by work described in this contract will be the responsibility of the Contractor. The Contractor shall remove and dispose of all chips, sawdust and associated debris unless otherwise directed by the City. Stumps, grindings and debris shall be placed away from the curb and gutter, street, sidewalk and private property immediately to eliminate hazards to the motoring public and pedestrians and to eliminate damage to private property.
- 5) All areas where stumps have been removed and areas disturbed by the removal

operations shall be back filled to the level of adjoining grade with pulverized topsoil the same day grindings are removed. Otherwise, the site shall be properly barricaded overnight to ensure the safety of the public. All holes must be filled with topsoil by the second day. The Contractor must supply the topsoil. The topsoil shall be properly leveled and compacted so as to ensure a minimum amount of settlement of the backfill material. If there is more than a one day delay between the time of removal of grindings and refilling with soil, the disturbed areas shall be barricaded off for public safety and the Operations Supervisor notified. Stump grindings and debris shall not be used as backfill material unless directed by the City.

- 6) The Contractor shall clean up all wood, sawdust and debris each day before the work crew leaves a site, unless permission is given by the City to do otherwise. All lawn areas shall be raked, all streets and sidewalks swept, and all wood debris shall be removed from the site. In the case of dispute, the City of Sherwood may remove the debris and charge the cost to the Contractor, as the City of Sherwood shall determine to be just.
- 7) Once the Contractor commences work at a site, it shall be completed in a timely manner; no more than two workdays (unless otherwise permitted by the City).

3. Safety Standards

- a. The Contractor shall, at all times, exercise adequate precautions for the safety of all persons, including employees, in the performance of this Contract. The Contractor shall abide by all city, State and Federal safety regulations and guidelines.
- b. Personal protective equipment (PPE):
 - Workers engaged in tree operations shall wear Head protection. It shall comply with the provisions of ANSI Z89.1
 - Eye and face protection when required shall comply with applicable provisions of ANSI 787.1 (CSA Z 94.3-07).
- c. Inadequate or improperly trained personnel, or employees in training, shall not be utilized for work on stumps beyond such person's known capacity or ability to perform properly or safely unless under the direct supervision of a qualified operator.
- d. The Contractor shall be solely responsible for pedestrian and vehicular safety and control within the work site and shall provide the necessary warning devices, barricades, and ground personnel needed to give safety, protection, and warnings to persons and vehicular traffic within the area. Traffic control, including signage, flaggers, etc. is the responsibility of the contractor and shall conform to Oregon Temporary Traffic Control Handbook, current edition and all applicable federal, State, and local regulations.
- e. The City may require additional safety precautions where particular dangers can be anticipated. The Contractor shall comply with all such requests.
- f. The City may advise the Contractor of any safety violations. It is the Contractor's responsibility to make the necessary corrections. Failure to correct safety violations shall be grounds for an order from the City to cease further work and remove from the job site until the condition is corrected. Time and wages lost due to such safety shutdowns shall be at the sole cost of the Contractor and shall not relieve the Contractor of the obligation to complete the work on time.
- g. Any of the above actions by employees of the City of Sherwood shall in no way relieve the Contractor of his/her responsibility to provide for the safety of all persons, including his/her employees.
- h. Whenever electric or telephone lines, gas lines, water lines, or any other improvements, public or private, may be jeopardized by any authorized tree activity, the proper authorities of the utilities involved, or property owner involved, shall be consulted prior to performing any work activity. All requested reasonable precautions by any such authority or persons shall be complied with. It

is the Contractor's responsibility to determine the location of public or private utilities or improvements.

- i. All overhead and underground electrical conductors and all communication wires and cables shall be considered to be energized with potentially fatal voltages. Only a qualified line clearance tree trimmer or qualified line-clearance tree trimmer trainee shall be assigned to the work if it is found that an electrical hazard exists. A trainee shall be under the direct supervision of a qualified line-clearance tree trimmer. All work shall conform at the provisions and directives of the following portions of ANSI 2133.1-2006: 5.1- General and 5.2- Working in proximity to electrical hazards.

4. Protection of Property

- a. The Contractor shall protect from damage all utilities, improvements, buildings, vehicles and all other property that is likely to become displaced or damaged by the execution of the work under this Contract. Any special equipment or devices needed to protect persons, property, landscaping or utilities shall be the responsibility of the Contractor, and the costs of such protection shall be included in the bid. The City will not pay any additional costs for special protective actions, equipment or devices not included in the Contract bid.
- b. The Contractor shall notify all other affected governmental agencies and utilities whenever underground work is done under the terms of this Contract. The Contractor is required to obtain permission of the appropriate public and private utilities and governmental agencies before performing underground work pursuant to the terms of this Contract. The Contractor shall be required to contact the Oregon Utility Notification Center, 811 prior to all projects requiring excavation.
- c. The Contractor is responsible for all property, utilities and pavement damaged by his/her operations as shall be determined by City. The Contractor shall be responsible for the costs of repairing all damage to property, utilities and pavement caused by his/her operations to the satisfaction of the property owner or the governmental body having jurisdiction over the road or utility.

5. Work Hours

Work for these services shall be scheduled Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m. In instances of an emergency or work that cannot be scheduled during regular business hours the Contractor may be requested to perform work on evenings, weekends or holidays.

6. Observance of Laws, Ordinances and Regulations

The Contractor shall be required to obtain the requisite permits from the City to do the work at each job site, if required.

The Contractor at all times during the term of this contract shall observe and abide by all Federal, State and City laws which in any way affect the conduct of the work. The Contractor shall abide fully with any and all applicable State and Federal statutes, rules and regulations as they relate to hiring, wages, and any other applicable conditions of employment.

In the event that the work is not performed in accordance with this provision and in accordance with the laws of the State of Oregon, then this Contract may be terminated by the City of Sherwood for the reason that the same is not performed in accordance with the public policy of the State of Oregon as defined in said statutes.

7. Bonds/Licenses/Permits

The Contractor shall procure and pay for all permits and licenses necessary for the completion of this Contract including those permits required by the City of Sherwood. In the event a necessary permit is not obtained, the Contractor shall not be permitted to work on items subject to said permit and any delays caused thereby shall not be subject to extra compensation or extensions.

- The Contractor shall have a valid City of Sherwood Business Tax or Metro License.
- The stump grinding contractor shall have a State Contractor's License.

8. Underground Excavation

It is the Contractor's responsibility to fully comply with the Oregon Utility Notification Center, 811 guidelines for locating utilities prior to any excavations. The Contractor may pursue the party responsible for not properly marking or identifying the underground facility. The Contractor agrees not to file any claim or legal action against the City (division responsible for this Contract) for said "changed or differing" conditions unless said City division is solely responsible for the delay or damages that the Contractor may have incurred.

9. Contractor's Insurance

Contractors and its subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this contract. Such insurance shall cover all risks arising directly or indirectly out of contractor's activities or work hereunder, including the operations of its subcontractors of any tier.

The policy or policies of insurance maintained by the contractor and its subcontractor shall provide at least the limits and coverage's listed in Section 11 of the attached Contract. As evidence of the insurance coverage required by the contract, the contractor shall furnish a Certificate of Insurance to the City. No contract shall be affected until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within the contract. A renewal certificate will be sent to the City 10 days prior to coverage expiration.

10. Deductions for Uncorrected Work

If the City of Sherwood deems it expedient to correct work not done in accordance with the terms of this Contract, an equitable deduction from future payments under this Contract shall be made.

SECTION 5

PROPOSAL CONTENT AND FORMAT

A. FORMAT

To provide a degree of consistency in review of the written proposals, firms are requested to prepare their proposals in the standard format specified below.

1. Title Page

Proposer should identify the RFP subject, name and title of contact person, address, telephone number, fax number, email address and date of submission.

2. Transmittal Letter

The transmittal letter should be not more than two (2) pages long and should include as a minimum, the following:

- a. A brief statement of the Proposer's understanding of the project and services to be performed.
- b. A positive commitment to perform the services within the time period specified, starting and completing the project within the deadlines stated in this RFP; and the names of persons authorized to represent the Proposal, their title, address and telephone number (if different from the individual who signs the transmittal letter).

3. Table of Contents

The table of contents should include a clear and complete identification by section and page number of the materials submitted.

4. Firm Qualifications

- a. Background of the firm. This should include a brief history of the firm and types of services the firm is qualified to perform.
- b. Qualifications of the firm in performing this type of work. This should include examples of related experience and references for similar studies and projects.

5. Team Member Qualifications

Project team and the team member's individual qualifications. Identify individuals and sub-consultants who will complete this work, their experience, and their individual qualifications. Pertinent resumes of assigned personnel should be included.

6. Project Approach

- a. Submit a work plan to accomplish the scope of work defined in the Section 4 of this RFP. The work plan should include time estimates (in hours) for each significant segment of the scope and the staff level to be assigned. Where possible, individual staff members should be named, and their titles provided. The planned use of specialists (if any) should be described.
- b. Indicate the extent to which City personnel would be expected to contribute to the project work effort.

7. Project Timeframe

Prepare a timeframe that demonstrates a practical approach to meeting the City's specific deadlines by providing detailed information as to how the firm proposes to meet the timelines and reporting deadline requirements of the scope of work.

8. Compensation

The proposed fee structure should include the total hours and dollar amounts, including out-of-pocket costs for the total project.

B. ADDITIONAL SERVICES

Provide a brief description of any other services that your firm could provide the City and an approximation of the hourly charge for each service of this type. Such services would be contracted for on an "as needed" basis, to be provided and billed for separately.

C. ADDITIONAL INFORMATION

Please provide any other information you feel would help the Selection Committee evaluate your firm for this project.

D. REFERENCES

Please list three (3) references with, at the minimum, the following information:

1. Company Name
2. Contact Individual Name
3. Contact Individual Title
4. Contact Phone

E. DISPUTES

Should any doubt or difference of opinion arise between the City and a Proposer as to the items to be furnished hereunder or the interpretation of the provisions of this RFP, the decision of the City shall be final and binding upon all parties.

F. CITY PERSONNEL

No Officer, agent, consultant or employee of the City shall be permitted any interest in the contract.

SECTION 6
PROPOSAL EVALUATION PROCEDURES

A. SELECTION AND EVALUATION PROCESS

A Selection Committee assembled by the City will review the written proposals. Proposals will be evaluated to determine which ones best meet the needs of the City. After meeting the mandatory requirements, the proposals will be evaluated on both their technical and fee aspects. The selection committee will select the Proposer which best meets the City's needs based on upon its evaluation of a firm's proposal. Proposals will be evaluated in accordance with the following.

1. Completed Proposal submitted on time	Pass/Fail
2. An original plus three (3) copies of the complete proposal	Pass/Fail
3. Transmittal letter	Pass/Fail
4. Firm qualifications	30 Points
5. Project Team member qualifications	30 Points
6. Project understand and approach	20 Points
7. Project timeframe	20 Points

TOTAL EVALUATION POINTS 100 Points

B. PRESENTATION/INTERVIEW

At the option of the City, the top scoring Proposers (based on the criteria points) may be asked to make a presentation of their proposal. This will provide an opportunity to clarify or elaborate on the proposal, but will not, in any way provide an opportunity to change any fee amount originally proposed. The City will schedule the time and location of these presentations and notify the selected firms. If the City elects to conduct a presentation/interview process, **25** criteria points will be assigned to the process and will be added to the participating Proposer's total points.

C. INVESTIGATION OF REFERENCES

The City reserves the right to investigate references and the past performance of any Proposer with respect to its successful performance of similar projects, compliance with specifications and contractual obligations, its completion or delivery of a project on schedule and its lawful payment of employees and workers.

D. CLARIFICATION OF PROPOSALS

The City reserves the right to obtain clarification of any point regarding a proposal or to obtain additional information necessary to properly evaluate a particular proposal. Failure of a Proposer to respond to such a request for additional information or clarification could result in rejection of their proposal.

E. RESERVATION IN EVALUATION

The Selection Committee reserves the right to either (a) request "Best and Final Offers" from the two finalist firms and award to the lowest priced or (b) to reassess the proposals and award to the Proposer determined to best meet the overall needs of the City.

F. INTENT OF AWARD

Upon review of the proposals submitted, the City may negotiate a scope of work and a Purchase agreement with one firm or may select one or more firms for further consideration.

G. **PROTEST OF AWARD**

In accordance with state law, any affected Proposer has seven (7) calendar days from the date of written notice of award to file a written protest.

H. **PROPOSAL REJECTION**

The City reserves the right to:

1. Reject any or all proposals not in compliance with all public procedures and requirements.
2. Reject any proposal not meeting the specifications set forth herein.
3. Waive any or all irregularities in proposals submitted.
4. Reject all proposals.
5. Award any or all parts of any proposal.
6. Request references and other data to determine responsiveness.

SECTION 7
PROPOSAL CERTIFICATIONS

Non-discrimination Clause

The Contractor agrees not to discriminate against any client, employee or applicant for employment or for services, because of race, color, religion, sex, national origin, handicap or age with regard to, but not limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; selection for training; rendition of services. It is further understood that any contractor who is in violation of this clause shall be barred from receiving awards of any purchase order from the City, unless a satisfactory showing is made that discriminatory practices have terminated and that a recurrence of such acts is unlikely.

Agreed by: _____

Firm Name: _____

Address: _____

Resident Certificate

Please Check One:

☐ **Resident Vendor:** Vendor has paid unemployment taxes and income taxes in this state during the last twelve calendar months immediately preceding the submission of this proposal.

Or

☐ **Non-resident Vendor:** Vendor does not qualify under requirement stated above.
(Please specify your state of residence: _____)

Officer's Signature: _____

Type or Print Officer's name: _____

SECTION 8
SIGNATURE PAGE

The undersigned proposes to perform all work as listed in the Specification section, for the price(s) stated; and that all articles supplied under any resultant contract will conform to the specifications herein,

The undersigned agrees to be bound by all applicable laws and regulations, the accompanying specifications and by City policies and regulations.

The undersigned, by submitting a proposal, represents that:

- A. The Proposer has read and understands the specifications.
- B. Failure to comply with the specifications or any terms of the Request for Proposal may disqualify the Proposer as being non-responsive.

The undersigned certifies that the proposal has been arrived at independently and has been submitted without any collusion designed to limit competition.

The undersigned certifies that all addenda to the specifications has been received and duly considered and that all costs associated with all addenda have been included in this proposal:

Addenda: No: _____ through No. _____ inclusive.

We therefore offer and make this proposal to furnish services at the price(s) indicated herein in fulfillment of the attached requirements and specifications of the City.

Name of Firm: _____

Address: _____

Telephone #: _____ Fax #: _____

By: _____ Date _____

(Signature of Authorized Official. If Partnership, signature of one partner).

Typed Name/Title _____

If corporation, attest: _____
(Corporate Officer)

☐ Corporation

☐ Partnership

☐ Individual

Federal Tax Identification Number (TIN): _____

ATTACHMENT A
ACKNOWLEDGEMENT OF ADDENDA
City of Sherwood,
Oregon Request
for Proposal
Certified Arborist and Tree
Services Close: Thursday, June 8th,
2022 2:00 PM

I/WE HAVE RECEIVED THE FOLLOWING ADDENDA (*If none received, write "None Received"*)

- | | |
|----------|----------|
| 1. _____ | 3. _____ |
| 2. _____ | 4. _____ |

Date

Signature of Proposer

Title

Corporate Name

ATTACHMENT B
STATEMENT OF PROPOSAL

Name of Proposer: _____

Mailing Address: _____

Contact Person: _____

Telephone Number: _____ Fax Number: _____

Email Address: _____

Accepts all the terms and conditions contained in the City of Sherwood Request for Proposal for Certified Arborist and Tree Services and the attached contract for Certified Arborist and Tree Services (Attachment C).

Signature of authorized representative

Date

Type or print name of authorized representative

Telephone Number

Type or print name of person(s) authorized to negotiate Contracts

Telephone Number

REFERENCES

Reference #1

Telephone Number

Project Title

Contact Individual

Reference #2

Telephone Number

Project Title

Contact Individual

Reference #3

Telephone Number

Project Title

Contact Individual



Public Works Department
City of Sherwood
 15527 SW Willamette Street
 Sherwood, OR 97140
 503-625-5722

CONTRACT FOR PROFESSIONAL SERVICES

PROJECT NAME:

CONTRACT PARTIES: **City of Sherwood**
 [hereafter called City]

And

[hereafter called Consultant]

C.O.S. PROJECT MANAGER:

ACCOUNT #:

FUND #:

DEPT:

JOB #:

VENDOR #:

URA RES:

PHASE:

SCOPE of WORK: Attached as Exhibit A ☐

FEE SCHEDULE:

Attached as Exhibit B ☐

SCHEDULE of WORK:

effective date:

expiration date:

PAYMENT:

City agrees to pay Consultant based on the Fee Schedule an amount not to exceed

\$

for the Scope of Work.

A performance bond in the amount of the maximum contract payment amount set forth immediately above, and a payment bond in the amount of 50% of the performance bond amount, ☐ are ☐ are not required for this Contract.

CONSULTANT DATA, REGISTRATION, and SIGNATURE

CONSULTANT FIRM:

ADDRESS:

VOICE:

CONTACT:

LIC #:

FAX:

TITLE:

I, the undersigned, agree to perform the work outlined in this Contract in accordance with the terms and conditions listed on pages 2-6 and made part of this Contract, and in accordance with the exhibits attached and made part of this Contract. I certify, under penalty of perjury, that I/my business is not in violation of any Oregon tax laws; and certify that I am an independent contractor as defined in ORS 670.600.

CONSULTANT:

signature

date

CITY OF SHERWOOD APPROVALS (consult the City's Delegation of Contracting Authority policy for requirements)

PROJECT MANAGER:

signature

date

PUBLIC WORKS DIRECTOR:

signature

date

CITY MANAGER:

signature

date

STANDARD CONTRACT PROVISIONS

(These provisions not to be altered without approval of the City Attorney.)

1. Access to Records

The Consultant shall maintain, and the City of Sherwood ("City") and its duly authorized representatives shall have access during normal business hours to the books, documents, papers, and records of the Consultant which are directly pertinent to the specific Contract for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon reasonable request. Payment for cost of copies is reimbursable by the City.

2. Audits

- (a) The City, either directly or through a designated representative, at City's expense except as provided in subsection 2(b), may conduct financial and performance audits of the billings and services specified in this Contract at any time in the course of the Contract and during the three (3) year period established by section 1, **Access to Records**. Audits will be conducted in accordance with generally accepted auditing standards as promulgated in Government Auditing Standards by the Comptroller General of the United States General Accounting Office.
- (b) If an audit discloses that payments to the Consultant were in excess of the amount to which the Consultant was entitled, then the Consultant shall repay the amount of the excess to the City. If the payments to the Consultant were in excess of the amount to which the Consultant was entitled by five percent (5%) or more, then Consultant shall additionally repay to the City the reasonable costs of the audit performed under subsection 2(a).
- (c) If any audit shows performance of services is not efficient in accordance with Government Auditing Standards, or that the program is not effective in accordance with Government Auditing Standards, the City may pursue remedies provided under section 5, **Early Termination of Contract** and section 7, **Remedies**.

3. Effective Date and Duration

The passage of the Contract expiration date, or early termination of this Contract, shall not extinguish, prejudice, or limit either party's right to enforce this Contract with respect to any default or defect in performance that has not been cured.

4. Payments

City agrees to pay Consultant based on the fee schedule in Exhibit B, attached hereto and incorporated herein by reference, in a total sum not to exceed the amount indicated on the cover page of this Contract, for the scope of work identified in Exhibit A, attached hereto and incorporated herein by reference. Consultant shall submit detailed written invoices to City for work performed, referencing the work performed and the fee schedule in Exhibit B, at a frequency not to exceed one invoice per calendar month, and no later than sixty (60) calendar days after performance of the work referenced in the invoice. Within thirty (30) calendar days of receipt of each invoice, City shall submit payment to Consultant or shall notify Consultant in writing of any dispute with regard to such invoice.

5. Early Termination of Contract

- (a) The City and the Consultant, by mutual written agreement, may terminate this Contract at any time.
- (b) The City, by written notice to the Consultant, may terminate this Contract for any reason deemed appropriate in its sole discretion, such termination to be effective thirty (30) calendar days after the effective date of such notice or at such later date as specified in such notice.
- (c) City may terminate this Contract by written notice to Consultant, such termination to be effective immediately upon the effective date of such notice or at such later date as specified in such notice, upon the occurrence of any of the following events:
 - (1) City fails to receive funding, or appropriations, limitations, or other expenditure authority at levels sufficient to pay for Consultant's work;
 - (2) Federal or state laws, regulations, or guidelines are modified or interpreted in such a way that either the work under this Contract is prohibited or City is prohibited from paying for such work from the planned funding source;
 - (3) Consultant no longer holds any license or certificate that is required to perform the work, or any license or certificate required by statute, rule, regulation, or other law to be held by the Consultant to provide the services required by this Contract is for any reason denied, revoked, suspended, not renewed, or changed in such a way that Consultant no longer meets requirements for such license or certificate.
 - (4) City determines, in its sole discretion, that Consultant has violated section 25, **Information Technology**.
- (d) Either the City or the Consultant may terminate this Contract in the event of a breach of the Contract by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not entirely cured the breach within fifteen (15) calendar days of the notice, then the party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.

- (e) Upon receiving a written notice of termination of this Contract, Consultant shall immediately cease all activities under this Contract, unless City expressly directs otherwise in such notice. Upon termination of this Contract, Consultant shall deliver to City all documents, information, works in progress, and other property that are or would be deliverables had the Contract been completed.

6. Payment on Early Termination

- (a) In the event of termination under subsection 5(a) or 5(b), **Early Termination of Contract** hereof, the City shall pay the Consultant for work performed in accordance with the Contract prior to the termination date.
- (b) In the event of termination under subsection 5(d), **Early Termination of Contract** hereof, by the Consultant due to a breach by the City, the City shall pay the Consultant as provided in subsection (a) of this section.
- (c) In the event of termination under subsection 5(d), **Early Termination of Contract** hereof, by the City due to a breach by the Consultant, the City shall pay the Consultant as provided in subsection (a) of this section, subject to set off of excess costs, as provided for in section 7(a), **Remedies**.
- (d) In the event of early termination, all of the Consultant's work product will become and remain property of the City.

7. Remedies

- (a) In the event of termination under subsection 5(d), **Early Termination of Contract**, hereof, by the City due to a breach by the Consultant, the City may complete the work itself, by contract with another consultant, or by a combination thereof. In the event the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this Contract, then the Consultant shall pay to the City the amount of the reasonable excess.
- (b) The remedies provided to the City under section 5, **Early Termination of Contract** and section 7, **Remedies** for a breach by the Consultant shall not be exclusive. The City also shall be entitled to any other equitable and legal remedies that are available.
- (c) In the event of breach of this Contract by the City, the Consultant's remedy shall be limited to termination of the Contract and receipt of payment as provided in section 5(d), **Early Termination of Contract** and section 6(b), **Payment on Early Termination** hereof.

8. Subcontracts and Assignment

Consultant shall not subcontract, assign or transfer any of the work scheduled under this Contract, without the prior written consent of the City. Notwithstanding City approval of a sub-consultant, the Consultant shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Consultant hereunder. The Consultant agrees that if sub-consultants are employed in the performance of this Contract, the Consultant and its sub-consultants are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation. Consultant further agrees that Consultant will be solely responsible for ensuring any sub-consultants fully comply with the terms of this Contract, and that Consultant will be solely liable for actions or omissions of sub-consultants under this Contract.

9. Compliance with Applicable Law

In connection with its activities under this Contract, Consultant shall use the standard of care in its profession to comply with all applicable federal, state and local laws and regulations.

10. Indemnity - Standard of Care

If Consultant's services involve engineering or planning consulting, the standard of care applicable to Consultant's service will be the degree of skill and diligence normally employed by professional engineers or planning consultants performing the same or similar services at the time such services are performed. Consultant will re-perform any services not meeting this standard without additional compensation. City has relied upon the professional ability and training of Consultant as a material inducement to enter into this Contract. Consultant represents that all of its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state, and local laws, it being understood that acceptance of Consultant's work by City will not operate as a waiver or release.

Consultant acknowledges responsibility for liability arising out of the performance of this Contract and shall defend, indemnify, and hold harmless City and its officers, agents, volunteers, and employees against any and all liability, settlements, loss, damage, costs, and expenses (including attorney's fees and witness costs at both trial and on appeal, whether or not a trial or appeal ever takes place, including any hearing before federal or state administrative agencies) arising from or in connection with any action, suit, demand, or claim resulting or allegedly resulting from, attributable in whole or in part to, or in any way connected with Consultant's and Consultant's officers', agents', volunteers', and employees' acts, omissions, activities, or services in the course of performing this Contract, to the fullest extent permitted by law, and except to the extent otherwise void or unenforceable under ORS 30.140. Consultant's activities are deemed to include those of subcontractors. The City may, at any time at its election assume its own defense and settlement in the event that it determines that Consultant is not adequately defending the City's interests, or that an important governmental principle is at issue, or that it is in the best interests of the City to do so. If any aspect of this indemnity is found to be illegal or invalid for any reason whatsoever, such illegality or invalidity does not affect the validity of the remainder of this indemnification.

11. Insurance

Consultant shall obtain at its expense, and maintain for the term of this contract, occurrence form commercial general liability and commercial automobile liability insurance, including coverage for all owned, hired, and non-owned automobiles, for the protection of Consultant, the City, its Councilors, officers, agents, volunteers, and employees. Such coverage shall be primary and non-contributory. Coverage shall include personal injury, bodily injury, including death, and broad form property damage, including loss of use of property, occurring in the course of or in any way related to Consultant's operations, in an amount not less than \$2,000,000 combined single limit per occurrence and \$2,000,000 aggregate. Such insurance shall name the City as an additional insured. Consultant, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract, who are subject employers under the Oregon Workers' Compensation Law, shall comply with ORS 656.017, which requires them to provide workers compensation coverage that satisfies Oregon law for all their subject workers. Out-of-state employers must provide workers' compensation coverage for their workers that complies with ORS 656.126. Employers' Liability Insurance with coverage limits of not less than \$1,000,000 each accident shall be included. Consultant shall obtain at its expense and maintain for the term of this contract, professional errors and omissions liability insurance for the protection of Consultant and its employees, insuring against bodily injury and property damage and arising out of or resulting from Consultant's errors, negligent acts, omissions, activities or services, in an amount not less than \$2,000,000 combined single limit per occurrence, with an annual aggregate limit not less than \$2,000,000. Such insurance shall be endorsed to include contractual liability. If Consultant obtains professional errors and omissions liability insurance on a claims made form, Consultant shall maintain three (3) years of tail coverage for the three (3) years after the accepted completion of the Contract by the City. All policies will provide for not less than thirty (30) calendar days' written notice to the City before they may be canceled. Prior to commencing work under this Contract, and thereafter upon request, Consultant shall furnish the City certificates of insurance and necessary endorsements evidencing the effective dates, amounts, and types of insurance required by this Contract. Additionally, if Consultant is subject to the professional errors and omissions liability insurance tail coverage requirement under this section, Consultant shall furnish the City, upon the accepted completion of the Contract by the City, a certificate of insurance and necessary endorsements evidencing the effective dates, amounts, and types of insurance meeting said requirement.

12. Ownership of Work Product

All work products of the Consultant, which result from this Contract, are the exclusive property of the City; provided, that Consultant is hereby granted an irrevocable, royalty free, worldwide, perpetual license to use, reproduce, copy, distribute and make derivatives of its work product, regardless of whether Consultant has resigned, this Contract has been terminated, Consultant's scope of services has been modified, or Consultant's services under this Contract have been completed.

13. Nondiscrimination

Consultant agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Consultant also shall comply with the Americans With Disabilities Act of 1990 (Pub L. No. 101-336) including Title II of that Act, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

14. Successors in Interest

The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and approved assigns.

15. Severability

The parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

16. Waiver

The failure of the City to enforce any provision of this Contract shall not constitute a waiver by the City of that or any other provision.

17. Errors

The Consultant shall perform such additional work as may be necessary to correct errors in the work required under this Contract without undue delays and without additional cost.

18. Governing Law; Forum

The provisions of this Contract shall be construed in accordance with the provisions of the laws of the State of Oregon, without regard to conflicts of law principles. Any action or suits involving any question arising under this Contract must be brought in the appropriate court in Washington County, Oregon or, only if there is no Oregon state court jurisdiction, the United States District Court for the District of Oregon, and each party hereby submits to the exclusive jurisdiction of those courts for purposes of any such proceeding. Any trial will be to the court without a jury.

19. Amendments

The City and the Consultant may amend this Contract at any time only by written amendment executed by the City and the Consultant.

20. License

Prior to beginning work under this Contract, the Consultant shall provide a professional registration number in the space provided on page one of this Contract, if required by the City.

21. Payment to Vendors and Sub-consultants

Consultant must promptly pay any persons supplying services, material, or equipment to Consultant in its performance of the work under this Contract. Consultant shall not take or fail to take any action in a manner that causes the City or any materials that the Consultant provides hereunder to be subject to any claim or lien of any person without the City's prior written consent.

22. Exhibits

Each document that is attached to this Contract as an Exhibit shall be labeled with an Exhibit letter and listed below. Provisions and covenants contained in Exhibits are hereby incorporated by reference and shall become a part of this Contract as if fully set forth herein. If any item in an Exhibit contradicts this Contract, this Contract shall take precedence over the conflicting item in the Exhibit.

List of Exhibits

Exhibit A – Scope of Work

Exhibit B – Fee Schedule

23. Merger Clause

This Contract and attached exhibits constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this Contract shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. Consultant, by the signature of its authorized representative, hereby acknowledges that he or she has read this Contract, understands it and agrees to be bound by its terms and conditions.

24. Mediation

- (a) Should any dispute arise between the parties to this Contract it is agreed that such dispute will be submitted to a mediator prior to any litigation and the parties hereby expressly agree that no claim or dispute arising under the terms of this Contract shall be resolved other than first through mediation and only in the event said mediation efforts fail, through litigation.
- (b) The parties shall exercise good faith efforts to select a mediator who shall be compensated equally by both parties. Mediation will be conducted in Portland, Oregon, unless both parties agree in writing otherwise. Both parties agree to exercise good faith efforts to resolve disputes covered by this section through this mediation process. If a party requests mediation and the other party fails to respond within ten (10) calendar days, or if the parties fail to agree on a mediator within ten (10) calendar days, a mediator shall be appointed by the presiding judge of the Washington County Circuit Court upon the request of either party. The parties shall have any rights at law or in equity with respect to any dispute not covered by this Section.

25. Information Technology

If Consultant access to City's information technology systems is necessary for the performance of this Contract:

- (a) Consultant agrees to sign and be bound by the terms of the City's then-current Contractor Security Policy, as it may be amended by City from time to time during the course of this Contract.
- (b) Consultant shall use the standard of care in its profession to safeguard any and all usernames, passwords, and other confidential information relating to accessing said systems; will limit access to such information to the smallest number of Consultant's employees and/or subcontractors as is reasonably practical; and will provide City with the names of all such employees and/or subcontractors who will be provided such information;
- (c) Consultant will not attempt to access any City information technology resources beyond those necessary for performance of this Contract; and
- (d) Consultant will be solely liable for any damages to City's information technology systems, data breaches, and any other losses or damages relating to Consultant's access to City's information technology systems.

26. Notice

Any notice required to be provided to City under this Contract shall be provided to the City Project Manager specified on the cover page of this Contract at the address for the City specified on the cover page of this Contract. Any notices required to be provided to Consultant under this Contract shall be provided to the Consultant Contact specified on the cover page of this Contract at the address for the Consultant specified on the cover page of this Contract. Notices shall be made by personal service, in which case they are effective on the date of service, or by certified mail, in which case they are effective on the date of delivery, or if delivery is refused, upon the date of

delivery refusal. Either party may alter the person designated for receipt of notices under this Contract by written notice to the other party.

27. **Miscellaneous Terms**

- (a) Consultant Identification. Consultant shall furnish to City Consultant's employer identification number, as designated by the Internal Revenue Service, or, if the Internal Revenue Service has designated no employer identification number, Consultant's Social Security number.
- (b) Duty to Inform. Consultant shall give prompt written notice to City if, at any time during the performance of this Contract, Consultant becomes aware of actual or potential problems, faults, or defects in the project, any nonconformance with the Contract, or with any federal, state, or local law, rule, or regulation, or has any objection to any decision or order made by City. Any delay or failure on the part of City to provide a written response to Consultant shall constitute neither agreement with nor acquiescence in Consultant's statement or claim, and shall not constitute a waiver of any of City's rights.
- (c) Independent Contractor. Consultant is an independent contractor for all purposes and shall be entitled to no compensation other than the compensation expressly provided by this Contract.
- (d) Time is of the Essence. Time is of the essence under this Contract.
- (e) Authority. The parties signing this Contract are authorized to sign and to bind their respective contracting parties to the terms of the Contract.
- (f) Conflict of Interest. Except with City's prior written consent, Consultant shall not engage in any activity, or accept any employment, interest or contribution that would, or would reasonably appear, to compromise Consultant's professional judgment with respect to this Contract, including, without limitation, concurrent employment on any project in direct competition with the subject of this Contract.
- (g) No Third-Party Beneficiaries. City and Consultant are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide, any benefit or right, whether directly or indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

28. **Statutory Provisions**

- (a) As provided by ORS 279B.220, Consultant shall:
 - (1) Make payment promptly, as due, to all persons supplying to Consultant labor or material for the performance of the work provided for in this Contract.
 - (2) Pay all contributions or amounts due the Industrial Accident Fund from the Consultant or subcontractor incurred in the performance of this Contract.
 - (3) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.
 - (4) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.
- (b) As provided by ORS 279B.230, Consultant shall promptly, as due, make payment to any person, copartnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Consultant, of all sums that Consultant agrees to pay for the services and all moneys and sums that Consultant collected or deducted from the wages of employees under any law, contract, or agreement for the purpose of providing or paying for the services. It is a condition of this Contract that all employers working under this Contract are either subject employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- (c) As provided by ORS 279A.110, Consultant may not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a minority, women, or an emerging small business enterprise certified under ORS 200.055 or a business enterprise that is owned or controlled by or that employs a disabled veteran, as defined in ORS 408.225. If Consultant violates this subsection, City may regard the violation as a breach of contract that permits the City to: (1) terminate this Contract; or (2) exercise any remedies for breach of contract that are reserved in this Contract.
- (d) As required by ORS 279B.235:
 - i. Consultant's employees shall be paid at least time and a half for all overtime worked, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime. Consultant must give notice in writing to employees who work on this Contract, either at the time of hire or before commencement of work on this Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
 - ii. Consultant must comply with ORS 652.220 and shall not unlawfully discriminate against any of Consultant's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. Consultant's compliance with this section constitutes a material element of this Contract and a failure to comply constitutes a breach that entitles City to terminate this Contract for cause.
 - iii. Consultant may not prohibit any of Consultant's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Consultant may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

[SIGNATURES ON COVER PAGE TO CONTRACT]