

## SERVICES AGREEMENT

THIS AGREEMENT made and entered into the day and year set forth below by and between THE CITY OF FORT COLLINS, COLORADO, a Municipal Corporation, hereinafter referred to as the "City" and Autumn Tree Care, LLC, hereinafter referred to as "Service Provider".

### WITNESSETH:

In consideration of the mutual covenants and obligations herein expressed, it is agreed by and between the parties hereto as follows:

1. Scope of Services. The Service Provider agrees to provide services in accordance with the scope of services attached hereto as Exhibit "A", consisting of six (6) pages, and incorporated herein by this reference.
2. Time of Commencement and Completion of Services. The services to be performed pursuant to this Agreement shall be initiated within five (5) days following execution of this Agreement. Services shall be completed no later than June 1, 2002. Time is of the essence. Any extensions of the time limit set forth above must be agreed upon in a writing signed by the parties.
3. Delay. If either party is prevented in whole or in part from performing its obligations by unforeseeable causes beyond its reasonable control and without its fault or negligence, then the party so prevented shall be excused from whatever performance is prevented by such cause. To the extent that the performance is actually prevented, the Service Provider must provide written notice to the City of such condition within fifteen (15) days from the onset of such condition.
4. Early Termination by City/Notice. Notwithstanding the time periods contained herein, the City may terminate this Agreement at any time without cause by providing written notice of termination to the Service Provider. Such notice shall be delivered at least fifteen (15)

days prior to the termination date contained in said notice unless otherwise agreed in writing by the parties. All notices provided under this Agreement shall be effective when mailed, postage prepaid and sent to the following addresses:

City:  
City of Fort Collins, Purchasing  
P.O. Box 580  
Ft. Collins, CO 80522  
Attn: John Stephen

Service Provider:  
Autumn Tree Care, LLC  
913 E. Prospect Rd.  
Ft. Collins, CO 80525

In the event of early termination by the City, the Service Provider shall be paid for services rendered to the date of termination, subject only to the satisfactory performance of the Service Provider's obligations under this Agreement. Such payment shall be the Service Provider's sole right and remedy for such termination.

5. Contract Sum. The City shall pay the Service provider for the performance of this Contract, subject to additions and deletions provided herein, the sum of Eighteen Thousand Four Hundred Eighty Dollars (\$18,480.00) (Cost Breakdown is attached Exhibit C).

6. City Representative. The City will designate, prior to commencement of the work, its representative who shall make, within the scope of his or her authority, all necessary and proper decisions with reference to the services provided under this agreement. All requests concerning this agreement shall be directed to the City Representative.

7. Independent Service provider. The services to be performed by Service Provider are those of an independent service provider and not of an employee of the City of Fort Collins. The City shall not be responsible for withholding any portion of Service Provider's compensation hereunder for the payment of FICA, Workmen's Compensation or other taxes or benefits or for any other purpose.

8. Personal Services. It is understood that the City enters into the Agreement based on the special abilities of the Service Provider and that this Agreement shall be considered as an agreement for personal services. Accordingly, the Service Provider shall neither assign any

responsibilities nor delegate any duties arising under the Agreement without the prior written consent of the City.

9. Acceptance Not Waiver. The City's approval or acceptance of, or payment for any of the services shall not be construed to operate as a waiver of any rights or benefits provided to the City under this Agreement or cause of action arising out of performance of this Agreement.

10. Warranty.

- (a) Service Provider warrants that all work performed hereunder shall be performed with the highest degree of competence and care in accordance with accepted standards for work of a similar nature.
- (b) Unless otherwise provided in the Agreement, all materials and equipment incorporated into any work shall be new and, where not specified, of the most suitable grade of their respective kinds for their intended use, and all workmanship shall be acceptable to City.
- (c) Service Provider warrants all equipment, materials, labor and other work, provided under this Agreement, except City-furnished materials, equipment and labor, against defects and nonconformances in design, materials and workmanship/workwomanship for a period beginning with the start of the work and ending twelve (12) months from and after final acceptance under the Agreement, regardless whether the same were furnished or performed by Service Provider or by any of its subcontractors of any tier. Upon receipt of written notice from City of any such defect or nonconformances, the affected item or part thereof shall be redesigned, repaired or replaced by Service Provider in a manner and at a time acceptable to City.

11. Default. Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this agreement, such party may be declared in default thereof.

12. Remedies. In the event a party has been declared in default, such defaulting party shall be allowed a period of ten (10) days within which to cure said default. In the event the default remains uncorrected, the party declaring default may elect to (a) terminate the Agreement and seek damages; (b) treat the Agreement as continuing and require specific

performance; or (c) avail himself of any other remedy at law or equity. If the non-defaulting party commences legal or equitable actions against the defaulting party, the defaulting party shall be liable to the non-defaulting party for the non-defaulting party's reasonable attorney fees and costs incurred because of the default.

13. Binding Effect. This writing, together with the exhibits hereto, constitutes the entire agreement between the parties and shall be binding upon said parties, their officers, employees, agents and assigns and shall inure to the benefit of the respective survivors, heirs, personal representatives, successors and assigns of said parties.

14. Indemnity/Insurance. a. The Service Provider agrees to indemnify and save harmless the City, its officers, agents and employees against and from any and all actions, suits, claims, demands or liability of any character whatsoever brought or asserted for injuries to or death of any person or persons, or damages to property arising out of, result from or occurring in connection with the performance of any service hereunder.

b. The Service Provider shall take all necessary precautions in performing the work hereunder to prevent injury to persons and property.

c. Without limiting any of the Service Provider's obligations hereunder, the Service Provider shall provide and maintain insurance coverage naming the City as an additional insured under this Agreement of the type and with the limits specified within Exhibit B, consisting of one (1) page, attached hereto and incorporated herein by this reference. The Service Provider before commencing services hereunder, shall deliver to the City's Director of Purchasing and Risk Management, P. O. Box 580 Fort Collins, Colorado 80522 one copy of a certificate evidencing the insurance coverage required from an insurance company acceptable to the City.

15. Entire Agreement. This Agreement, along with all Exhibits and other documents incorporated herein, shall constitute the entire Agreement of the parties. Covenants or representations not contained in this Agreement shall not be binding on the parties.

16. Law/Severability. The laws of the State of Colorado shall govern the construction interpretation, execution and enforcement of this Agreement. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

CITY OF FORT COLLINS, COLORADO  
a municipal corporation

By: \_\_\_\_\_  
James B. O'Neill II, CPPO, FNIGP  
Director of Purchasing and Risk Management

Date: \_\_\_\_\_

Autumn Tree Care, LLC

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

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
CORPORATE PRESIDENT OR VICE PRESIDENT

Date: \_\_\_\_\_  
(Corporate Seal)

ATTEST:

\_\_\_\_\_  
CORPORATE SECRETARY

EXHIBIT A

**SPECIFICATIONS FOR  
STREET TREE PRUNING BID 2002**

**Post Office Block  
First Interstate Bank Block  
Old Fort Collins High School Block**

1. **Job Description**

Perform a complete prune on all, or a portion, of 73 street trees on City right-of-way in three separate blocks. A block is defined as an entire square block bounded by four streets. The Post Office Block is bounded by Olive on the north, Magnolia on the south, Meldrum on the west and Howes on the east. The First Interstate Bank block is bounded by Mason on the east, Oak on the north, Howes on the west and Olive on the south. The Old Ft. Collins High School block is bounded by Remington on the west, Pitkin on the north, Lake on the south and Matthews on the east.

Location and description of each tree are listed on the attached bid sheets. A price per each tree listed is required, as well as section totals for each block and a grand total for all three blocks. This bid will be awarded based on low responsive, responsible bid per block as well as ability to complete the project within the given time frame.

2. **General Information**

City Forestry staff will assist all bidders in locating trees on job site.

The starting date of this job shall be decided by mutual agreement between the Assistant City Forester and the contractor. Job completion must occur on or before June 1, 2002.

3. **Specifications Pertaining to Tree Removals**

a. In the event a tree is determined to be in need of removal rather than pruning, these removal specifications will be adhered to.

b. Completely remove trees, leaving the stump as low to the ground as possible.

c. Properly dispose of all logs, limbs, and brush from each removal.

d. Contact Assistant City Forester to arrange starting time.

e. **Standards of Workmanship for Tree Removal:**

(1) Cleanup of branches, logs and other debris resulting from tree removals shall be promptly accomplished. The work area shall be kept safe at all times until the

cleanup operation is completed. Under no condition shall the accumulation of brush, limbs, logs or other debris be allowed to result in a hazard condition.

- (2) Under no condition shall it be considered proper to leave any severed or partially cut limbs in the upper portion of any tree being removed after the tree workers leave the scene of the operation.
- (3) Whenever large tree sections are being cut in a treetop which may endanger anyone or property, such materials shall be secured by ropes and lowered safely in a controlled manner.
- (4) At least one responsible tree worker shall serve to coordinate safe operations on the ground at all times when work operations are in progress.
- (5) Winch trucks should not be tied to trees or utility poles in the process of tree removal or otherwise be used for the purpose of securing anchorage or leverage while removing other trees or portions thereof.
- (6) All elm wood (of the Ulmus species) shall be hauled immediately to the Larimer County Landfill for proper disposal.

#### 4. Specific Requirements Pertaining to the Pruning of Trees

- a. No tree shall be cut in such a manner that its health or eventual safety will be impaired. Exceptions will be made only in cases of tree pruning or removal for emergency relief of immediate danger to persons or property. Any such emergency procedures must be reported promptly to the Assistant City Forester with plans for completion or follow-up work submitted for approval.
- b. A drop-crotch cut removes the terminal portion of a stem or branch. This type of cut is used to maintain height, correct storm damage, suppress competing limbs and to reduce the perimeter of a crown. The cut is made back to a living side branch that is at least 1/3 (minimum) to 1/2 (optimal) the diameter of the cut branch. Such cuts shall be considered proper only when such remaining limb is vigorous enough to maintain adequate foliage to produce woody growth capable of closing the trimming cut within a reasonable period of time.
- c. A thinning cut removes a branch back to its parent stem or the trunk. The purpose is to reduce canopy density and eliminate conflicts or competition between limbs. Such cuts shall be considered proper only when the natural bark protection zone is not breached, nor a stub left.
- d. Crown topping, heading, tipping or rounding-over shall be considered improper pruning methods and will not be employed to any degree on this project.

- e. All final tree trimming cuts shall be made in such a manner as to favor the earliest possible closing of the wound by natural callous growth. Flush cuts shall not be made. Flush cuts are defined as pruning cuts made to the inside of the branch collar. All final cuts should be made just outside the natural branch collar.
- f. Tree limbs shall be removed and controlled in such a manner as to cause no damage to other parts of the tree or to other plants or property.
- g. All cutting tools and saws used in making tree trimming cuts shall be kept adequately sharpened to result in final cuts with a smooth wood surface and secure bark remaining around the perimeter of the cut.
- h. Whenever trimming cuts are to be made while removing limbs too large to hold securely in one hand during the cutting operation, the limb shall be cut off first one to two feet beyond the intended final cut. Then the final cut shall be made in a manner to prevent unnecessary tearing back of the bark and wood.

## 5. Complete Prune

- a. Description of "Complete Prune": This operation of tree trimming shall consist of the general removal of dead, dying, diseased, damaged, conflicting, broken, and structurally unsound limbs to improve the overall health, safety, structure and aesthetics of each tree.
- b. Specifications:
  - (1) Properly remove all dead, dying or weakened branches of ¾ inch or greater diameter.
  - (2) Remove all broken branches or any loose branches lodged in the tree.
  - (3) Remove any live branches which interfere with the tree's structural strength and healthful development, which will include the following:
    - (a) Limbs which rub and abrade a more important branch.
    - (b) Limbs of weak structure which are not important to the framework of the tree.
    - (c) Limbs forming multiple or co-dominant leaders, particularly those that have junctures with included bark. Select the best leader and suppress or remove those limbs that compete with that leader.
    - (d) Limbs which, if allowed to grow, would wedge in the junction of more important branches.



- (e) Limbs with twigs and foliage that obstruct the development of a more desirable branch.
- (f) Smaller limbs and twigs near the end of supporting branches which contribute to too much weight or wind resistance at the branch end.
- (g) Undesirable suckers and water sprouts in the bottom 1/3 of the crown.
- (h) Selective removal of stubs or broken limbs back to developing leaders and suppression or removal of limbs that compete with the developing leader.
- (i) Remove or drop-crotch prune branches which project beyond the symmetrical form of the canopy.

6. **Standards for Workmanship**

a. General Standards for Workmanship

- (1) Authorized work in this job neither expresses nor implies a right to violate any law of the land while in process of performing such work.
- (2) All such work shall be conducted in a manner as to cause the least possible interference with or annoyance to other.
- (3) Inadequately or improperly trained personnel shall not be utilized for work on or with trees or shrubs beyond their known capacity or ability to perform properly or safely.
- (4) A qualified supervisor shall be present at all times when work is being performed except that he may be absent for short periods during the day when necessary because of emergencies or other urgent matters.
- (5) Any injury to persons or damages to any improvement, tree, shrub or structure while working on this job shall be promptly reported to the Assistant City Forester.
- (6) Any use of tools or equipment in unsafe conditions or any application of techniques or methods deemed unsafe to life, limb or property is forbidden.
- (7) Pedestrian and vehicular traffic shall be allowed to pass through the work areas only under conditions of safety and with as little inconvenience and delay as possible.

- (8) Adequate barricades and warning devices shall be placed and flagpersons shall be stationed as necessary for the safety of persons and vehicles.
- (9) Qualified street and sidewalk warning devices shall be in position as required at all times while work on this job is being performed.
- (10) Whenever electric or telephone lines, gas lines, water lines, or other improvements, public or private, will be implicated or jeopardized by any authorized tree or shrub activity, the proper authorities of the utilities involved or property owner involved shall be consulted prior to performing any work activity and all requested precautions by any such authority shall be complied with.
- (11) It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying or otherwise treating trees, shrubs or vines within the City without first procuring a license therefore from the City.
- (12) All motor vehicles and other major equipment or any licensed person used in conducting the licensed business shall be clearly identified with the name of the licensee.
- (13) The contractor is responsible for providing all necessary traffic control to assure the safety of motorists, pedestrians, and bicyclists. Where necessary, the traffic control shall be provided by and maintained by an ATSSA certified Traffic Control Supervisor, TCS. All traffic control devices shall meet or exceed the minimum standards set forth in the Manual of Uniform Traffic Control Devices, MUTCD. The contractor must submit traffic control plans and coordinate all traffic control with the City's Traffic Control Coordinator. The traffic control plans must be submitted 72 hours prior to starting tree operations and prior to any modification to the traffic control plan. If the plan is not submitted and approved, or if the traffic control devices are not provided according to the plan, the project will be shut down immediately until the situation can be corrected. Flaggers must be used to close the street and for one lane traffic operation. The flaggers must be certified and under the supervision of a certified TCS.
- (14) Sidewalks must be properly barricaded to protect pedestrians during actual tree work operations.

## 7. Pre-Qualifying and Other Requirements

- a. The contractor must have at least three (3) years experience of pruning trees similar in size and conditions that are referenced in this bid.

- b. All contractor's must hold a current Arborist License with the City of Fort Collins in order to bid on this project.
- c. The successful bidder , or bidders, must obtain a current Climbing classification for their arborist license prior to starting any work on this contract. City Forestry will facilitate this process so that the agreed upon starting date will not be compromised.
- d. All contractors' field crew supervisors must hold current Arborist Certification with the International Society of Arboriculture (ISA) and provide their certification number with this bid. At least one person with the ISA Arborist Certification will need to be on-site at all times while work is occurring.
- e. The contractor can dispose of or use brush and logs in any acceptable manner except brush or logs of the elm genus (Ulmus) which must be hauled to the County Landfill.
- f. Along with prices for each block, submit an estimate of how much time it will take to prune each block (in days or weeks). Also estimate how many contract trees your company can prune between the start date and June 1, 2002 if awarded the entire contract for all three blocks.
- g. The contractor is expected to fully cooperate and coordinate all work activities with the Forestry representatives.
- g. Failure to comply with any portion of this document shall be grounds for termination of this contract.

## EXHIBIT B

### INSURANCE REQUIREMENTS

1. The Service Provider will provide, from insurance companies acceptable to the City, the insurance coverage designated hereinafter and pay all costs. Before commencing work under this bid, the Service Provider shall furnish the City with certificates of insurance showing the type, amount, class of operations covered, effective dates and date of expiration of policies, and containing substantially the following statement:

"The insurance evidenced by this Certificate will not be cancelled or materially altered, except after ten (10) days written notice has been received by the City of Fort Collins."

In case of the breach of any provision of the Insurance Requirements, the City, at its option, may take out and maintain, at the expense of the Service Provider, such insurance as the City may deem proper and may deduct the cost of such insurance from any monies which may be due or become due the Service Provider under this Agreement. The City, its officers, agents and employees shall be named as additional insureds on the Service Provider's general liability and automobile liability insurance policies for any claims arising out of work performed under this Agreement.

2. Insurance coverages shall be as follows:

- A. **Workers' Compensation & Employer's Liability.** The Service Provider shall maintain during the life of this Agreement for all of the Service Provider's employees engaged in work performed under this agreement:
  1. Workers' Compensation insurance with statutory limits as required by Colorado law.
  2. Employer's Liability insurance with limits of \$100,000 per accident, \$500,000 disease aggregate, and \$100,000 disease each employee.
- B. **Commercial General & Vehicle Liability.** The Service Provider shall maintain during the life of this Agreement such commercial general liability and automobile liability insurance as will provide coverage for damage claims of personal injury, including accidental death, as well as for claims for property damage, which may arise directly or indirectly from the performance of work under this Agreement. Coverage for property damage shall be on a "broad form" basis. The amount of insurance for each coverage, Commercial General and Vehicle, shall not be less than \$500,000 combined single limits for bodily injury and property damage.

In the event any work is performed by a subcontractor, the Service Provider shall be responsible for any liability directly or indirectly arising out of the work performed under this Agreement by a subcontractor, which liability is not covered by the subcontractor's insurance.

## EXHIBIT C

STREET TREE PRUNING BID 2002				
<b>Old Fort Collins High School Block</b>				
Area bound by Remington, Lake, and Pitkin				
Address or Description	Species	Diameter	notes	price
6th tree west of Matthews on north side of Lake	American Elm	31 "		275
8th tree west of Matthews on north side of Lake	American Elm	25"		275
10th tree west of Matthews on north side of Lake	American Elm	19"		210
14th tree west of Matthews on north side of Lake	American Elm	36"		275
15th tree west of Matthews on north side of Lake	American Elm	31"		275
1st tree north of Lake on east side of Remington (behind walk)	American Elm	32"		285
2nd tree north of Lake on east side of Remington (behind walk)	American Elm	38"		285
4th tree north of Lake on east side of Remington (behind walk)	Cottonwood	26"		195
6th tree north of Lake on east side of Remington (behind walk)	Green Ash	11"		275
7th tree north of Lake on east side of Remington (behind walk)	American Elm	22"	Hollow in base of trunk	215
8th tree north of Lake on east side of Remington (behind walk)	American Elm	29"		265
11th tree north of Lake on east side of Remington (behind walk)	American Elm	21"		265
12th tree north of Lake on east side of Remington (behind walk)	American Elm	19"		185
13th tree north of Lake on east side of Remington (behind walk)	American Elm	32"		270
14th tree north of Lake on east side of Remington (behind walk)	American Elm	22"		85
1st tree east of Remington on south side of Pitkin	American Elm	24"		285
2nd tree east of Remington on south side of Pitkin	American Elm	33.5"		150

3rd tree east of Remington on south side of Pitkin	American Elm	35"		350
4th tree east of Remington on south side of Pitkin	Green Ash	14"		265
6th tree east of Remington on south side of Pitkin	American Elm	40"		300
7th tree east of Remington on south side of Pitkin	American Elm	30.5"		300
8th tree east of Remington on south side of Pitkin	American Elm	31"		275
10th tree east of Remington on south side of Pitkin	American Elm	28"		275
13th tree east of Remington on south side of Pitkin	American Elm	26"		250
15th tree east of Remington on south side of Pitkin	American Elm	32"		275
16th tree east of Remington on south side of Pitkin	American Elm	32"		275
17th tree east of Remington on south side of Pitkin	American Elm	23"		285
18th tree east of Remington on south side of Pitkin	American Elm	45"		325
			<b>Block Total:</b>	7445
			<b>Estimated time to do work:</b>	9-10 days

### First Interstate Bank Block

Area bound by Mason, Oak, Olive, and Howes

Address or Description	Species	Diameter	notes	price
3rd tree east of Howes on south side of Oak St.	American Elm	29"		250
5th tree east of Howes on south side of Oak St.	American Elm	31"		345
7th tree east of Howes on south side of Oak St.	American Elm	34.5"		285
2nd tree west of Mason on south side of Oak St.	American Elm	27"		245

1st tree west of Mason on south side of Oak St.	American Elm	45"		450
1st tree north of Olive on west side of Mason	American Elm	29"		285
4th tree west of Mason on north side of Olive	American Elm	26.5"		245
5th tree west of Mason on north side of Olive	American Elm	32"		250
7th tree west of Mason on north side of Olive	American Elm	26"		230
6th tree east of Howes on north side of Olive	Green Ash	21"		240
5th tree east of Howes on north side of Olive	Green Ash	27"		205
2nd tree east of Howes on north side of Olive	Green Ash	33"		320
1st tree east of Howes on north side of Olive	Green Ash	24"		250
1st tree north of Olive on east side of Howes	American Elm	30"		245
2nd tree north of Olive on east side of Howes	American Elm	40"		395
3rd tree north of Olive on east side of Howes	American Elm	39.5"		340
4th tree north of Olive on east side of Howes	Green Ash	13"		125
5th tree north of Olive on east side of Howes	Green Ash	19"		165
6th tree north of Olive on east side of Howes	Green Ash	19"		165
5th tree south of Oak St. on east side of Howes	American Elm	40"		285
4th tree south of Oak St. on east side of Howes	American Elm	32"		285
3rd tree south of Oak St. on east side of Howes	American Elm	33"		300
2nd tree south of Oak St. on east side of Howes	American Elm	28.5 "		320
1st tree south of Oak St. on east side of Howes	American Elm	42 "		300
			<b>Block Total:</b>	<b>\$6525</b>

			Estimated time to do work:	7 days - 8 days
<b>Post Office Block</b>				
Area bound by Meldrum, Olive, Magnolia, and Howes				
Address or Description	Species	Diameter	notes	price
2nd tree east of Meldrum on south side of Olive	Honey Locust	18 "		105
1st tree south of Olive on west side of Howes	Green Ash	24 "		215
2nd tree south of Olive on west side of Howes	American Elm	32 "		245
3rd tree south of Olive on west side of Howes	American Elm	52 "		320
5th tree south of Olive on west side of Howes	Green Ash	30 "		250
6th tree south of Olive on west side of Howes	American Elm	44 "		350
1st tree north of Magnolia on west side of Howes	American Elm	38 "		260
1st tree west of Howes on north side of Magnolia	Hackberry	24 "		260
2nd tree west of Howes on north side of Magnolia	American Elm	25 "		215
4th tree west of Howes on north side of Magnolia	American Elm	39 "		240
5th tree west of Howes on north side of Magnolia	Hackberry	25 "		225
6th tree west of Howes on north side of Magnolia	Norway Maple	20.5 "		125
7th tree west of Howes on north side of Magnolia	Norway Maple	18 "		85
3rd tree north of Magnolia on east side of Meldrum	Green Ash	18 "		205
5th tree north of Magnolia on east side of Meldrum	Green Ash	33 "		245



6th tree north of Magnolia on east side of Meldrum	Green Ash	36 "		300
7th tree north of Magnolia on east side of Meldrum	Green Ash	39 "		170
8th tree north of Magnolia on east side of Meldrum	American Elm	20.5 "		130
9th tree north of Magnolia on east side of Meldrum	American Elm	22 "		185
4th tree south of Olive on east side of Meldrum	Green Ash	13 "		130
3rd tree south of Olive on east side of Meldrum	American Elm	26 "		250
			<b>Block Total:</b>	4510
			<b>Estimated time to do work:</b>	6 days
	<b>Estimated number of contract trees your company can prune in the time frame specified:</b>			