Request for Proposal
for
The City of Wilmington

ON-CALL TREE PLANTING

Contract:S2-1126.3

PROJECT MANAGER

Ben Misleh, Tree Crew Supervisor,
Asset & Property
Management
Email: ben.misleh@wilmingtonnc.gov
Phone: (910) 341-0230

SUBMIT BIDS TO

Ariental Fullwood, Buyer
929 N. Front Street
P O Box 1810
Wilmington, NC 28401
Phone: (910)772-4158
Email: ariental.fullwood@wilmingtonnc.gov

Date Issued: November 17, 2026

Date Due: Friday, December 18, 2026, at 3:00 PM

Mandatory Pre-Bid Meeting On Monday November 30, 2026 at 10:00am at the MLK Center located at 401 S 8th Street Wilmington, NC

Finance
Purchasing Division Post
Office Box 1810
Wilmington, NC 28402-1810

910 341-7830
910 341-7842 fax
wilmingtonnc.gov Dial 711
TTY/Voice

November 17, 2026

RE: On-Call Tree Planting
RFP No. S2-1126.3

To whom it may concern:

This Request for Proposals (RFP) will provide your firm with sufficient information to enable you to prepare and submit a proposal for services relating to Tree Planting in the City of Wilmington's public street right-of-ways and other city properties. The selected contractor shall provide cost of a complete tree planting: purchase and procurement of trees, transporting trees and materials, removal of debris resulting from planting, watering, compensation for any damage, and a final clean-up of each site.

The RFP includes a preliminary scope of work and general terms and conditions of any subsequent contract. The scope of services, as defined herein, may be modified after the contractor is selected for final selection. The general terms and conditions are part of any submitted proposal and will be incorporated into any subsequent contract. Submission of a proposal shall constitute acceptance of these terms and conditions. Conditional responses may be rejected.

Questions should be emailed to Ben Misleh at ben.misleh@wilmingtonnc.gov no later than, December 7, 2026, by 5:00 PM. Answers to questions will be posted as an addendum on the city website at www.wilmingtonnc.gov.

Your RFP must adhere to the following submittal requirements to be considered responsive. This is a criteria-based project. The successful Contractor will be selected based on the quality, quantity, and best value of services provided for the city.

After the city determines the most qualified firm, the staff will negotiate with the firm to better define the final scope of work. If, for any reason, the City and the selected firm cannot agree on a scope, the City will negotiate with the next most qualified firm.

My office should be contacted with questions concerning the proposed contract terms and conditions. I look forward to your proposal for this service.

Sincerely,
Oriental Fullwood
Buyer

STATE OF NORTH CAROLINA COUNTY

OF NEW HANOVER

AFFIDAVIT AND CERTIFICATE OF
NON-COLLUSION, NON-SUSPENSION AND NON-CONVICTION

The undersigned, being first duly sworn, deposes and says:

1. I understand that for the purposes of this affidavit, the term "bidder" shall include the person(s), firm(s), or corporation(s) signing this affidavit, the undersigned's subcontractor(s), subsidiary(ies) and affiliate(s) and any officer, director, employee or agent of the bidder; and the term "conviction" shall include guilty pleas, pleadings of nolo contendere and similar pleas.

2. This Affidavit and Certificate is made in accordance with Article 3 of Chapter 133 of the North Carolina General Statutes; I certify that this proposal is made without prior understanding, agreement, or connection with any person(s), firm(s), or corporation(s) making bids or proposals; I further certify that the bidder has not entered into any agreement with any other bidder or prospective bidder or with any other person(s), firm(s) or corporation(s) relating to the price named in said proposal, nor any agreement or arrangement under which any person(s), firm(s) or corporation(s) is to refrain from bidding, nor any agreement or arrangement for any act or omission in restraint of free competition among bidders; I understand collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards; and I further certify that the bidder will abide by all terms of this bid or proposal.

3. The bidder is not suspended or debarred from bidding by any federal or state governmental agency that is providing funds for this contract.

4. The bidder is not presently charged in an indictment or information with engaging in any conspiracy, combination, or other unlawful act in restraint of trade or any similar charges in any federal court or a court of this or any other state. The bidder, within one year immediately preceding the date of this affidavit, has not been convicted of charges or engaging in any conspiracy, combination, or other unlawful act in restraint of trade or similar charges in any federal court or a court of this or any other state.

5. If, during the time of this proposal, from the date advertised to the date bids are opened, the bidder is indicted or convicted of bid-rigging, I understand this proposal shall be rejected and not considered for award.

6. I hereby affirm that all information contained in this affidavit is true, correct, accurate and complete, and any untrue, incorrect, inaccurate or incomplete statements will result in the disqualification and rejection of this proposal. I certify that I am authorized to sign this bid and to make the representations set forth herein on behalf of myself and the bidder.

This the _____ day of _____, 2026.

COMPANY NAME _____

BY: _____
(Owner, Partner, or Corporate President, Vice President or Assistant Vice President only)

ATTEST:
_____
(Secretary, Assistant Secretary, Cashier or Assistant Cashier only)

(TO BE EXECUTED ON BEHALF OF THE CONTRACTOR)

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public, certify that
(Name)
_____ personally came
(Name of Secretary, Assist. Sec., Cashier, Assist. Cashier)

before me this day and acknowledged that he (she) is _____
(Secretary, Assist. Sec.,
_____ of _____, a
Cashier, Assist. Cashier) (Name of Corporation)

corporation, and that by authority duly given and as the act of the corporation, the foregoing Affidavit was signed in its name by its _____,
(President, Vice President, Assist. Vice President)

sealed with its corporate seal, and attest by himself (or herself) as its

_____.
(Secretary, Assist. Sec., Cashier, Assist. Cashier)

WITNESS my hand and official seal, this the _____day of _____, 2026.

_____
Notary Public My

Commission Expires: _____

(NOTARY SEAL)

Rev. 3/98 AFF-MBE.DOC

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

AFFIDAVIT of COMPLIANCE with N.C. E-VERIFY STATUTES

I, _____ (hereinafter the "Affiant"), duly authorized by and on behalf of _____ (hereinafter he "Employer") after being first duly sworn deposes and says as follows:

1. I am the _____ (President, Manager, CEO, etc.) of the Employer and possess the full authority to speak for and on behalf of the Employer identified above.

2. Employer understands that "E-Verify" means the federal E-Verify program operated by the United States Dept. of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law.

3. ____ Employer employs 25 or more employees in the State of North Carolina, and is in compliance with the provisions of N.C. Gen. Stat. §64-26. Employer has verified the work authorization of its employees through E-Verify and shall retain the records of verification for a period of at least one year.

____ Employer employs fewer than 25 Employees and is therefore not subject to the provisions of N.C. Gen. Stat. §64-26.

4. All subcontractors engaged by or to be engaged by Employer have or will have likewise complied with the provisions of N.C. Gen. Stat. §64-26.

5. Employer shall keep the City of Wilmington informed of any change in its status pursuant to Article 2 of Chapter 64 of the North Carolina General Statutes.

Further this affiant sayeth not.

This the _____ day of _____, 20____.

_____
Affiant

STATE OF NORTH
CAROLINA COUNTY OF _____

Sworn to and subscribed before me, this the _____ day of _____, 20____.

[NOTARY SEAL]

_____
Notary Public

My commission expires: _____

33. Federal Contract Provisions

A. Federal Applicability

The Work to be performed under this Contract will be financed in whole or in part with Federal funding. As such, Federal laws, regulations, policies, and related administrative practices apply to this Contract. The most recent of such Federal requirements, including any amendments made after the execution of this Contract, shall govern this Contract, unless the Federal Government determines otherwise. This Section identifies the Federal requirements that are applicable to this Contract. The Contractor is responsible for complying with all applicable provisions.

To the extent applicable, the Federal requirements are deemed incorporated into this Contract by reference and shall be incorporated into any subcontract or subcontract executed by the Contractor pursuant to its obligations under this Contract. The Contractor and its subcontractors, if any, hereby represent and covenant that they have complied and shall comply in the future with all applicable provisions of Federal, State, and local laws, regulations, and rules and local policies and procedures, as amended from time to time, relating to the Work to be performed under this Contract. Anything to the contrary herein notwithstanding, all Federal awarding agency-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City requests, which would cause the City to be in violation of the Federal awarding agency's terms and conditions.

The Work performed under this Contract will be financed, in whole or in part, by funding provided by programs of the United States Forrest Service (USFS). Contractor shall at all times comply with all applicable USFS regulations, policies, procedures, and directives, including without limitation those listed directly or by reference, as they may be amended or promulgated from time to time during the term of this Contract. Contractor's failure to so comply shall constitute a material breach of this Contract.

B. Civil Rights Requirements

The City is an Equal Opportunity Employer. As such, the City agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the City agrees to comply with the requirements of 49 USC 5323(h)(3) by not using any Federal assistance to support procurements using exclusionary or discriminatory specifications.

Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination

In accordance with 41 CFR 60-1.4, during the performance of this Contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will ensure that applicants are employed, and that

employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. This shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this Section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 14173 of January 21, 2025 and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will comply with Section 504 of the Rehabilitation Act of 1973, as amended.

(7) The Contractor will furnish all information and reports required by Executive Order 14173 of January 21, 2025, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(8) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared

ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 14173 of January 21, 2025, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 14173 of January 21, 2025, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(9) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (9) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Executive Order 14173 of January 21, 2025, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 14173 of January 21, 2025, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

2. Age

In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, and 29 USC 623 through 634 and the implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition,

the Contractor agrees to comply with any implementing requirements the Federal awarding agency may issue.

3. Sex
The Contractor agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 USC 1681 *et seq*., and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Educations Programs or Activities Receiving Federal Financial Assistance," 49 CFR Part 25, that prohibit discrimination on the basis of sex.

4. Disabilities
In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 USC 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities.

5. Access to Services for Persons with Limited English Proficiency
The Contractor agrees to comply with Executive Order No. 13166,"Improving Access to Services for Persons with Limited English Proficiency," 42 USC 2000d-1 note, and U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005, except to the extent that the Federal Government determines otherwise in writing.

6. Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections
To the extent applicable, the Contractor agrees to comply with the confidentiality and other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 USC 1101 *et seq*., with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 USC 4541 *et seq*., and with the Public Health Service Act of 1912, as amended, 42 USC 290dd through 290dd-2, and any amendments thereto.

7. Other Nondiscrimination Laws
The Contractor agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable directives prohibiting discrimination, except to the extent that the Federal Government determines otherwise in writing.

8. Inclusion in Subcontracts
The Contractor also agrees to include the requirements of this Section in each subcontract financed in whole or in part with Federal assistance, modified only if necessary to identify the affected parties.

C. Davis-Bacon & Copeland Anti-Kickbacks Acts.
1. Applicability. The Davis-Bacon Act shall apply to any contract or agreement developed and awarded using USFS funds where construction components are present.

2. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 USC 3141- 3144, and 3146-3148) and the requirements of 29 CFR pt. 5 as

may be applicable. The Contractor shall comply with 40 USC 3141-3144, and 3146-3148 and the requirements of 29 CFR pt. 5 as applicable.

3. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

4. Contractors are required to pay wages not less than once a week.

5. Compliance with the Copeland "Anti-Kickback" Act.

a. Contractor. The Contractor shall comply with 18 USC 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor orlower tiersubcontractor with all of these contract clauses.

c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 CFR 5.12.

D. Contract Work Hours & Safety Standards Act

1. Overtime requirements.
No contractor or subcontractor contracting for any part of the Contract Work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages.
In the event of any violation of the clause set forth in paragraph above of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the U.S. for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in the paragraph above of this section, in the sum of thirty-three dollars ($33.00) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in the paragraph above of this section.

3. Withholding for unpaid wages and liquidated damages.
The CITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any

moneys payable on account of Work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in the paragraph above of this section.

4. Subcontracts.
The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in the paragraphs above of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in the paragraphs above of this section.

E. Right to Inventions Made Under a Contract or Agreement—NOT APPLICABLE

F. Clean Air
The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401, et seq. The Contractor agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the Federal awarding agency and the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding one hundred and fifty thousand dollars ($150,000.00) financed in whole or in part with Federal assistance.

G. Clean Water
The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq. The Contractor agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the Federal awarding agency and the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding one hundred fifty thousand dollars ($150,000.00) financed in whole or in part with Federal assistance.

H. Energy Conservation
The Contractor agrees to comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. § 6321, *et seq.*

This requirement extends to all third party contractors and their contracts at every tier and this clause shall be included in all such subcontracts.

I. Government-Wide Debarment & Suspension

1. This contract is a covered transaction for purposes of 2 CFR pt. 180 and 2 CFR pt. 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 CFR 180.995) or its affiliates (defined at 2 CFR 180.905) are excluded (defined at 2 CFR 180.940) or disqualified (defined at 2 CFR 180.935).

2. The contractor must comply with 2 C.F.R. pt. 180, subpart C and2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it entersinto.

3. This certification is a material representation of fact relied upon by City. If it is later determined that the Contractor did not comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, in addition to remedies available to City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

4. The bidder or proposer agrees to comply with the requirements of 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts of any tier executed in furtherance of this contract.

The requisite Debarment and Suspension Certification is included as ATTACHMENT A and must be executed for contracts of $25,000 or more and prior to the award of the contract.

J. Byrd Anti-Lobbying

The Contractor agrees to comply with the provisions of Title 31 USC 1352, The Byrd Anti-Lobbying Amendment, as in force or as it may hereafter be amended. The Contractor and all subcontractor tiers shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 USC 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant, or award covered by 31 USC 1352. Such disclosures are forwarded from tier to tier up to the CITY.

The Contractor further agrees to secure like undertakings from all subcontractor tiers whose subcontracts are expected to be of a value of one hundred thousand dollars ($100,000.00) or more.

The requisite "Lobbying Certification" is included as ATTACHMENT B and must be executed for contracts of $100,000 or more and prior to the award of the contract.

K. Recovered Materials

The Contractor agrees to comply with all requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 USC 6962, including but not limited to the regulatory provisions of 40 CFR Part 247 and Executive Order 12873, as they apply to the procurement of the items designated in Part B of 40 CFR Part 247.

This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts of any tier executed in furtherance of this contract.

L. Conflict of Interest

No employee, officer, board member, or agent of the CITY or the Contractor shall participate in the selection, award, or administration of a contract supported by USFS funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer, board member, or agent, any member of his or her immediate family, his or her partner, or an organization that employees or is about to employ any of the above, has a financial or other interest in the firm selected for the award.

This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts of any tier executed in furtherance of this contract.

M. Access to Records and Reports and Record Retention

The record keeping and access requirements extend to all third party contractors and their contracts at every tier. Under CFR 200.336, USFS has the right to examine and inspect all records, documents, and papers.

1. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

2. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 CFR § 200.333-34. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

3. Access to Records.

   a. The Contractor agrees to provide sufficient access to USFS and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required pursuant to 2 CFR 200.337.

   b. The Contractor agrees to permit, and require its subcontractors to permit the Government Accountability Office, the Office of the Inspector General, USFS Audit

and Assurance Staff, and the Comptroller General of the United States, and, to the extent appropriate, the State, or their authorized representatives, upon their request to inspect all Project work, materials, payrolls, invoices, and other data, and to audit the books, records, and accounts of the Contractor and its subcontractors pertaining to the Project, as required by 2 CFR 200.336.

c. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

4. Access to the Sites of Performance. The Contractor agrees to permit the City, any federal agency, and state agency and its respective contractors access to the sites of performance under this contract as reasonably may be required.

N. Termination or Cancellation of Contract

1. Termination without Cause: City shall have the right to terminate this Agreement at any time and without cause upon thirty (30) days written notice to the other party. Upon receipt of Notice of Termination, the Contractor shall immediately discontinue all services directed (unless the Notice directs a date specific for services to terminate). As soon as practicable after receipt of a written Notice of Termination without cause, the Contractor shall submit a statement to the City showing in detail the Work performed under this Contract through the date of termination. The City shall pay the Contractor for Work rendered through the date of termination.

2. Termination for Cause: City shall have the right to terminate this Contract because of the failure of the Contractor to fulfill its obligations under the Contract by giving thirty (30) days' written notice to Contractor. The Notice of Termination shall specify the nature, extent, and effective date of the termination.

For all contracts in excess of $10,000, this clause extends to all third party contractors, and their contracts at every tier, and subrecipients and their subcontracts at every tier, as referenced in 2 CFR 200.339 and 2 CFR Part 200, Appendix II (B).

O. Breach of Contract Rights and Remedies

All contracts in excess of $250,000 shall contain administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate as provided in 2 CFR 200.326 and 2 CFR part 200, Appendix II (A). The Violations and Breach of Contracts clause flow down to all third party contractors and their contracts at every tier. For purposes of this Contract, breach shall include the Contractor and any subsequent named subcontractor.

1. Rights and Remedies of the Owner - The City shall have the following rights in the event that the Owner deems the Contractor guilty of a breach of any term under the Contract.City
    a. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors;
    b. The right to cancel this Contract as to any or all of the work yet to be performed;

c. The right to specific performance, an injunction or any other appropriate equitable remedy; and
d. The right to money damages.

2. Rights and Remedies of the Contractor - Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the City, the Contractor expressly agrees that no default, act or omission of the City shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the City directs Contractor to do so) or to suspend or abandon performance.

3. Remedies - Substantial failure of the Contractor to complete the Project in accordance with the terms of this Contract will be a default of this Contract. In the event of a default, the City will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Contract by the Contractor before the City takes action contemplated herein, the City will provide the Contractor with sixty (60) days written notice that the City considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

4. If there is credible evidence that a Third Party Participant (Contractor) has submitted a false claim under the False Claims Act, 31 USC 3729 *et seq*., or has committed a criminal or civil violation of law pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving Federal funding, notification of the Federal awarding agency is required.

P. Copyrights and Rights in Data. NOT APPLICABLE

Q. Cost Principles. Any adjustment to the Contractor's compensation, including requested reimbursable expenses, shall include only costs and other compensation that are allowable, allocable, and reasonable as provided elsewhere herein, or otherwise by law, and that are allowable, allocable, and reasonable under 2 CFR 200 Subpart E—Cost Principles and any implementing guidelines or regulations issued by the Office of Management and Budget (OMB). Contractor further agrees to provide adequate documentation to support costs (direct and indirect) charged to the Federal award.

This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts of any tier executed in furtherance of this contract.

R. DHS Seal, Logo, and Flags. The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific USFS preapproval.

S. Program Fraud and False or Fraudulent Statements or Related Acts. The Contractor acknowledges that 31 USC Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract

T. F.A.R. Compliance. Any adjustment to the Contractor's compensation under the Contract shall include only costs and other compensation that are allowable, allocable and reasonable as provided elsewhere herein, or otherwise by law, and that are allowable, allocable and reasonable under the Contract Cost Principles of the Federal Acquisition Regulations (F.A.R.) System, 48 CFR, Ch.1, Pt.31, and any implementing guidelines or regulations issued by the said Administration.

U. No Federal Government Obligations to Third Parties
The No Obligation clause extends to all third party contractors and their contracts at every tier.

The City and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the City, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided in whole or in part by the United States Forrest Service. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

ATTACHMENT A

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY and VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTION

(To be submitted with all bids exceeding $25,000.)

(1) The prospective lower tier participant (Bidder/Contractor) certifies, by submission of this bid or proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) The prospective Bidder/Contractor also certifies by submission of this bid or proposal that all subcontractors and suppliers (this requirement flows down to all subcontracts at all levels) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(3) Where the prospective lower tier participant (Bidder/Contractor) is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid or proposal.

The lower tier participant (Bidder/Contractor), _____, certifies or affirms the truthfulness and accuracy of this statement of its certification and disclosure, if any.

DATE _____

SIGNATURE _____

COMPANY _____

NAME _____

TITLE _____

State of _____

County of _____

Subscribed and sworn to before me this ___ day of _____, 20___.

Notary Public _____

My Appointment Expires _____ [SEAL]

ATTACHMENT B

CERTIFICATION REGARDING LOBBYING

(To be submitted with all offers exceeding $100,000; must be executed prior to Award)

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding to any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transactions imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 1352, *et seq*., apply to this certification and disclosure, if any.

_____
Signature of Contractor's Authorized Official

Date _____

_____
Printed Name and Title of Contractor's Authorized Official

State of _____

County of _____

Subscribed and sworn to before me this ___ day of _____, 20___.

Notary Public _____

My Appointment Expires _____ [SEAL]

1. **Tree Planting.**
    a. Work will follow the tree planting specifications in their entirety as outlined in Appendix A: Tree Planting Specifications.

2. **Protection of Utilities**
    a. Tree planting operations may be conducted in areas where electric, telephone, cable television, gas, fiber optic, stormwater inlets, and water/sewer facilities exist. The contractor shall protect all utilities from damage and immediately contact the appropriate utility if damage should occur, and shall be responsible for all claims for damage due to its operation. If the contractor has properly contacted the utility in sufficient time to arrange for the required work by the utility, delays encountered by the contractor in waiting for the utility to complete its work shall not be the responsibility of the contractor. Prior to commencement of work, the contractor shall contact NC 811 (1-800-632-4949) to obtain locations of underground utilities.
    b. The contractor is responsible for securing utility locates prior to planting. If buried infrastructure is encountered and measures taken to avoid them involve deviation from these standards, the Contractor will be responsible for notifying the Project Manager.

3. **Protection of Property**
    a. The contractor shall take all necessary precautions to eliminate damage to adjacent trees and shrubs, lawns, or other real or personal property. Vegetation surrounding a planting site shall be disturbed as little as possible.

4. **Pricing**
    a. Upon entering into the agreement with the City of Wilmington for On-Call Tree Planting, the City shall provide task orders for work. The selected contractor shall provide pricing for the requested service. Pricing shall include cost of a complete tree planting: purchase and procurement of trees, transporting trees and materials, removal of debris resulting from planting, watering, compensation for any damage, and a final clean-up of each site.

5. **Schedule of Work**
    a. Projects may be requested by the City at any time. The contractor shall begin planting within 60 days upon receiving a request for work, and all work shall be completed within 150 days upon receiving a request for work, or by March 31st, whichever comes first, unless otherwise stipulated by the City.
    b. Plantings shall occur only during the months of November, December, January, February, and March unless otherwise stipulated by the City.

6. **Trees to be Planted**
    a. All trees will be within public street rights-of-way or other City properties.
    b. The contractor shall supply all trees to be planted.
    c. Trees shall be true to the botanical name and shall be grown in nurseries in Zone 8b or colder as described by the USDA Plant Hardiness Zones.
    d. Trees shall meet the specifications in the most current version of ANSI Z60, American Standards for Nursery Stock.
    e. Detailed List of Trees and Locations
        - A detailed task order of work to be performed will be provided with each request for service.
        - Locations will be provided by address and City maintenance grid number. Trees in any given grid are geographically close to each other. Locations that contain multiple trees will be shown as separate line items for each tree species present.
        - City staff will mark the approximate location of each tree with a stake, white paint, or white flag.

7. **Warranty**
    a. All trees shall be warrantied for 18 months. The warranty period shall begin after the City has inspected and provided final approval for the entirety of a task order.
    b. At the end of the 18-month warranty period City staff shall inspect all trees to identify those that must be replaced and shall furnish this list to the contractor.
    c. Trees identified for replacement may meet, but are not limited to, the following criteria: one half of tree does not leaf out, terminal crown dies, trunk splits, dying or dead tree.
    d. Replacement trees shall meet the same criteria as the original tree.
    e. Stakes and strapping will be removed by contractor at the end of the warranty period or at the request of the City.

f. Contractor shall remove dead trees at time of warranty replacement or at the request of the City.
g. Maintenance issues must be taken care of by the contractor (i.e.: tree falls during a storm or hit by a vehicle) during the warranty period for this contract.

8. **References:**
    a. Qualified bidders must provide at least three (3) references indicating past performance of tree planting work performed under contract(s) similar in size and scope. For the sake of this request, size and scope would be approximately 100 or more trees within a 90-day period.
    b. Provide references and contact information on the Reference Information sheet included in the bid package. Failure to provide this information may result in disqualification of bid.

9. **Bidder Qualifications**
    a. Qualified bidders must meet all the legal and insurance requirements to work in North Carolina. A copy of your business license or business tax certificate must be included with your bid to be further considered.
    b. Qualified bidders must have at least five (5) years completing tree planting work.
    c. Qualified bidders must hold at least one of the following credentials: Tree Care Industry Association (TCIA) accredited company, International Society of Arboriculture (ISA) certified arborist, North Carolina licensed landscape contractor, or other green industry certifications as approved by the City of Wilmington. Proof of certifications is required.
    d. Qualified bidders tree planting staff must hold at least one of the following credentials: ISA certified arborist, National Association of Landscape Professionals certified landscape technician.

10. **Working Hours**
    a. The contractor shall schedule work between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, excluding government holidays, unless otherwise authorized by the Project Manager.

11. **Inspection of Work**
    a. Work performed under contract shall be reported to the Project Manager on a weekly basis. All work must be completed to the satisfaction of the Project Manager, or his/her representative, and any questions as to proper procedures or quality of workmanship will be resolved by same. The contractor shall be notified of all work not performed to the satisfaction of the Project Manager with the expectation that said items shall be completed within two (2) weeks. No invoices will be paid until the work is completed as specified.

12. **Damage to Property**
    a. Any damage to property as the result of the contractor's operations shall be the responsibility of the contractor. Should the damage not be rectified within the time agreed upon or to the satisfaction of the Project Manager, the City reserves the right to repair or replace that which was damaged and assess the contractor such costs as may be reasonable and related to damage caused by the contractor and deduct such costs from any payment due the contractor. The contractor shall inform the Project Manager of any damage caused by the contractor's operation on the day such damage occurs.

13. **Personnel and Equipment**
    a. The contractor shall supply all material, equipment, and personnel necessary for the performance of this contract. All equipment must comply with bid specifications and all applicable federal, state, and local rules and regulations. All bidders must have in their possession, or available to them by formal agreement at the time of bidding, all necessary equipment, devices, tools, materials, and supplies necessary to perform the work specified herein. The contractor shall provide the necessary resources to complete contract specifications as specified in completion schedule.
    b. Provide a list of qualifying assets using APPENDIX B: QUALIFYING ASSETS.

14. **Work Crew Supervision**
    a. The contractor shall provide qualified supervision of crews at all times while working under this contract. Each supervisor shall be authorized by the contractor to accept and act upon all directives issued by the City.

15. **Safety Standards**
    1. All equipment to be used and all work to be performed must be in full compliance with OSHA and the most current revision of the American National Standards Institute Standard Z-133 and A300 standards.
    2. Blocking public streets shall not be permitted unless prior arrangements have been made with City of Wilmington, Traffic Engineering Division. The contractor is responsible for having vehicles moved during planting work.
    3. The Contractor shall be solely responsible for pedestrian and vehicular safety and control within the work area. The contractor shall provide adequate barricades, flag person(s), signs, and/or warning devices during the performance of the contract to protect the motorists and pedestrians. All placements of cones, signs, and barricades must conform to the American Traffic Safety Standards. Flashing lights mounted on a vehicle shall not be deemed sufficient or adequate protection.

16. **Debris Disposal**
    a. Legal disposal of all debris generated by work described within this contract will be the responsibility of the contractor. The contractor shall clean up the site and remove and dispose of all debris at the end of each day's operation. Site cleanup shall include removal of excess soil, basket wire, burlap, nursery containers, nursery ties/strapping, other excavated materials, extra mulch, etc. from the street, sidewalk, and general work area with appropriate tools for the job. All costs associated with removal of debris shall be included in bid price.

APPENDIX A: TREE PLANTING SPECIFICATIONS

A. The planting hole shall be at least two times the diameter of the root ball.

B. All rock, soil, fill or underground obstruction shall be removed to a depth and width, as necessary, to permit planting. All debris shall be removed. The area under the root ball shall be hand tamped to avoid settling.

C. The root crown shall be exposed and excess soil removed on the top of the root ball to an imaginary line parallel with the root crown before setting the plant.

D. Container grown trees shall have the container removed and the root ball scored with a knife.

E. Balled and burlapped trees shall have the wire basket and burlap removed from the top three-fourths of the root ball and the burlap shall be buried below grade. String and straps shall be removed.

F. Trees shall be set plumb, and the root crown shall be 1-to-3 inches above the existing lawn grade and oriented in direction that the “best side” can be seen from the “best view”.

G. Native soil may be used as backfill. All large earth clumps shall be broken to a diameter no greater than 1 inch before using as backfill. All rocks greater than 1 inch in diameter shall be removed from the native soil before use as backfill. All foreign materials shall be removed from the native soil before use as backfill. Backfill material shall be evenly dispersed throughout the planting hole and thoroughly settled by watering with fresh water.

H. A saucer dike capable of holding water shall be formed around the edge of the planting hole (watering ring). The watering ring shall have a maximum height of 3”. All excess soil not used for constructing the water ring shall be hauled away by contractor. WATER RING SHALL BE REMOVED AT END OF WARRANTY PERIOD.

I. Watering bags may be used to assist in watering trees during warranty period. If used, watering bags shall be removed at the end of the warranty period.

J. Mulch shall be placed to a depth of 3 inches. Mulch shall be placed to within 6 inches of the tree trunk and shall not cover the root collar. Mulch shall cover the saucer dike. Wood chip mulch will be provided in bulk by the City but must be loaded and dispersed by the contractor.

K. Stakes and support ties, or root ball bracing, are required if the tree needs support to remain upright or if protection is needed from vehicles or people. Wire or straps shall be set to allow several inches of sway of the trunk. Root ball bracing is preferred.

L. Pruning should be done to eliminate rubbing, remove dead or broken limbs, or to remove a branch that is drooping or sticking out too far that may present an obstruction to passing pedestrians or vehicles. In the case of codominant stems, the less dominant shall be removed or headed.

M. Trees are to be watered at time of planting and throughout the term of this contract. Supplemental watering shall be performed weekly during any week in which the total local rainfall is less than 2".

N. Work will not start before 7:00 am each morning, Monday through Friday. Weekend work must be scheduled in advance with City Urban Forestry staff.

O. It is the Contractor's responsibility to have underground utilities located prior to digging.

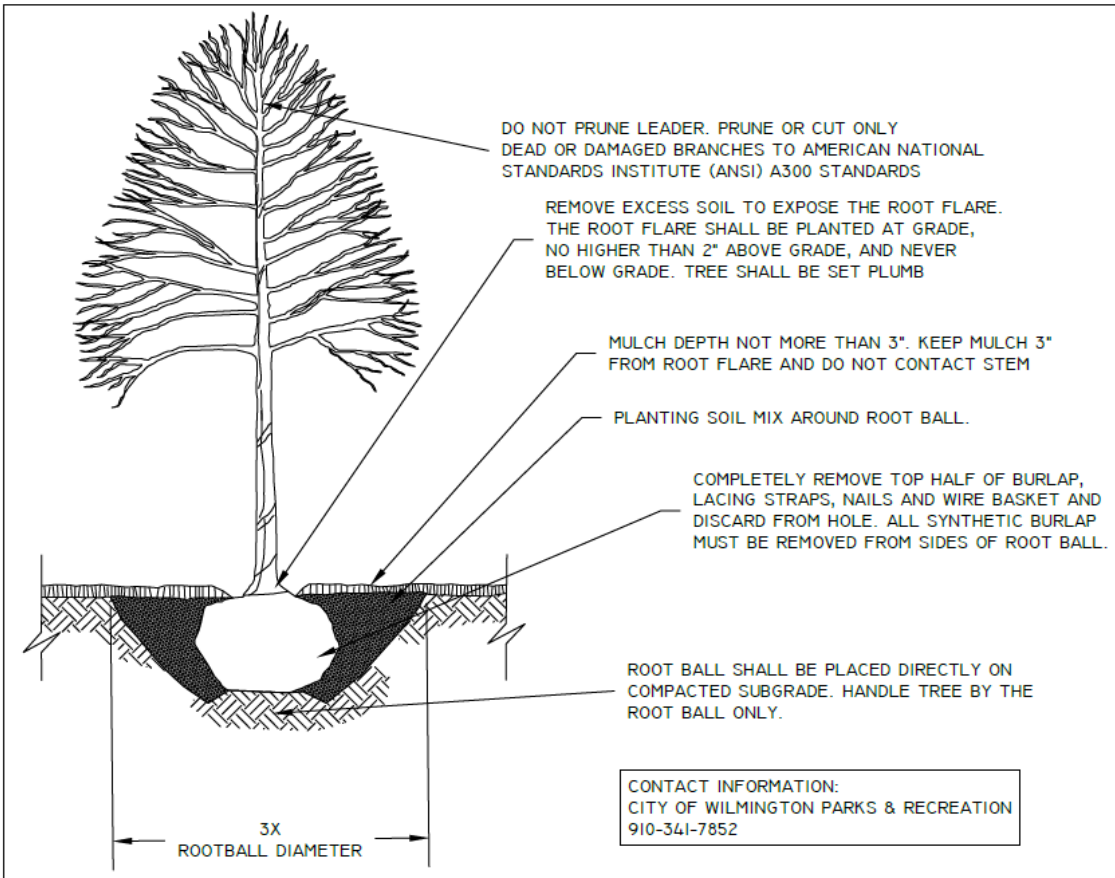
P. Contractor shall be responsible for any traffic control needed to perform work included in this contract.

Q. All applicable safety standards for tree planning activities shall be followed. Safety garments (Class II minimum) shall be worn by all personnel working in or near a roadway.

R. If discrepancies arise between these specifications and other contract language or details, Urban Forestry staff shall clarify as needed.

S. Prior to planting, trees shall be placed standing upright with crowns untied for storage and inspection. Adequate watering and mulching shall be provided during storage. Trees shall be covered with a horticultural transport tarp during transport.

T. Trees will be inspected by Urban Forestry staff prior to installation with right of refusal when trees do not meet the American Standard for Nursery Stock ANSI Z60.2-2025. The City may reject plant materials for, but not limited to, poor condition upon arrival, damage in shipment, excessively dry root systems, or wounded trunks.



NOTES:

1. TREES MUST MEET THE TREE QUALITY STANDARDS IN CH. 5 OF THE LAND DEVELOPMENT CODE (ANSI Z60.1).
2. CONTRACTOR IS RESPONSIBLE FOR ADEQUATE DRAINAGE OF ALL PLANTING PITS. WATER ROOT BALL AND PIT THOROUGHLY IMMEDIATELY AFTER INSTALLATION. (ENSURE POSITIVE DRAINAGE AWAY FROM PIT).
3. PREFERRED TREE PLANTING SEASON IS OCTOBER IST THROUGH APRIL 30TH.
4. ELECTRICAL OUTLETS AND OTHER UTILITIES ARE PROHIBITED IN THE PLANTING AREA IMMEDIATELY SURROUNDING THE TREE.
5. IF STAKING IS NEEDED, THE STAKING MUST BE REMOVED WITHIN ONE YEAR.
6. TREES WILL HAVE A MINIMUM I YEAR WARRANTY AFTER THE INITIAL PLANTING IS APPROVED BY THE CITY.

	STANDARD DETAIL	
DATE: JULY 25, 2023	TREE PLANTING 6-A	CITY OF WILMINGTON NORTH CAROLINA CITY OF WILMINGTON ENGINEERING PO BOX 1810 WILMINGTON N.C. 28402 (910) 341-7807
DRAWN BY JSR		
CHECKED BY RDG		
SCALE NOT TO SCALE		SD 15-15

N:\TECHNICAL STANDARDS & CAPITAL SPECS\CITY DETAILS (CAPITAL & PRIVATE)\2012-09 CURRENT TECH STNDRD MANUAL\DWG\15-15_TREE PLANTING DETAIL.DWG

Appendix B: Qualifying Assets

Equipment Assets			
Make/Model	Quantity/Number	Model Year	Details

Time line for RFP Process

Schedule. This schedule is the City's best estimate of the schedule that will be followed. If a component of this schedule is delayed, the rest of the schedule will be shifted by the same number of days.

BID Process	Date	Time
RFP Advertised	11-17-2026	3:00PM
Mandatory Pre-Bid Meeting	**11-30-2026**	**10:00AM**
Vendor RFP Questions Due	12-07-2026	5:00 PM
City Responses to Vendor Questions	12-11-2026	3:00 PM
RFP Submittal Due Date	**12-18-2026**	**3:00 PM**

Project Manager for the City of Wilmington

Ben Misleh, Tree Crew Supervisor, Asset & Property Management
Email: ben.misleh@wilmingtonnc.gov
Phone: (910) 341-0230

Submittal Requirements

Respondents must submit all RFP certification documents. Submittal for this RFP should contain One (1) enclosed sealed envelope and One (1) electronic version (PDF format) on a flash drive and titled: "**RFP No. S2-1126.3 "Tree Planting "**. The city must be receive the RFP by the city on or before **3:00 PM, Friday, December 18, 2026.**
Deliver or Mail Bid to the following address:

ATTN: Ariental Fullwood, Buyer
City of Wilmington
P.O. Box 1810 or
929 North Front Street, 10th Floor
Wilmington, NC 28401

RFP received after the deadline above will not be considered and will be returned unopened to the return address on the submission envelope. The City reserves the right to reject any or all RFP for any reason and to waive any informality it deems in its best interest. Any requirements in the RFP that cannot be met must be indicated in the statement of qualifications. The Proposer must respond to the entire RFP. Any RFP received by the city that is incomplete in its responses will be immediately disqualified.
Rights to Submitted Materials:
All statements, responses, inquiries, or correspondence relating to or about this RFP and all reports, charts, and other documentation submitted by Proposers (other than materials submitted as and qualifying as trade secrets under North Carolina Law) shall become the property of the City when received. The entire statement of qualification shall be subject to the public records laws of the State of North Carolina except where a proper trade secrets exception has been made by the Proposers in compliance with the procedures allowed by North Carolina Law and marked in bold "Confidential."
The City reserves the right to retain all submittals and to use any ideas in an RFP regardless of whether that RFP is selected. Submission of an RFP indicates acceptance by the Proposer of the conditions contained in this RFP.

Signature: _____ **Date:** _____

By Signing above, I Certify that I have carefully read and fully understood the information contained in this RFP, that I have the capability to successfully undertake and complete the responsibilities and obligations of the Proposal being submitted, and that I have the authority to sign the Proposal on behalf of my organization.

BY (Printed): _____

TITLE**:** _____

COMPANY: _____

ADDRESS: _____

TELEPHONE: _____

EMAIL: _____

The proposer supplies the information recorded below for use in the preparation of the contract documents in the event of contract award:

1. Please indicate the type of business organization:

   (a) Proprietorship _____
   (b) Partnership _____
   (c) Corporation _____
   (d) Limited Liability Co. _____

2. If the business is a corporation, please answer the following questions:

   Name and title of officers, authorized by Corporate Resolution, who will execute the contract on behalf of the corporation (generally President and Secretary).

   _____

   The firm is incorporated in what state?

   _____

   If the firm is a foreign corporation, does the firm have a certificate of authority from the

   North Carolina Secretary of State? ____

3. If the business is a Partnership, please answer the following:

Name in full or all general partners and addresses:

_____

_____

Is this a limited or general partnership? _____

If a limited partnership, what is the state of registration? _____

If the business is a foreign limited partnership, does the business have a certificate of authority from the North Carolina Secretary of State? __

4. If the business is a Proprietorship, please answer the following:

Name of owner: _____

5. If the business is a limited liability company, please answer the following:

List the names and titles of managers or member managers who will execute the contract on behalf of the company. _____

What is the state of the organization? _____

If the business is a foreign limited liability company, does the business have a certificate of authority from the North Carolina Secretary of State? _____

6. For all Vendors:

If the business operates under an assumed name, what is the assumed name?

_____

_____

Has a certificate of assumed name been filed in the New Hanover County Registry? _____

If so, please provide the recording information:
Deed Book _____ at Page _____.

Acknowledgement of Addendums

The undersigned acknowledges receipt of any Addendums issued to this Project by recording the Addendum number and date are acknowledged below:

Addendum #1: _____ Dated: _____

Addendum #2: _____ Dated: _____

Addendum #3: _____ Dated: _____

ACKNOWLEDGEMENT OF DOCUMENTS

City of Wilmington – RFP-S2-1126.3

The undersigned Vendor acknowledges that the following required documents are a part of this RFP Submission Sheet and are attached hereto:

1. Affidavit of Non-Collusion
2. E-Verify
3. Acknowledge Introduction/ Intent/Purpose
4. Adherent to Timeline Responsive Requirement
5. Proposed time frame from beginning to end
6. City of Wilmington Vendor Application Packet (if necessary)

Company Name: _____

Company Address: _____

City/State/Zip: _____

Telephone Number: _____ **Fax Number:** _____

Federal Tax ID # _____

E-mail: _____

License # (if applicable) _____

I agree to the terms, conditions, and expectations as outlined in the Project Description of this Request for Proposal.

Signature: _____ **Date:** _____

Name (Print): _____ **Title:** _____

The City reserves the right to re-advertise and reject any or all proposals which are deemed to be non-responsive, late in submission, or unsatisfactory. The City of Wilmington shall have no obligation to award a contract for services as a result of this RFP.

REFERENCES

Please list five references for **commercial** work completed within the last year in the City of Wilmington, indicating property address, description of work, monetary value of work, contact person and telephone number for each job. CoW will contact three by telephone. Please notify each reference of the possibility of CoW calling. **Points will be deducted if reference is not notified of use as a reference**. **Individual properties must be listed.** ***If applicant has provided services for CoW, CoW must be listed as the first reference.***

Name:_____

Address & Phone: _____

Type of Work: _____

Date Completed:_____ Dollar Amount: $_____

Name:_____

Address & Phone: _____

Type of Work: _____

Date Completed:_____ Dollar Amount: $_____

Name:_____

Address & Phone: _____

Type of Work: _____

Date Completed:_____ Dollar Amount: $_____

Name:_____

Address & Phone: _____

Type of Work: _____

Date Completed:_____ Dollar Amount: $_____

Name:_____

Address & Phone: _____

Type of Work: _____

Date Completed:_____ Dollar Amount: $_____

STATE OF NORTH CAROLINA CONTRACT NO:

SERVICES AGREEMENT

THIS AGREEMENT (hereinafter the "Agreement") is made and entered into on the date executed by all parties by and between the City of Wilmington, a North Carolina municipal corporation, hereinafter the "CITY," and XXXXXX., hereinafter referred to as the "CONTRACTOR." and collectively referred to as the parties.

W I T N E S S E T H:

1. Purpose of Agreement

   The CITY hereby agrees to purchase the materials and/or services listed below from the CONTRACTOR and CONTRACTOR agrees to provide all the tools, materials, equipment, and/or supplies required to provide Services hereunder to CITY, as ordered in accordance with the provisions of this Agreement.

2. Contract Documents

   This Services Agreement consists of the following contract documents, all of which are by this reference incorporated herein and made a part of this Agreement. The parties agree that only the terms and conditions outlined in this Agreement, not those described or referenced by any of the following contract documents, shall apply unless explicitly stated otherwise in the body of this Agreement:

   (1) Exhibit A-

3. Scope of Services

   a. CONTRACTOR hereby agrees to perform, in a manner satisfactory to the CITY, professional and timely services as set forth in Exhibit "A" attached hereto and incorporated herein by this reference. The parties hereto acknowledge that the terms outlined in Exhibit "A" shall be valid and enforceable to the extent they are not inconsistent with the provisions as set forth herein, and to the extent that they are inconsistent, the provisions as set forth in this Agreement shall control.

   b. The CONTRACTOR will provide

   c. During the period of this Agreement, the CONTRACTOR and the CITY may negotiate and agree in writing to provide additional equipment and/or services not herein described, but that are commonly provided by high-quality professionals and vendors, and which may enhance the process and improve results.

4. Quantities and Prices

CONTRACTOR will provide the materials and services required by this Agreement in the amount of

XXXXXXXX and 00/100 ($00,000.00)

5. Contractor Submissions and Payment

   a. The CONTRACTOR shall submit invoices corresponding to each order to the City with sufficient details to enable a review and assure compliance with the terms and conditions of this Agreement.

   b. Payments shall be made by the CITY within 30 days after receipt of an approved invoice.

6. Term of Contract

The term of this Agreement shall commence as of date executed by all parties and continue for three (3) years, with an option to renew for two (2) additional one-year terms. In the event that any work, service, object, or value, contemplated within the Scope of Work of the Agreement, was provided by the CONTRACTOR to the CITY and with the CITY's consent, prior to the execution of this Agreement, then the terms of this Agreement shall also govern all aspects of provision of that work, service, object, or value, unless such provision was governed by a previously written, valid, and executed Agreement between the Parties.

7. City Obligations

   CITY officials may conduct inspections during the installation process and of completed work to assure compliance with Agreement specifications.

8. Representative of the Parties

   The undersigned listed below is the designated Official responsible for communicating with the CONTRACTOR for the purpose of contract administration, including but not limited to conducting inspections, arranging for a mutually agreeable work schedule, ordering any special goods or services, reviewing, and approving invoices, reporting, and resolving problems, etc. During the period of performance, these officials and/or their designees will make themselves available to the CONTRACTOR via business/cell phones and email.

   XXXXXXXX
   City of Wilmington
   P.O. Box 1810
   Wilmington, NC 28402-1810
   Email: xxxxx.xxxx@wilmingtonnc.gov

XXXXXXX shall be the CONTRACTOR's representative for this Agreement. Any notice required to the CONTRACTOR under this Agreement shall be sufficient if mailed to the CONTRACTOR by certified mail as indicated below:

XXXXXX
XXXXXX
XXXXXXXX
XXXXXXX
Email: xxxx@xxxx.com

9. Release and Indemnity

To the fullest extent permitted by law, CONTRACTOR shall release, indemnify, keep and save harmless the CITY, its agents, officials and employees, from any and all responsibility or liability for any and all damage or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether agents, officials or employees of the CITY or third persons, and to all property proximately caused by, directly or indirectly, the performance or nonperformance by CONTRACTOR (or by any person acting for CONTRACTOR or for whom CONTRACTOR is or is alleged to be in any way responsible), whether such claim may be based in whole or in part upon contract, tort (including alleged active or passive negligence or participation in the wrong), or upon any alleged breach of any duty or obligation on the part of CONTRACTOR, its agents, officials and employees or otherwise. The provisions of this Section shall include any claims for equitable relief or for damages (compensatory or punitive) against the CITY, its agents, officials, and employees including alleged injury to the business of any claimant and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, costs and expenses. Expenses as used herein shall include without limitation the costs incurred by the CITY, its agents, officials, and employees, in connection with investigating any claim or defending any action and shall also include reasonable attorneys' fees by reason of the assertion of any such claim against the CITY, its agents, officials or employees. CONTRACTOR expressly understands and agrees that any performance bond or insurance protection required by this agreement, or otherwise provided by the CONTRACTOR, shall in no way limit CONTRACTOR's responsibility to release, indemnify, keep, and save harmless and defend the CITY as herein provided. The intention of the parties is to apply and construe broadly in favor of the CITY the foregoing provisions subject to the limitations, if any, set forth in N.C.G.S. § 22B-1.

10. Personnel

It is mutually agreed that the CONTRACTOR is an independent contractor and not an agent of the CITY, and as such the CONTRACTOR shall not be entitled to any CITY employment benefits, such as, but not limited to, vacation, sick leave, insurance, workmen's compensation, or pension and retirement benefits.

11. Conflict of Interest

No paid employee of the CITY shall have a personal or financial interest, direct or indirect, as a contracting party or otherwise, in the performance of this Agreement.

12. Non-Waiver of Rights

It is agreed that the CITY'S failure to insist upon the strict performance of any provision of this Agreement, or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any rights under this Agreement.

13. Suspension or Termination of Contract

a) In the event that review of the CONTRACTOR'S performance shows non-conformance to the work required by this contract, the Scope of Services or other terms or conditions contained herein as a result of the CONTRACTOR'S errors, omissions or negligent acts, the CONTRACTOR shall be in breach of this contract and the CITY may take corrective action as it deems necessary including, but not limited to, termination, withholding or reduction of payment.

b) The CITY shall also have the right to suspend this Agreement upon written notice to the CONTRACTOR. Such written notice shall state the reasons for suspension and allow for a review period of ten (l0) days during which the CONTRACTOR shall be provided with an opportunity to respond with an explanation or justification, and/or shall undertake any reasonable remedial action required by the CITY.

If, in the opinion of the CITY, the CONTRACTOR remains in violation of this Agreement at the completion of the ten (l0) day suspension period, the CITY shall have the right to terminate this Agreement whereupon all obligations of the CITY to the CONTRACTOR shall cease.

c) In the event this project is terminated prior to completion of the services by the CONTRACTOR, the CONTRACTOR shall be paid for services performed to the date of termination. (CONTRACTOR shall be paid for all reimbursable expenses, without markup, which are due him.)

d) The CITY and the CONTRACTOR shall have the right to terminate this Agreement without cause upon 30 days' notice to the other party.

(e) Nothing contained herein shall prevent the CITY from pursuing any other remedy, which it may have against CONTRACTOR including claims for damages.

14. Assignment of Agreement

It is mutually agreed by the parties hereto that this Agreement is not transferable by either party without the written consent of the other party to this Agreement.

15. Contract Disputes

In accordance with N.C.G.S. § 143-128.1(8) the parties agree to mediate Agreement disputes in excess of $15,000.00. Within ten (10) days of such contract disputes, the parties shall select a mediator that is agreed upon by all parties involved in the dispute. If the parties cannot agree on a mediator or do not timely select a mediator, the City shall select the mediator. The parties and the mediator shall agree upon the mediator's rate of compensation. The parties to the dispute shall share in the payment of the mediator's compensation with the City paying a minimum of one-third of the compensation if the City is a party to the dispute.

16. Insurance Requirements

Before commencing any work, the CONTRACTOR shall procure insurance in the CONTRACTOR'S name and maintain all insurance policies for the duration of the Agreement of the types and in the amounts listed. The insurance shall provide coverage against claims for injuries to persons or damages to property which may arise from operations or in connection with the performance of the work hereunder by the CONTRACTOR, his agents, representatives, employees, or subcontractors, whether such operations by himself/herself or anyone directly or indirectly employed by him/her.

(A) COMMERCIAL GENERAL LIABILITY

1) CONTRACTOR shall maintain Commercial General Liability (CGL) and if necessary, Commercial Umbrella Liability insurance with a total limit of not less than $1,000,000 each occurrence for bodily injury and property damage. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project/location, or the general aggregate shall be twice the required limit.

2) CGL insurance shall be written on Insurance Services Office (ISO) "occurrence" form CG 00 01 covering Commercial General Liability or its equivalent and shall cover the liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

3) The City of Wilmington, its officers, officials, agents, and employees are to be covered as additional insureds during and until completion of the work, under the CGL by endorsement CG 20 10 or an endorsement providing equivalent coverage as respects to liability arising out of activities performed by or on behalf of the CONTRACTOR; premises owned, leased or used by the CONTRACTOR; and under the commercial umbrella, if any. The coverage shall contain no special limitations on the scope of protection afforded to the City of Wilmington, its officers, officials, agents, and employees. Additional insured status for both ongoing and completed operations, in favor of City of Wilmington, its officers, officials, agents and employees, will be carried by Subcontractor performing installation.

4) There shall be no endorsement or modification of the CGL or Umbrella Liability limiting the scope of coverage for liability arising from explosion, collapse, underground property damage, or damage to the named insured's work, when those exposures exist.

5) The CONTRACTOR'S Commercial General Liability insurance shall be primary as respects the City of Wilmington, its officers, officials, agents, and employees. Any other insurance or self-insurance maintained by the City of Wilmington, its officers, officials, and employees shall be excess of and not contribute with the CONTRACTOR'S insurance.

6) The insurer shall agree to waive all rights of subrogation against the City of Wilmington, its officers, officials, agents, and employees for losses arising from work performed by the CONTRACTOR for the City of Wilmington.

(B) WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY

(1) CONTRACTOR shall maintain Workers' Compensation as required by the general statutes of the State of North Carolina and Employer's Liability Insurance.

(2) The Employer's Liability, and if necessary, Commercial Umbrella Liability insurance shall not be less than $500,000 each accident for bodily injury by accident, $500,000 each employee for bodily injury by disease, and $500,000 policy limit.

(3) The insurer shall agree to waive all rights of subrogation against the City of Wilmington, its officers, officials, and employees for losses arising from work performed by the CONTRACTOR for the City of Wilmington.

(C) BUSINESS AUTO LIABILITY

(1) CONTRACTOR shall maintain Business Auto Liability and, if necessary, Commercial Umbrella Liability insurance with a limit of not less than $1,000,000 each accident.

(2) Such insurance shall cover liability arising out of any auto, including owned, hired, and non-owned autos.

(3) Business Auto coverage shall be written on ISO form CA 00 01, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in ISO form CA 00 01.

(4) Pollution liability coverage equivalent to that provided under the ISO pollution liability-broadened coverage for covered autos endorsement (CA 99 48) shall be provided, and the Motor Carrier Act endorsement (MCS 90) shall be attached when those exposures exist.

(5) CONTRACTOR waives all rights against the City of Wilmington, its officers, officials, agents and employees for recovery of damages to the extent these damages are covered by the business auto liability or commercial umbrella liability insurance obtained by CONTRACTOR pursuant to Section 11.C.1 of this agreement.

(6) The CONTRACTOR'S Business Auto Liability insurance shall be primary as respects the City of Wilmington, its officers, officials, agents, and employees. Any other insurance or self-insurance maintained by The City of Wilmington, its officers, officials, and employees shall be excess of and not contribute with the CONTRACTOR'S insurance.

(D) DEDUCTIBLES AND SELF-INSURED RETENTIONS.

The contractor shall be solely responsible for the payment of all deductibles to which such policies are subject, whether or not The City of Wilmington is insured under the policy.

(E) MISCELLANEOUS INSURANCE PROVISIONS.

The policies are to contain, or be endorsed to contain, the following provisions:

(1) Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not canceled by either party except after 30 days prior written notice has been given to The City of Wilmington, PO Box 1810, Wilmington, NC 28402-1810.

(2) If CONTRACTOR'S liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

(F) ACCEPTABILITY OF INSURERS.

Insurance is to be placed with insurers licensed to do business in the State of North Carolina with an A.M. Best's rating of no less than A VII unless specific approval has been granted by The City of Wilmington.

(G) EVIDENCE OF INSURANCE

(1) The CONTRACTOR shall furnish The City of Wilmington with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance

requirements prior to commencing the work, and thereafter upon renewal or replacement of each certified coverage until all operations under this Agreement are deemed complete.

(2) Evidence of additional insured status shall be noted on the certificate of insurance.

(3) With respect to insurance maintained after final payment in compliance with requirements, an additional certificate(s) evidencing such coverage shall be provided to The City of Wilmington with final application for payment and thereafter upon renewal or replacement of such insurance until the expiration of the period for which such insurance must be maintained.

(H) SUBCONTRACTORS

CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein. Commercial General Liability coverage shall include independent CONTRACTORS' coverage, and the CONTRACTOR shall be responsible for assuring that all subcontractors are properly insured. Additional insured status for both ongoing and completed operations, in favor of City of Wilmington, its officer, officials, agents and employees, will be carried by Subcontractor performing installation.

(I) CONDITIONS

(1) The insurance required for this Agreement must be on forms acceptable to The City of Wilmington.

(2) The CONTRACTOR shall provide that the insurance contributing to satisfaction of insurance requirements shall not be canceled, terminated, or modified by the CONTRACTOR without prior written approval of The City of Wilmington.

(3) The CONTRACTOR shall promptly notify the Safety & Risk Manager at (910) 341-0220 of any accidents arising in the course of operations under the contract causing bodily injury or property damage.

(4) Failure of The City of Wilmington to demand a certificate of insurance or other evidence of full compliance with these insurance requirements or failure of The City of Wilmington to identify a deficiency from evidence that is provided shall not be construed as a waiver of CONTRACTOR'S obligation to maintain such insurance.

(5) By requiring insurance herein, The City of Wilmington does not represent that coverage, and limits will necessarily be adequate to protect the CONTRACTOR, and such coverage and limits shall not be deemed as a limitation of CONTRACTOR'S liability under the indemnities granted to The City of Wilmington in this Agreement.

(6) The City of Wilmington shall have the right, but not the obligation of prohibiting CONTRACTOR or any subcontractor from entering the project site or withhold payment until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by The City of Wilmington.

17. Findings Confidential

All of the information, reports, cost estimates, plans, specifications and documents prepared or assembled by the CONTRACTOR under this Agreement are the property of the CITY. The CONTRACTOR agrees that any such documents shall not be made available to any individual or organization other than appropriate CITY officials without prior written approval of the CITY. Nothing contained in this paragraph shall be construed to prevent the

CONTRACTOR from making information, reports, and documents available to those individuals or firms directly concerned with the project involved with the prior written agreement of the CITY.

18. No Presumption

None of the Parties shall be considered the drafter of this Agreement or any provision hereof for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof. This Agreement was drafted with substantial input by all Parties and their counsel, and no reliance was placed on any representations other than those contained herein.

19. Subcontracts

The CONTRACTOR shall utilize no subcontracts for carrying out the services to be performed under this Agreement without the written approval of the CITY.

20. Entire Agreement

This Agreement constitutes the entire understanding of the parties.

21. Binding Effect

This Agreement shall be binding upon the heirs, successors, assigns, agents, officials, employees, independent contractors, and subcontractors of the parties.

22. Continuing Obligation

The parties will make and execute all further instruments and documents required to carry out the purposes and intent of the Agreement.

23. Reference

Use of the masculine includes feminine and neuter, singular includes plural; and captions and headings are inserted for convenience of reference and do not define, describe, extend, or limit the scope of intent of the Agreement.

24. Interpretation/Governing Law

All of the terms and conditions contained herein shall be interpreted in accordance with the laws of the State of North Carolina without regard to any conflicts of law principles and subject to the exclusive jurisdiction of federal or state courts within the State of North Carolina. In the event of a conflict between the various terms and conditions contained herein or between these terms and other applicable provisions, then the more particular shall prevail over the general and the more stringent or higher standard shall prevail over the less stringent or lower standard. The place of this Agreement, its situs and forum, shall be Wilmington, New Hanover County, North Carolina, and in said County and State shall all matters, whether sounding in contract or tort relating to the validity, construction, interpretation, or enforcement of this Agreement be determined.

25. Immunity Not Waived

This Agreement is governmental in nature for the benefit of the public and is not intended to be for private profit or gain. Any fees charged hereunder are intended to reflect as closely as possible the CITY'S actual cost and neither party intends to waive its sovereign immunity by reason of this Agreement.

26. Saving Clause

If any section, subsection, paragraph, sentence, clause, phrase, or portion of this Agreement is for any reason held invalid, unlawful, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

27. Other Laws and Regulations

CONTRACTOR will comply with any and all applicable federal, state and local standards, regulations, laws, statutes and ordinances including those regarding toxic, hazardous and solid wastes and any pollutants; public and private nuisances; health or safety; and zoning, subdivision or other land use controls. CONTRACTOR will take all reasonably necessary, proper or required safety, preventative and remedial measures in accordance with any and all relations and directives from the North Carolina Department of Health and Human Services, the North Carolina Office of State Human Resources, the United States Environmental Protection Agency, the North Carolina Department of Environmental Quality, Health Departments, and any other federal, state or local agency having jurisdiction, to ensure the prompt prevention or cessation (now or in the future) of violations of either the applicable provisions of such standards, regulations, laws, statutes, and ordinances or any permits or conditions issued thereunder. CONTRACTOR specifically acknowledges and agrees that CONTRACTOR, and any subcontractors it uses, has complied with, and shall continue to comply with the provisions of the federal E-Verify program in compliance with Article 2 of Chapter 64 of the North Carolina General Statutes. CONTRATOR shall maintain adequate safeguards with respect to sensitive customer information in conformance with and pursuant to 16 C.F.R. § 681.1 and in accordance with N.C.G.S. § 132-1.10 and § 75-65.

28. Amendments

This Agreement shall not be modified or otherwise amended except in writing signed by the parties.

29. Non-Discrimination

CONTRACTOR will not discriminate against any employee or applicant for employment or otherwise illegally deny any person participation in or the benefits of the program which is the subject of this Agreement based on race, creed, color, sex, age, disability, or national origin. To the extent applicable, CONTRACTOR will comply with all provisions of Executive Order No. 14173 the Civil Rights Act of 1964, (P.L. 88-352) and 1968 (P.L. 90-284), and all applicable federal, state, and local laws, ordinances, rules, regulations, orders, instructions, designations, and other directives promulgated to prohibit discrimination. Violation of this provision, after notice, shall be a material breach of this Agreement and may result, at CITY'S option, in a termination or suspension of this contract in whole or in part.

30. Non-Appropriations Clause

In the event no CITY funds or insufficient CITY funds are appropriated or otherwise available by any means whatsoever in any fiscal year for any payment due under this Agreement, then the CITY will immediately notify CONTRACTOR of such occurrence and this Agreement shall create no further obligation of the CITY as to such fiscal year and shall be null and void, except as to the portions of payments for which funds shall have been appropriated and budgeted. In such event, this Agreement shall terminate on the last day of the fiscal year for which appropriations were received without penalty or expense to the CITY of any kind whatsoever.

31. Counterparts

This Agreement may be executed in several counterparts, including separate counterparts. Each shall be an original, but all of them together constitute the same instrument.

32. No Publicity

No advertising, sales promotion or other materials of the CONTRACTOR or its agents or representations may identify or reference this Agreement or the CITY in any manner absent the written consent of the CITY. Notwithstanding the foregoing, the parties agree that the CONTRACTOR may list the CITY as a reference in response to requests for proposals and may identify the CITY as a customer in presentations to potential customers.

33. CITY Not Liable for Special or Consequential Damages

The CITY shall not be liable to the CONTRACTOR, its agents or representatives or any subcontractor for or on account of any stoppages or delay in the performance of any obligations of the CITY, or any other consequential, indirect, or special damages or lost profits related to this Agreement.

34. Public Records

CONTRACTOR acknowledges that the CITY is a public entity, subject to North Carolina's public records laws (N.C.G.S. § 132) and that any documents related to this Agreement may be subject to disclosure pursuant to state law in response to a public records request or to subpoena or other judicial process.

If CONTRACTOR believes documents related to the Agreement contain trade secrets or other proprietary data, CONTRACTOR must notify the CITY and include with the notification a statement that explains and supports CONTRACTOR'S claim. CONTRACTOR also must specifically identify the trade secrets or other proprietary data that CONTRACTOR believes should remain confidential.

In the event the CITY determines it is legally required to disclose pursuant to law any documents or information CONTRACTOR deems confidential trade secrets or proprietary data, the CITY, to the extent possible, will provide CONTRACTOR with prompt written notice by certified mail, fax, email, or other method that tracks delivery status of the requirement to disclose the information so CONTRACTOR may seek a protective order from a court having jurisdiction over the matter or obtain other appropriate remedies. The notice will include a time period for the CONTRACTOR to seek court ordered protection or other legal remedies as deemed appropriate by CONTRACTOR. If CONTRACTOR does not obtain such court ordered protection by the expiration of said time period, the CITY may release the information without further notice to CONTRACTOR.

35. Authority to Act

Each of the persons executing this Agreement on behalf of CONTRACTOR does hereby covenant, warrant, and represent that the CONTRACTOR is a duly organized and validly existing legal entity authorized to transact business within the State of North Carolina, that the CONTRACTOR has full right and authority to enter into this Agreement, and that each and all persons signing on behalf of the CONTRACTOR were authorized to do so.

THIS SECTION INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the CITY has caused this Agreement to be duly executed in its name and behalf and the CONTRACTOR has caused this Agreement to be duly executed in its name and behalf.

CITY OF WILMINGTON, NORTH CAROLINA

_____

BY:
Becky Hawke, City Manager

DATE:_____

WITNESS:

_____
Daryle L. Parker, Purchasing Manager

APPROVED AS TO FORM:

_____
Gina Essey, Assistant City Attorney

FINANCE OFFICER'S CERTIFICATION STATEMENT

This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act.

This_____day of_____, 2026.

_____
Martha Wayne, Chief Financial Officer

Project String: N/A
Org./Obj.: Number: N/A
Amount of Contract: N/A
Requisition: N/A
Federal ID Number: 56-6000239

In witness whereof, the Party, intending to be legally bound, have caused their proper and duly authorized officer to execute and deliver this Agreement.

By: _____
President/Vice President/Secretary/
Treasurer/or Company Authorized Signatory

Reviewed By

Nicole L. Strickland, Purchasing Admin Spec - Date:

Daryle L. Parker, Purchasing Manager - Date: