
Request for Proposals

Tree Installation

Sealed proposals, invited by the City of Knoxville, will be received by the Purchasing Division of the City of Knoxville, in Room 667-674, City County Building; 400 Main Street; Knoxville, Tennessee, until **11:00:00 a.m.** (Eastern Time) on **Tuesday, August 16, 2022** at which time they will be opened and publicly read aloud and a contract awarded as soon thereafter as practicable for **Tree Installation**.

Pre-Proposal Meeting:

A **mandatory** pre-proposal meeting will be held at the City of Knoxville Public Works Building in the Community Room, located at **3131 Morris Avenue, Knoxville, TN 37909 (Room 210) on Thursday, August 4, 2022 at 11:00 a.m. Eastern Time.**

Scope of Work:

The City of Knoxville Public Service Urban Forestry Department is seeking to establish a fixed price agreement for the installation of trees of various species and sizes. The number of trees purchased and planted will depend on the price per tree, price for installation, demand for the service, and grant funding opportunities that are obtained by the City of Knoxville. Awards will be made for fixed price agreements, with no guarantee of quantities to be installed.

The total number of trees to be installed will be determined by November 1, 2022 with potentially an additional 5% added or amended during the planting season. Typically, the City of Knoxville plants 400 to 600 trees per year.

The agreement will be for one year with two optional one-year renewals, commencing November 1, 2022. In making its award, the City will evaluate, in addition to pricing, similar projects completed, available equipment to execute contract, and ability to demonstrate proper tree planting techniques and practices according to the following specifications. In short, the lowest price quoted may not win the subsequent award(s), as these other evaluation criteria are extremely important to the City; and the City's evaluated decision will be final.

Specifications:

Qualifications

The planting of the trees will be performed by a single firm specializing in landscape installation work. The Installer is responsible for planting all trees, regardless if trees are purchased from multiple Suppliers. All subcontractors involved in the installation of trees must be disclosed before the proposal is awarded. The contractor to whom a proposal may be awarded will submit, upon request, a full statement of their experience in work similar to that covered in this specification and the equipment available to carry out the work in accordance with the specifications.

Delivery

Trees will start to be delivered as early as the 2nd week of November and as late as mid-December. It can be expected that 3 to 6 shipments of trees will occur during the planting season, with the last shipment coming in by the end of December. The delivery of trees depends on the weather and when trees go dormant. Later shipments will not extend due dates for this contract. All trees must be planted by March 1st. Plant material will be delivered to the City of Knoxville holding yard which will be located within the City of Knoxville limits. City crews will unload the delivery truck into the holding yard. During delivery days, the holding yard will be closed off to the Installer until 12:00 PM the day of the delivery. Trees will be heeled in and protected with a hardwood mulch, completely covering the rootball and remaining in place until the trees are installed. The Installer will be responsible for the care and protection of the delivered trees until they are properly installed according to these specifications. Installer will keep all remaining trees heeled in after trees have been pulled from the holding yard. The City will leave all tags with tree names attached to the tree. The nursery may use botanic, common, and/ or cultivar names to tag each tree. Installer is responsible for ensuring the right tree is pulled for each planting location.

Planting Locations

The Installer will be given a list of the planting locations and species (including varieties and cultivars) for each planting location prior to commencement of work. Addresses will be provided for street trees and park trees, and when necessary, maps will be provided to help establish planting locations. **It can be expected that up to 5% of the planting locations may change or be added during the duration of the project due to resident requests, utility conflicts, or change or cancelation in a planting project.** Installer will work with the Urban Forester in determining new or modified planting locations for the trees to be planted. Trees will usually be marked with a white “V” and the initials of the common name on the curb or pavement adjacent to the planting location. For trees planted between the sidewalk and the road (the planting strip), or tree pits, trees must be centered between the curb and sidewalk. Park trees will be marked with a white wooden stake or flag, and/or a white “X” on the ground. All markings and stakes must be disposed of by the Installer. City of Knoxville also will have approximate planting locations mapped on its digital tree inventory. Installer will have access to the Tree Inventory to aid with locating planting locations as needed. Each tree on the planting list will have a unique “ID Number” that will correspond to the tree inventory. **Locations in the inventory are to aid in finding the approximate location of each tree. Final planting locations must be marked with a white “V” or white stake before planting.**

Tennessee One-Call System

It is the sole responsibility of the Installer to make necessary utility locates and keep them up to date. The Installer is required to contact Tennessee One-Call before digging for each job site and comply with all related directives for utilities. Hand excavation is required, as necessary, to minimize the possibility of damaging underground utilities. The planting list will call out certain locations where Installer must notify the Urban Forester prior to calling 811 or planting the trees in order to get marking and stakes in place. This is to prevent markings from being pulled or damaged prior to planting or utility locates.

Work Zone Traffic Safety

The Installer must comply with all specifications and standards of the manual on Uniform Traffic Control Services for Streets and Highways (MUTCD). The Installer will be responsible for public safety at job sites.

Training

All Installer personnel involved with installing City of Knoxville trees must attend a brief on-site training session before installation commences. The City of Knoxville Urban Forester will provide onsite training to demonstrate proper planting practices according to these specifications. Location of training will be decided and agreed upon by Installer and Urban Forester and will be at the location of trees to plant from the planting list. All costs associated with said training will be borne by the Installer.

Planting Hole

All planting holes must be hand dug. Mechanical diggers such as augers may not be used unless approved by the Urban Forester. Planting hole will be excavated with sloped side 2 times the diameter of the container or rootball. Urban Forester will inspect to ensure no sod is within 24 inches of the tree. Approximately less than 2% of the trees each year will be replacement trees from the previous planting seasons (trees less than 3.5 inches in caliper). The Urban Forester will mark these dead trees with a white dot as needing to be removed. The Installer will pull out the existing dead tree (including the root ball) and replace it with the new tree according to these specifications. **The removed tree must be disposed of properly by the Installer.** All specifications must be met even when planting on a slope. See attached diagram on how to best plant on a sloped surface.

Rootball Planting Depth

Before placing the rootball in the hole, the Installer will determine if the depth of the hole is the same as, or slightly less, than the distance between the topmost structural root (root flare) and the bottom of the rootball. Installer must also be able to identify the difference between a root graft and the root flare. **It can be expected that trees received from the nurseries may have a buried root flare up to four inches or more below the top of the rootball.** In no case will the root flare be lower than the adjacent grade and all excess soil must be removed from above the root flare. The Installer must make sure the root flare is visible at grade level. **Tree installations with root flares planted too deep or buried will be rejected.** All trees will be set upright and oriented to give the best relationship to adjacent traffic, structures, and trees. For illustration, see Planting Diagram included at the back of this document. **Trees planted too high (root flares greater than 3 inches above existing grade) will also be rejected.**

Backfill

After putting one-quarter (1/4) of the backfill soil in the hole, all burlap, twine, rope, and wire baskets will be cut off and removed at least 8 to 10 inches below the topmost structural root. If roots are circling or girdling, they will be cut and removed. The hole will be backfilled with the same soil removed from the hole. Soil will be tamped **slightly** to pack rootball firmly within the planting hole in order to prevent settling or shifting of the rootball. The remaining portion of the rootball will be filled with remaining excavated soil. No soil will be placed above the topmost structural root or root flare. **If excess soil dug from the planting hole is not necessary for the backfill of the rootball or creates an unnecessary mound of soil in a limited planting space (such as a downtown tree pit or planting strip) as determined by the City of Knoxville Urban Forester, it will be removed from the site by the Installer.** Soil around rootball must be tamped at each lift in order to prevent root ball from shifting. Trees that shift or lean will be rejected and fixed by the contractor.

Staking

Trees will not be staked unless necessary. However, there are certain trees that will be required to be staked determined by the Urban Forester. Stakes must be 2" x 2" x 3' or greater wooden stakes and placed at 120 degrees around the planting hole. Stakes must be installed at least 24 inches deep and installed outside of the planting hole where the soil was not disturbed. The City of Knoxville recommends the use of Arbor Tie or similar tie strap designed for tree staking. There must be enough space left around the trunk of the tree to allow the tree to grow. Staking materials must be approved by the City of Knoxville Urban Forester before installation. All trees leaning or shifted will be rejected.

Mulch

Mulch will be supplied by the City of Knoxville and stored at the holding yard unless the contractor chooses to have the holding yard on their facilities, in which case the Installer must supply the mulch. Mulch will be premium certified grade hardwood chips. No recycled woodwaste, fine composted, or dyed mulches will be used. Mulch will be installed on top of the root system and planting hole and extend to the dripline of the canopy or 2.5 feet from the trunk, whichever is greater. Some trees

(typically not more than 10 a year) will be planted in tree pits that will not exceed 25 square feet (5'x5'). The entire tree pit will be mulched. **Mulch will be 3" in depth, uniform in appearance, and will not touch the tree trunk.** If mulch is supplied by the Installer it must be approved before installation by the City of Knoxville Urban Forester.

Containerized Trees

Containerized trees will be removed from the container before installation. All sides of the root ball will be shaved with a hand saw or electric saw (reciprocating saw) in order to cut circling roots. Cuts should be made approximately one to two inches (1" to 2") from the sides of the root ball. Shaving will be done just prior to the trees being installed. See attached diagram for shaving a containerized plant.

Watering

Installer will water all trees immediately after installation, unless a rain event is projected to occur within 24 hours after the tree is installed.

Weather

Trees will not be installed into wet sites, water-logged soils, or sites where precipitation has occurred within the previous 72 hours, unless approved by City of Knoxville Urban Forester. Weekend plantings will be coordinated with the City of Knoxville Urban Forester.

Site Clean-Up

The Installer will be responsible for the clean-up of the site including the removal of excess soil not needed for the planting hole; debris such as bricks, rocks, and other items uncovered while digging the hole; and excess mulch misplaced or dumped during the installation of the tree. The Installer is also responsible for replacing any mud skid left on the road or sidewalk and replacing any ruts caused during the installation of the tree. The Installer should avoid or minimize having to drive on any greenspace, sod, or inundated areas to prevent damage. The Installer will remove all planting stakes used to mark planting locations and remove all tags, ribbons, and bags from around the trees unless specified by the Urban Forester. **The Installer is responsible for the disposal of all waste material, debris, soil, rocks, and other items left over from planting the tree.**

Acceptance and Payment

The City of Knoxville Urban Forester or representative may be present when trees are installed. The City will perform 4 inspections of work completed for this contract, and inspections will not occur more than twice per month. The Installer will receive the planting list on an electronic spreadsheet. Within that spreadsheet, the Installer must fill out the "date planted," and "invoice number" for each tree and submit an up to date editable spreadsheet back to the Urban Forester which corresponds to each invoice. Inspections will review the tree species, condition, and installation to identify and note any discrepancies or deviations from this specification. The Urban Forester will note "date accepted" or put in writing reasons tree planting was not accepted and return the submitted spreadsheet back to Installer. Trees not accepted must be removed from the invoice and resubmitted at the next inspection. Installer must repair, replace, or otherwise remedy said discrepancies or deviations before the work is accepted and Installer is paid for trees that don't pass inspection. **Trees requiring remediation will be inspected during the following inspection.** Trees not meeting the specification upon second inspection will not be paid. Trees significantly damaged by the Installer during transport or during installation must be replaced by the Installer and will not be paid for installation.

Payment will be on a net 30 basis, following invoice and acceptance of installations. Invoices must be modified if trees do not meet these specifications and only those trees passing inspection will be paid. All winter planting work not passing inspection by March 31 or spring planting work not passing inspection by April 30th of each year will not be paid.

Term of Agreement and Contract Pricing

Contract will be for one year with two optional one-year renewals, upon mutual agreement; planting time will typically be from November 1 through March 1 of each year with a potential couple of spring plantings such as crape myrtles and evergreen trees planted no later than April 1st. Unit prices will be guaranteed for the life of the contract. Tree installation proposal is for a fixed price agreement, and quantities to be ordered are not guaranteed.

Award to Multiple Installers

The City of Knoxville reserves the right to award to multiple installers in order to ensure timely installation of trees.

Projected Planting Timetable and Payment Schedule

Work can be completed earlier than the timetable below, but should not exceed the following (with the exception of those trees that need to be planted during the spring months):

<u>Phase</u>	<u>Projected Date of Substantial Completion</u>	<u># of Trees Supplied</u>	<u>Date of Final Acceptance</u>
I	December 31, 2022	33%	January 31, 2023
II	January 30, 2023	66%	February 28, 2023
III	February 28, 2023 (winter plantings) April 1, 2023 (spring plantings)	100%	March 31, 2023 (winter plantings) April 30, 2023 (spring plantings)

Evaluation of Proposals

All qualified submissions received by the deadline will be analyzed by the Evaluation Committee according to the criteria outlined in these specifications. Failure to comply with the provisions of the RFP may cause any proposal to be ineligible for evaluation. Each submittal of proposals will be initially analyzed and judged according to the evaluation criteria below. The maximum score is 100 points.

The City reserves full discretion to determine the capability of proposing entities. Proposers, if asked, will provide, in a timely manner, any and all information that the City deems necessary to make such a decision. In addition to materials provided in the written responses to this RFP, the Committee may request additional material, information, references, a site visit, or a live test demonstration from the submitting entity or others.

The Evaluation Committee may or may not decide to interview any or all proposing entities at a time and date determined by the City in order to address questions and more fully ascertain how the solution to this project satisfies the evaluation criteria. Firms and/or teams responding to this Request for Proposals shall be available for interviews with the Evaluation Committee. Discussions may be conducted with responsible submitting entities for purposes of clarification to assure full understanding of and conformance to the RFP requirements. Selection shall be based on the firms' qualifications applicable to the scope and nature of the services to be performed per this request for proposals. Determination of firms' qualifications shall be based on their written responses to this Request for Proposals and information presented to the Evaluation Committee during oral interviews, if any.

In addition to materials provided in the written responses to this Request for Proposals, the Committee may request additional material, information, or references from the submitting entity or others.

Provided it is in the best interest of the City of Knoxville, the firm or team determined to be the most responsive to the City of Knoxville, taking into consideration the evaluation factors set forth in this Request for Proposals, will be selected to begin contract negotiations. The firm or team selected will be notified at the earliest practical date and invited to submit more comprehensive information if necessary. If no satisfactory agreement can be reached with the "most responsive firm," the City may elect to negotiate with the next best and most responsive firm or team.

Evaluation Criteria

An evaluation team, composed of representatives of the City, will evaluate proposals on a variety of quantitative and qualitative criteria. Upon receipt of proposals, the City will review to determine whether the proposal is acceptable or non-acceptable based on the criteria outlined below.

The criteria and the associated weights upon which the evaluation of the proposals will be based include, but are not limited to, the following:

1. **Qualifications/Experience of the Firm – 25 Points:**
 - a. **Detail experience with projects similar in size and scope as those covered under this contract.**
 - b. **Detail a list of what portion of the work, if any, will be subcontracted.**
 - c. **Supply no less than three references within the past three years where similar work and comparable job size was performed. References must include the name of the business, address, phone number, and contact person's email address.**
2. **Equipment – 15 Points:**
 - a. **List of equipment to be used for this service and the current condition of all equipment.**
3. **Current Practice of Planting Techniques – 15 Points**
 - a. **Demonstrate firm's ability to install trees utilizing proper techniques.**
4. **Cost – 45 Points:**
 - a. **Enter your cost on the Proposal Form included in this document.**

Proposal Submission Requirements:

Proposer must furnish the following information in writing with their submission:

1. [Proposal Form](#) showing proposer's name, address, quoted price, business license number, date of expiration of business license. A copy of the proposer's current business license may be submitted in lieu of providing the license expiration date.
2. [Non-Collusion Affidavit](#)
3. [Child Crime Affidavit](#)
4. [Drug Free Workplace Affidavit](#)
5. [Iran Divestment Act Certification of Non-Inclusion](#)
6. [Diversity Business Enterprise \(DBE\) Program form](#)
7. Body of Proposal: Information responding to the Evaluation Criteria outlined above.

Instructions and Conditions:

1. Sealed proposals will be received by the Purchasing Division of the City of Knoxville in Room 667-674, City/County Building; 400 Main Street; Knoxville, Tennessee 37902 until **Tuesday, August 16, 2022**, at **11:00:00 a.m.**, at which time they will be publicly opened and read aloud and the contract awarded as soon as practicable. **No proposal will be received or accepted after the above-specified time for the opening of proposals.** Proposals that arrive late due to

the fault of U. S. Postal Service, United Parcel Service, DHL, FEDEX, any delivery/courier service, or any other carrier of any sort are still considered late and shall not be accepted by the City. Such proposals shall remain unopened and will be returned to the submitting entity upon request.

2. The City of Knoxville reserves the right to reject any or all proposals, to accept or reject any items thereon, to waive technicalities or informalities, to split orders if in the best interest of the City, to evaluate proposals by various criteria, and to accept any proposal which, in its opinion, may be for the best interest of the City.
3. Included in the Request for Proposals is an affidavit in proof that the undersigned has not entered into any collusion with any person in respect to this proposal or any other proposal. The Proposer will be required to execute and submit this affidavit with the sealed proposal. Also included is the Diversity Business Program contracting packet. Submissions must indicate on the enclosed form whether or not the proposer intends to use subcontractors and/or suppliers from one of the defined groups. Proposers are advised that the City tracks use of such use, but it does not influence or affect evaluation or award.
4. **NO CONTACT POLICY:** After the posting of this solicitation to the Purchasing Division's website, any contact initiated by any proposer with any City of Knoxville representative concerning this proposal is strictly prohibited, unless such contact is made with the Purchasing Division representative listed herein or with said representative's authorization. Any unauthorized contact may cause the disqualification of the proposer from this procurement transaction.
5. **INCLEMENT WEATHER:** During periods of inclement weather, the Purchasing Division will enact the following procedures with regard to solicitations and weather delays:
 - If City offices are closed due to inclement weather on the date that bids/proposals/qualifications/letters of interest are due into the Purchasing Office, all solicitations due that same day will be moved to the next operational business day.
 - The City of Knoxville shall not be liable for any commercial carrier's decision regarding deliveries during inclement weather.
6. Each proposal delivered via hardcopy must be submitted in a sealed envelope, addressed to the Purchasing Division; City of Knoxville; City/County Building; 400 Main Street, Room 667-674; Knoxville, Tennessee, 37902. Each sealed envelope containing a proposal must be plainly marked on the outside as: "Tree Installation."
7. Electronic submissions shall be submitted online through the City's Procurement website. **DO NOT EMAIL YOUR SUBMISSION.** If submitting electronically, a paper proposal is not required.
8. All proposers/bidders must register as a vendor in order to submit an electronic file.

Step One: Register as a City of Knoxville vendor (Vendors are encouraged to complete this step now to ensure seamless submission process prior to deadline.) To register as a vendor: Visit the website at www.knoxvilletn.gov/purchasing Click the "Vendor Registration" tab; then "Click here to register as a City of Knoxville Vendor" Follow the prompts to complete online registration. Note: You will be asked for a PIN. This PIN will be emailed to you and may be sent to your spam or junk folder.

DO NOT WAIT UNTIL SUBMISSION DEADLINE TO REGISTER AS A VENDOR. The electronic submission link will be disabled at 11:00:00 a.m. Eastern time. Vendors will not have the ability to submit any electronic files once the deadline has passed and the City will accept no late submissions.

Step Two: Submit all materials electronically as one (1) file to City's Procurement website PRIOR to 11:00:00 a.m. (Eastern Time) on Tuesday, August 16, 2022. To submit electronic file: Visit the

procurement website at www.knoxvilletn.gov/bids Click "ITB - Tree Installation", Click "Submit Bid" (red button located at top of screen) Follow the prompts to upload and submit electronic file. The City prefers only one (1) bid file per submission. Files MUST use the following naming convention, listing the firm's name followed by the title of the project. Example: "ABC Company-Tree Installation.pdf." Should you need to merge multiple documents into one PDF please utilize Google to download a free software intended for merging pdf documents.

9. All proposals must be made on the Proposal Form supplied with the contract documents, and no interlineations, excisions, or special conditions shall be made or included in the Proposal Evaluation Sheet by the Proposer. **Any proposal on which there is an alteration of or departure from the Proposal Form may be considered irregular and may be rejected.** All proposals must be signed in full by the Proposer or Proposers in their business name or style when submitted and must show his or their complete address.
10. No proposer may withdraw his proposal for a period of 60 days after the actual date of the opening thereof.
11. Prior to submitting their proposals, proposers are to be registered with the Purchasing Division through the City of Knoxville's online Vendor Registration system. Instructions for registering online are available at www.knoxvilletn.gov/purchasing.
12. **Proposal submissions from un-registered proposers may be rejected.**
13. Payment for completed services delivered to and accepted by the City shall be at the contract price.
14. All proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
15. Proposers shall verify proposals before submission, as proposals cannot be withdrawn or corrected after being opened.
16. Within 30 days of delivery of the contract to the Contractor, the City must receive either the executed contract or, if execution of the contract is pending agreement of the parties as to contract language, a written request for extension indicating the cause of the delay and an estimated schedule for execution. The City may accept or reject the request for extension, but will afford reasonable opportunity for review. Failure to obtain a certificate of insurance prior to submission of a proposal will not be considered a reasonable basis for extension. If neither the executed contract nor a written request for extension has been received by the City within 30 days of delivery, the City may award to the next most responsive, responsible proposer.
17. By execution and delivery of a proposal submission, the proposer agrees that any additional terms and conditions, whether submitted to the City purposely or inadvertently, shall have no force or effect.
18. Proposers must provide a fully executed and notarized Drug-Free Workplace Affidavit with their bid submission.
19. Due to the successful proposer's likelihood of working in close proximity to children and adolescents, all proposers are required to submit an affidavit with their proposal stating that they agree not to allow any employee or volunteer who is awaiting trial or has been convicted of a felony crime involving the sexual exploitation of children, sexual offenses involving children, or violent crimes to participate in this Agreement. Failure by the proposer to comply with this requirement is grounds for immediate termination of the Agreement. Proposers are required to submit this affidavit with their proposal and failure to do so may be considered grounds for rejection of the proposal. Said affidavit is contained within this RFP for Proposer's use.

20. The City's performance and obligation to pay under this contract is subject to funding contingent upon an annual appropriation.
21. Proposers must comply with the President's Executive Orders No.11246 and 11375 which prohibit discrimination in employment regarding race, color, religion, sex or national origin. Proposers must not maintain or provide for their employees any facilities that are segregated on the basis of race, color, religion or national origin. Proposers must also comply with Title VI of the Civil Rights Act of 1964, Copeland Anti-Kick Back Act, the Contract Work Hours and Safety Standard Act, Section 402 of the Vietnam Veterans Adjustment Act of 1974 and Section 503 of the Rehabilitation Act of 1973, all of which are herein incorporated by reference.
22. ADA Compliance. With regard to the services performed under this Agreement, the Contractor will comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.* ("ADA"). The Contractor agrees that it will defend, indemnify and hold the City harmless against any and all claims, demands, suits or causes of action which arise out of any negligent and/or intentional act or omission by the Contractor, its employees, agents or representatives that violates the ADA. The Contractor agrees that the City will not be responsible for any cost or expenses arising from the Contractor's failure to comply with the ADA.
23. All proposers must comply with Title VI of the Civil Rights Act of 1964, as codified in 42 U.S.C. 2000d. The successful proposer must follow Title VI guidelines in all areas including hiring practices, open facilities, insurance, and wages. The City of Knoxville reserves the right to review all compliance records by a contract compliance officer designated by the City.
24. No interpretation of the meaning of the plans, specifications, or other pre-proposal documents will be made to any proposer orally. Each request for such interpretation should be in writing addressed to **Karisa Scott, Procurement Specialist** for the City of Knoxville, 400 Main Street, Room 667, Knoxville, TN 37902, or emailed to kscott@knoxvilletn.gov. To be given consideration, such requests/questions must be received at least five (5) business days prior to the date fixed for the opening of proposals. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be posted to the City's website at www.knoxvilletn.gov/bids. Submitting organizations are strongly encouraged to view this website often to see if addenda are posted. Failure of any proposer to receive such addendum or interpretation shall not relieve such Proposer from any obligation under his proposal as submitted. All addenda so issued shall become part of the Contract Documents.
25. Attention of all proposers is directed to the set off provision contained in Article II, Section 24-33, entitled, "Debts owed by persons receiving payments other than salary", and Section 2-1049 entitled "Receipt of benefits from City contracts by council members, employees, and officers of the City" of the Code of the City of Knoxville.
26. The City may terminate this Agreement at any time, with or without cause, by written notice of termination to the Contractor. If the City terminates this Agreement, and such termination is not a result of a default by the Contractor, the Contractor shall be entitled to receive as its sole and exclusive remedy the following amounts from the City, and the City shall have no further or other obligations to the Contractor: (a). The amount due to the Contractor for work executed through the date of termination, not including any future fees, profits, or other compensation or payments which the Contractor would have been entitled to receive if the Project had not been terminated; and (b) the direct out-of-pocket costs incurred by the Contractor for demobilization of the Project following receipt of the notice of termination, not to exceed the amount reasonably and actually required to demobilize the Project.
27. The City may, by written notice of default to the Contractor, terminate the whole or any part of this contract if the Contractor fails to make delivery of the supplies or to perform the services wherein

the time specified herein or any extension thereof; or if the Contractor fails to perform any of the other provisions of the contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as the Purchasing Agent may authorize in writing) after receipt of notice from the Purchasing Division specifying such failure.

28. If the contract is terminated in whole or in part for default, the City may procure, upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies of services similar to those so terminated.
29. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience of the City.
30. The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.
31. Before a contract will be signed by the City, the submitting entity, if selected, **must** provide the City Purchasing Division with a copy of its valid business license **or** with an affidavit explaining why it is exempt from the business licensure requirements of the city or county in which it is headquartered. If a contract is signed, the contractor's business license shall be kept current throughout the duration of the contract, and the contractor shall inform the City of changes in its business name or location. Any Contract resulting from this Request for Proposal shall be governed by and construed in accordance with the substantive laws of the State of Tennessee and its conflict of laws provisions. Venue for any action arising between the City and the Vendor from the Agreement shall lie in Knox County, Tennessee.
32. In compliance with Tennessee state law, proposals must be accompanied by a certification attesting that, to the best of the proposer's knowledge, the proposer does not engage in investment activities in Iran. The Iran Divestment Act of 2014 Certification of Noninclusion form may be found in this solicitation document.
33. When applicable and prior to the commencement of the contract, contractor must, at its sole expense, obtain and maintain in full force and effect for the duration of the Agreement and any extension hereof at least the following types and amounts of insurance for claims which may arise from or in connection with this Agreement. Contractor shall furnish the City of Knoxville with properly executed certificates of insurance which shall clearly evidence all insurance required by the City. All insurance must be underwritten by insurers with an A.M. Best rating of A-VIII or better. Such insurance shall be at a minimum the following:
 - A. **Commercial General Liability Insurance**; occurrence version commercial general liability insurance, and if necessary umbrella liability insurance, with a limit of not less than two million dollars (\$2,000,000) each occurrence for bodily injury, personal injury, property damage, and products and completed operations. If such insurance contains a general aggregate limit, it shall apply separately to the work/location in this Agreement or be no less than three million dollars (\$3,000,000).

Such insurance shall:

- (a.) Contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-

listed insureds. Proof of additional insured status up to and including copies of endorsements and/or policy wording will be required.

(b.) For any claims related to this project, Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, officers, employees, and volunteers. Any insurance or self-insurance programs covering the City, its officials, officers, employees, and volunteers shall be excess of Contractor's insurance and shall not contribute with it.

(c.) At the sole discretion of the City, dedicated limits of liability for this specific project may be required.

- B. **Automobile Liability Insurance;** including vehicles owned, hired, and non-owned, with a combined single limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Contractor.
- C. **Workers' Compensation Insurance.** Contractor shall maintain workers' compensation insurance with statutory limits as required by the State of Tennessee or other applicable laws and employers' liability insurance with limits of not less than \$500,000. Contractor shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by Contractor's workers' compensation insurance coverage. Such insurance shall include a waiver of subrogation in favor of the City. Proof of waiver of subrogation up to and including copies of endorsements and/or policy wording will be required.
- D. **Other Insurance Requirements.** Contractor shall:
- Prior to commencement of services, furnish the City with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to the City Attorney of Knoxville; P.O. Box 1631; Knoxville, Tennessee 37901. Proof of policy provisions regarding notice of cancellation will be required.
 - Upon the City's request, provide certified copies of endorsements and policies if requested by the City in lieu of or in addition to certificates of insurance. Copies of policies will only be requested when contracts are deemed to be extremely or uniquely hazardous, include a dollar amount that is significant to the overall budget of the City or a City Department, or the coverage(s) may not follow standard insurance forms. A policy will only be requested after the City's Risk Manager has reviewed the contract and proof of coverage has been provided. Should the certificate of insurance refer to specific coverage wording or endorsements(s), proof of such policy wording or endorsement(s) will be required.
 - Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of services.
 - Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract.
 - If Contractor cannot procure insurance through an insurer having an A.M. Best rating of A-VIII, Contractor may, in the alternative, place such insurance with insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A. Modification of this standard may be considered upon appeal to the City Law Director.

- Require all subcontractors to maintain during the term of the Agreement Commercial General Liability insurance, Business Automobile Liability insurance, and Workers' Compensation/Employer's Liability insurance (unless subcontractor's employees are covered by Contractor's insurance) in the same manner as specified for Contractor. Contractor shall furnish subcontractors' certificates of insurance to the City without expense immediately upon request.
 - Any deductibles and/or self-insured retentions greater than \$50,000 must be disclosed to and approved by the City of Knoxville prior to the commencement of services. Use of large deductibles and/or self-insured retentions may require proof of financial ability as determined by the City.
 - The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by Contractor for the City. Proof of waiver of subrogation up to and including copies of endorsements and/or policy wording will be required.
 - All general liability policies must be written on an occurrence basis, unless the Risk Manager determines that a claims made basis is reasonable in the specific circumstance. Use of policies written on a claims made basis must be approved by the Risk Manager and retroactive dates and/or continuation dates must be provided to the City prior to commencement of any work performed. Professional Liability and Environmental Liability (Pollution Coverage) are most commonly written on a claims made basis and are generally acceptable in that form.
34. The successful proposer will be required to sign a contract which contains the following indemnification clause. This indemnification clause will not be altered in any way. Failure to agree with this indemnification clause in the contract may result in the City moving to the next responsible responsive proposer.

Contractor shall defend, indemnify and hold harmless the City, its officers, employees and agents from any and all liabilities which may accrue against the City, its officers, employees and agents or any third party for any and all lawsuits, claims, demands, losses or damages alleged to have arisen from an act or omission of Contractor in performance of this Agreement or from Contractor's failure to perform this Agreement using ordinary care and skill, except where such injury, damage, or loss was caused by the sole negligence of the City, its agents or employees.

Contractor shall save, indemnify and hold the City harmless from the cost of the defense of any claim, demand, suit or cause of action made or brought against the City alleging liability referenced above, including, but not limited to, costs, fees, attorney fees, and other expenses of any kind whatsoever arising in connection with the defense of the City; and Contractor shall assume and take over the defense of the City in any such claim, demand, suit, or cause of action upon written notice and demand for same by the City. Contractor will have the right to defend the City with counsel of its choice that is satisfactory to the City, and the City will provide reasonable cooperation in the defense as Contractor may request. Contractor will not consent to the entry of any judgment or enter into any settlement with respect to an indemnified claim without the prior written consent of the City, such consent not to be unreasonably withheld or delayed. The City shall have the right to participate in the defense against the indemnified claims with counsel of its choice at its own expense.

Contractor shall save, indemnify and hold City harmless and pay judgments that shall be rendered in any such actions, suits, claims or demands against City alleging liability referenced above.

The indemnification and hold harmless provisions of this Agreement shall survive termination of the Agreement.

Submission Forms



CITY OF KNOXVILLE

Proposal Form

TO: Purchasing Division
City of Knoxville
Suite 667-674
City/County Building
400 Main Street
Knoxville, TN 37902

Having carefully examined the specifications entitled "Tree Installation" to open on Tuesday, August 16, 2022, at 11:00:00 a.m. and the other Contract Documents and addenda, we hereby propose to provide the services as described herein for the following sum:

B & B TREES, INSTALLED AS SPECIFIED:

UNIT PRICE

2" Ball and Burlap Tree, per (1) tree

3" Ball and Burlap Tree, per (1) tree

TREE STAKING, INSTALLED AS SPECIFIED:

UNIT PRICE

Stake installed tree, per (1) tree

CONTAINERIZED TREES, INSTALLED AS SPECIFIED:

UNIT PRICE

15-gallon containerized tree, per (1) tree

30-gallon containerized tree, per (1) tree

45-gallon containerized tree, per (1) tree

Firm Name: _____

Official Address: _____

DUNS #: _____

Business License Expiration Date: _____

(By)

(Name Typed)

Date _____

(Title)

Email _____

Phone _____

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of _____

County of _____

_____, being first duly sworn, deposes and says that:

1. He/She is the _____ of _____, the firm that has submitted the attached Bid;
2. He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
3. Such Bid is genuine and is not a collusive or sham Bid;
4. Neither the said Bid nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from proposing in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm, or person to fix the price or prices in the attached Bid or of any other Bidder, firm, or person to fix any overhead, profit, or cost element of the bid price or the bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Knoxville or any person interested in the proposed Contract; and
5. The price or prices quoted in that attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affidavit.

(Signed): _____

Title: _____

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

NOTARY PUBLIC

My Commission expires _____

Child Crime Affidavit

State of _____

County of _____

_____, being first duly sworn, deposes and says that:

(1) He/She is the owner, partner, officer, representative, or agent of _____
_____, the Bidder that has submitted the attached Bid;

(2) The Bidder _____ will abide by the following if chosen as the successful bidder:

The Bidder _____ agrees not to allow any employee or volunteer who is awaiting trial or has been convicted of a felony crime involving the sexual exploitation of children, sexual offenses involving children or violent crimes to participate in this Agreement at sites where children may be present. Failure by the Bidder to comply with this requirement is grounds for immediate termination of the Agreement.

Signed: _____

Title: _____

Subscribed and sworn to before me this _____ day of _____, 2_____.

My commission expires: _____

Drug-Free Workplace Affidavit

State of _____

County of _____

_____, being
duly sworn, deposes, and says that:

- (1) He/She is a principal officer of ____, the firm that has submitted the attached Proposal, his or her title being ____ of the firm; and
- (2) He/She has personal knowledge of the policies of the above-named firm with respect to the maintenance of a drug-free workplace; and
- (3) He/She certifies that all provisions and requirements of the Tennessee Drug-Free Workplace Program, as established by Tenn. Code Ann. §§ 50-9-101 et. seq., have been met and implemented.

(Signed)

(Title)

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

Title _____

My Commission expires _____

Iran Divestment Act

Certification of Noninclusion

NOTICE: Pursuant to the Iran Divestment Act, Tenn. Code Ann. § 12-12-106 requires the State of Tennessee Chief Procurement Officer to publish, using creditable information freely available to the public, a list of persons it determines engage in investment activities in Iran, as described in § 12-12-105. Inclusion on this list makes a person ineligible to contract with the state of Tennessee; if a person ceases its engagement in investment activities in Iran, it may be removed from the list. A list of entities ineligible to contract in the State of Tennessee Department of General Services or any political subdivision of the State may be found here:

[https://www.tn.gov/content/dam/tn/generalservices/documents/cpo/cpo-library/public-information-library/List of persons pursuant to Tenn. Code Ann. 12-12-106 Iran Divestment Act updated 7.7.17.pdf](https://www.tn.gov/content/dam/tn/generalservices/documents/cpo/cpo-library/public-information-library/List_of_persons_pursuant_to_Tenn._Code_Ann._12-12-106_Iran_Divestment_Act_updated_7.7.17.pdf)

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to T.C.A. § 12-12-106.

Vendor Name (Printed)	Address
By (Authorized Signature)	Date Executed
Printed Name and Title of Person Signing	

NOTARY PUBLIC:

Subscribed and sworn to before me this _____ day of _____, 2_____.

My commission expires: _____

Diversity Business Enterprise Program (DBE) Program

The City of Knoxville strongly encourages prime contractors to employ diverse businesses in the fulfillment of contracts/projects for the City of Knoxville.

The City of Knoxville's Fiscal Year 2022 goal is to conduct 4.3% of its business with minority owned businesses, 10.7% of its business with women-owned businesses, and 37.1% with small businesses.

While the City cannot engage (pursuant to state law) in preferential bidding practices, the City does **strongly encourage** prime contractors to seek out and hire diverse businesses in order to help the City meet its goals as stated above. As such, the City encourages prime contractors to seek out and consider competitive sub-bids and quotations from diverse businesses.

For DBE tracking purposes, the City requests that prime contractors who are bidding, proposing, or submitting statements of qualifications record whether or not they plan to employ DBE's as sub-contractors or consultants. With that in mind, please fill out, sign and submit (with your bid/proposal) the following sub-contractor/ consultant statement.

CITY OF KNOXVILLE DIVERSITY BUSINESS DEFINITIONS

Diversity Business Enterprise (DBE's) are minority-owned (MOB), women-owned (WOB), service-disabled veteran-owned (SDVO), and small businesses (SB), who are impeded from normal entry into the economic mainstream because of past practices of discrimination based on race or ethnic background. These persons must own at least 51% of the entity and operate or control the business on a daily basis.

Minority: A person who is a citizen or lawful admitted permanent resident of the United States and who is a member of one (1) of the following groups:

- a. African American, persons having origins in any of the Black racial groups of Africa;
- b. Hispanic American, persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race;
- c. Native American, persons who have origin in any of the original peoples of North America
- d. Asian American, person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

Minority-owned business (MOB) is a continuing, independent, for profit business that performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or more minority individuals.

Woman-owned business (WOB) is a continuing, independent, for profit business that performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or more women.

Service Disabled Veteran-owned business (SDOV) is a continuing, independent, for profit business that performs a commercially useful function, owned by any person who served honorably on active duty in the armed forces of the United States with at least a twenty percent (20%) disability that is service connected. Meaning such disability was incurred or aggravated in the line of duty in the active military, naval or air service, and is at least fifty-one percent (51%) owned and controlled by one (1) or more service disabled veteran.

Small Business (SB) is a continuing, independent, for profit business which performs a commercially useful function and has total gross receipts of not more than ten million dollars (\$10,000,000) average over a three-year period or employs no more than ninety-nine (99) persons on a full-time basis.

Subcontractor/Consultant Statement
(TO BE SUBMITTED IN THE BID/PROPOSAL ENVELOPE)

We _____ do certify that on the
(Bidder/Proposer Company Name)

(Project Name)

\$ _____
(Amount of Bid)

Please select one:

Option A: Intent to subcontract using Diverse Businesses

A Diversity business will be employed as subcontractor(s), vendor(s), supplier(s), or professional service(s). The estimated **dollar value** of the amount that we plan to pay is:

\$ _____.
Estimated Amount of Subcontracted Service

Diversity Business Enterprise Utilization			
Description of Work/Project	Amount	Diverse Classification (MOB, WOB, SB, SDOV)	Name of Diverse Business

Option B: Intent to perform work "without" using Diverse Businesses

We hereby certify that it is our intent to perform 100 % of the work required for the contract, work will be completed without subcontracting, or we plan to subcontract with non-Diverse companies.

DATE: _____ COMPANY NAME: _____

SUBMITTED BY: _____ TITLE: _____
(Authorized Representative)

ADDRESS: _____

CITY/STATE/ZIP CODE: _____

TELEPHONE NO: _____