

## TREE PLANTING 2024 CONTRACT

**Tree Planting 2024 Contract** (the “**Contract**”) is entered between the Village of Buffalo Grove (hereinafter the “**Village**” or “**Owner**”), an Illinois home-rule unit of government, and Yellowstone Landscape Inc an (hereinafter the “**Contractor**”) on this 6th day of February, 2024 (the “**Effective Date**”). The Village and the Contractor are hereinafter sometimes collectively referred to as the “**Parties**” and individually as a “**Party**”.

### RECITALS

**WHEREAS**, the Village has solicited bids for the Work (defined below), Contractor has submitted a bid for the Work and Village has selected Contractor for the Work based on their bid; and

**WHEREAS**, the Contractor wishes to enter into this Contract with the Village and the Village wishes to enter into this Contract with the Contractor for the Work;

**NOW THEREFORE**, for and in consideration of the mutual covenants and promises herein contained, the adequacy and sufficiency of which are hereby acknowledged by the Parties, it is agreed as follows:

### ARTICLE I - WORK TO BE DONE BY THE CONTRACTOR

The Village does hereby hire and contract with the Contractor to provide all the labor, equipment, materials and/or services described more thoroughly on Contract **Exhibit A** (the “**Work**”) which is incorporated into the Contract by this reference.

### ARTICLE II - CONTRACT DOCUMENTS

The following exhibits are attached hereto and incorporated herein by this reference:

**Contract Exhibit A – Description of the Work**

**Contract Exhibit B – Schedule of Prices**

**Contract Exhibit C – Performance and Payment Bond**

If any term or provision of this Contract shall conflict with any term or provision of the exhibits referenced above, the terms and provisions of the exhibit shall control.

### **ARTICLE III - CONTRACT AMOUNT**

The Village agrees to pay the Contractor for the proper and timely performance of the Work in strict accordance with this Contract as detailed in **Contract Exhibit B** (the “**Schedule of Prices**”) Unless explicitly provided otherwise in this Contract, the detailed sums shall be the full and exclusive compensation owed to the Contractor for the Work; and Contractor may not seek additional payments from the Village.

### **ARTICLE IV – APPLICATION FOR PAYMENT**

The Contractor shall be paid at most once a month and only after providing the Village the following:

1. An executed and notarized Contractor’s Sworn Statement in a form similar to AIA G702 or AIA G703;

All payments under this Contract must be approved by the Village’s Board at regularly scheduled meetings. The Village reserves the right to request any receipts, invoices, proof of payments as the Village, in its sole discretion, may deem necessary to justify the payment requested *prior* to paying the requested payment. The Contractor shall furnish with his final application for payment a Final Lien Waiver from itself and, if not already provided, from every subcontractor and materialman of the Work.

The Contractor acknowledges that the Village is a unit of local government and that all payments under the Contract are subject to the Local Government Prompt Payment Act, 50 ILCS 505 et seq. To that extent, the Village shall have forty-five calendar (45) days from receipt of a bill or invoice to pay the same before it is considered late under the Contract. Interest, if any, charged for any late payments will be subject to the interest rate caps specified in the Prompt Payment Act.

### **ARTICLE V – CONTRACT TIME**

The Contractor shall fully, and not substantially, complete all the Work and the Work shall be accepted by the Director of Public Works, provided that acceptance by the Director of Public Works shall not be unreasonably delayed, on or before **June 14, 2024**.

If the Contractor shall fail to complete the work within the Contract Time which shall include any proper extension granted by the Village, the Contractor shall pay to the Village an amount equal to Five Hundred dollars (\$500) per calendar day for each day past the Contract Time until final acceptance by the Village as liquidated damages and not as a penalty.

**Extension:** The Village reserves the right to extend this contract for one (1) year. Written requests for price revisions after the first-year contract period shall be submitted at least thirty (30) calendar days prior to when the contract was executed. Requests must be based upon and include documentation of the actual change in the cost of the components involved in the Contract and shall not include overhead, or profit. In any case requests for price revisions shall not exceed the most recent 12-month Consumer Price Index (CPI-All Urban Consumers, Chicago) or 3% whichever is less.

The Village reserves the right to reject a proposed price increase and terminate the Contract.

For any year beyond the initial year, this Contract is contingent upon the appropriation of sufficient funds by the Village Board; no charges shall be assessed for failure of the Village to appropriate funds in future contract years.

## **ARTICLE VI – PERFORMANCE and PAYMENT BOND**

The Contractor shall provide the Village with a performance and payment bond in substantially the same form as on **Contract Exhibit C** (the “**Performance and Payment Bond**”) prior to Contractor beginning any Work and within 10 calendar days of the Notice of Award sent to the Contractor.

## **ARTICLE VII – ACCIDENT PREVENTION**

The Contractor shall exercise every precaution at all times to protect itself, the property of the Village and the property of others. The safety provision of all applicable laws and ordinances shall be strictly observed by the Contractor at all times. Any practice deemed hazardous or dangerous by the Director of Public Works or his authorized representatives shall be immediately discontinued by the Contractor upon receipt of instructions from the Director of Public Works or his authorized representatives. To the fullest extent permitted by law, the Contractor shall be solely responsible for all safety-related matters.

## **ARTICLE VIII – INDEMNIFICATION**

To the fullest extent permitted by law, the Contractor agrees to defend, pay on behalf of, indemnify, and hold harmless the Village, its elected and appointed officials, agents, employees and volunteers and others working on behalf of the Village against any and all claims, demands, suits or loss, including all costs connected therewith, and for any damages which may be asserted, claimed or recovered against or from the Village, its elected and appointed officials, agents, employees and volunteers and others working on behalf of the Village, by reason of personal injury, including bodily injury and death, and/or property damage, whether damage to property of the Village or of a third party, including loss of use thereof, which arises out of or is in any way connected or associated with the Contract and the Work.

## **ARTICLE IX – CONTRACTORS INSURANCE**

Contractor shall procure and maintain, for the duration of the Contract and any maintenance period, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance: Coverage shall be at least as broad as:

Insurance Services Office Commercial General Liability occurrence form CG 0001 with the Village of Buffalo Grove named as additional insured on a primary and non-contributory basis. This primary, non-contributory additional insured coverage shall be confirmed through the following required policy endorsements: **ISO Additional Insured Endorsement CG 20 10 or CG 20 26 and CG 20 01 04 13**

1. Insurance Services Office Commercial General Liability occurrence form CG 0001 with the Village named as additional insured, on a form at least as broad as the ISO Additional Insured Endorsement CG 2010 and CG 2026
2. Insurance Service Office Business Auto Liability coverage form number CA 0001, Symbol 01 "Any Auto."
3. Workers' Compensation as required by the Labor Code of the State of Illinois and Employers' Liability insurance.

B. Minimum Limits of Insurance: Contractor shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. The general aggregate shall be twice the required occurrence limit. Minimum General Aggregate shall be no less than \$2,000,000 or a project/contract specific aggregate of \$1,000,000.
2. Business Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Workers' Compensation and Employers' Liability: Workers' Compensation coverage with statutory limits and Employers' Liability limits of \$500,000 per accident.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Village. At the option of the Village, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as it respects the Village, its officials, agents, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigation, claim administration and defense expenses.

D. Other Insurance Provisions

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

1. General Liability and Automobile Liability Coverages:
  - a. The Village, its officials, agents, employees and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Village, its officials, agents, employees and volunteers.
2. The Contractor's insurance coverage shall be primary and non-contributory as respects the Village, its officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the Village, its officials, agents, employees and volunteers shall be excess of Contractor's insurance and shall not contribute with it.
3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Village, its officials, agents, employees and volunteers.
4. The Contractor's insurance shall contain a Severability of Interests/Cross Liability clause or language stating that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. If any commercial general liability insurance is being provided under an excess or umbrella liability policy that does not "follow form," then the Contractor shall be required to name the Village, its officials, employees, agents and volunteers as additional insureds
6. All general liability coverages shall be provided on an occurrence policy form. Claims-made general liability policies will not be accepted.
7. The contractor and all subcontractors hereby agree to waive any limitation as to the amount of contribution recoverable against them by the Village. This specifically includes any limitation imposed by any state statute, regulation, or case law including any Workers' Compensation Act provision that applies a limitation to the amount recoverable in contribution such as Kotecki v. Cyclops Welding

E. All Coverages:

1. No Waiver. Under no circumstances shall the Village be deemed to have waived any of the insurance requirements of this Contract by any act or omission, including, but not limited to:
  - a. Allowing work by Contractor or any subcontractor to start before receipt of Certificates of Insurance and Additional Insured Endorsements.
  - b. Failure to examine, or to demand correction of any deficiency, of any Certificate of Insurance and Additional Insured Endorsement received.
2. Each insurance policy required shall have the Village expressly endorsed onto the policy as a Cancellation Notice Recipient. Should any of the policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

F. Acceptability of Insurers

Insurance is to be placed with insurers with a Best's rating of no less than A-, VII and licensed to do business in the State of Illinois.

G. Verification of Coverage

**Contractor shall furnish the Village with certificates of insurance naming the Village, its officials, agents, employees, and volunteers as additional insured's and with original endorsements, affecting coverage required herein.** The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received and approved by the Village before any work commences. The Village reserves the right to request full certified copies of the insurance policies and endorsements.

H. Subcontractors

Contractor shall include all subcontractors as insured's under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to all of the requirements stated herein.

I. Assumption of Liability

The contractor assumes liability for all injury to or death of any person or persons including employees of the contractor, any subcontractor, any supplier or any other person and assumes liability for all damage to property sustained by any person or persons occasioned by or in any way arising out of any work performed pursuant to the Contract.

J. Workers' Compensation and Employers' Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Village of Buffalo Grove, its officials, employees, agents and volunteers for losses arising from work performed by Contractor for the municipality.

K. Failure to Comply

In the event the Contractor fails to obtain or maintain any insurance coverage's required under this contract, The Village may purchase such insurance coverage's and charge the expense thereof to the Contractor.

**ARTICLE X – CERTIFICATE OF AUTHORITY AND SURETY CERTIFICATE**

The Contractor shall furnish the Village with a current Certificate of Authority or Surety Certificate issued by the Illinois Department of Insurance for the bonding company and insurance company they are using. In lieu of a Certificate of Authority of Surety Certificate, the Contractor may provide certificate of good standing from the Illinois Department of Insurance’s website.

**ARTICLE XI – COPYRIGHTS AND LICENSES**

The Contractor agrees that all documents of any kind whatsoever, and in whatever medium expressed, prepared by the Contractor and the Contractor’s consultants in connection with the Work (collectively, the “**Documents**”) or otherwise pursuant to this Contract and all rights therein (including trademarks, trade names, rights or use, copyrights and/or other proprietary rights) shall be and remain the sole property of the Village (regardless of whether the Village or the Contractor terminates this Contract for any reason whatsoever). The Contractor hereby agrees that the Documents are or shall be deemed to be “Works for Hire” within the meaning of Section 101 of the Copyright Act, and the Contractor hereby assigns to the Village all right, title and interest therein. Notwithstanding, the Contractor shall indemnify and hold harmless the Village, its appointed and elected officials, employees, agents and volunteers from and against all claims, damages, losses, and expenses (including attorneys’ fees and court and arbitration costs) arising out of any infringement of patent rights or copyrights incident to the Documents and the Work.

**ARTICLE XII – NOTICE**

All notices, demands, requests, consents, approvals and other communications required or permitted to be given hereunder (a “**Notice**”) shall be in writing and shall be deemed effective three (3) business days after mailing if mailed by certified mail with return receipt requested and immediately if served personally, and shall be addressed to the following:

IF TO THE VILLAGE: Village of Buffalo Grove  
50 Raupp Blvd  
Buffalo Grove, IL 60089  
mskibbe@vbg.org  
ATTN: Director of Public Works

WITH COPIES TO: Cc: pbrankin@schainbanks.com  
Cc:Tcwisniewski@vbg.org

IF TO THE CONTRACTOR: Yellowstone Landscape  
250 N Garden Ave  
Roselle, IL 60172  
atucker@yellowstonelandscape.com  
ATTN: Aleksander Tucker

### **ARTICLE XIII – CHANGE ORDERS**

If the Village requests any change to the Work the Village shall do so by delivering Notice of the same to the Contractor and the change requested by the Village shall be effective upon receipt of the Notice by the Contractor. The Contractor may propose a change to the Work by delivering Notice of the proposed change along with a description of the changes full effect on the Work to the Village; provided, such requested change shall not be deemed accepted until the Village has delivered to the Contractor Notice of the same. Prior to approving a proposed change to the Work by the Contractor, the Village may request such additional documentation as it deems necessary to investigate the proposed change. The Contractor shall be responsible for informing all its employees and subcontractors of any changes to the Work, whether such change is requested by the Contractor or the Village.

### **ARTICLE XIV – NOTICE OF STARTING WORK**

The Contractor shall provide Notice to the Village prior to the Contractor, or its employees or subcontractors, starting the Work or any phase of the Work.

### **ARTICLE XV – SEQUENCE OF THE WORK**

The Director of Public Works shall have the power to direct the order and sequence of the Work. On any major portion of the Work, all accessories shall be set coincident with the main construction. Payment for major portions of the Work may be withheld until proper completion of accessories.

### **ARTICLE XVI – SUPERVISION**

The Director of Public Works shall have override power to superintend and direct the Work, and the Contractor shall perform all of the Work herein specified to the satisfaction, approval and acceptance of the Police Chief. The Contractor shall have at all times a competent foreman or superintendent at the Work's site, who shall have full authority to act for the Contractor and to receive and execute orders from the Police Chief, and any instructions given to such superintendent or person, executing work for the Contractor, shall be binding on the Contractor as though it was personally given to the Contractor.

### **ARTICLE XVII – STANDARD OF WORK AND WORKERS**

The Contractor shall employ competent staff and shall discharge, at the request of the Police Chief, any incompetent, unfaithful, abusive or disorderly workers in its employ. Where experts or skilled workers must be employed, only expert or skilled workers shall be employed.

**ARTICLE XVIII – CONDITIONS OF THE WORK SITE**

The Contractor shall provide and maintain such sanitary accommodations for the use of its employees as may be necessary to comply with the State and local Board of Health requirements. Public nuisances will not be permitted. The Contractor shall leave said Work's site(s) in the best possible condition to the complete satisfaction of the Police Chief. No vehicles of any kind shall be placed, parked, or operated upon any grass areas at any time except as authorized by the Director of Public Works or his authorized representative. Further, the Contractor shall exercise every precaution for the protection of all persons and all property. The safety provisions of all-applicable laws and ordinances shall be strictly observed. Any practice hazardous in the opinion of the Director of Public Works or his authorized representatives shall be immediately discontinued by the Contractor upon his receipt of instructions from the Director of Public Works or his authorized representative. To the maximum extent permitted by law, the Contractor shall be responsible for all safety-related matters.

**ARTICLE XIX – WARRANTY PERIOD**

All material and workmanship shall be warranted and guaranteed according to manufacturer's recommendation after inspection and approval by the Director of Public Works or his designated representative. All work performed by the Contractor shall be warranted by the Contractor following completion and final acceptance of the Work for a period of twelve (12) months from the date of final, and not substantial, completion.

**ARTICLE XX – ACCIDENTS**

In the event of any accident of any kind that involves the general public or property of the Village or a third party, the Contractor shall immediately notify the Director of Public Works by phone as well as provide Notice of the same. The Notice shall include a full accounting of all details of the accident. The Contractor shall furnish the Village with copies of all reports of such accidents at the same time that the reports are forwarded to any other interested parties.

**ARTICLE XXI – NO ASSIGNMENT**

If the Contractor sublets or assigns any part of the Work then the Contractor shall not under any circumstances be relieved of its liabilities hereunder. All transactions of the Village shall be with the Contractor. Subcontractors shall be recognized only in the capacity of employees or workmen and shall be subject to the same requirements as to character and competence. The Contractor shall not assign, transfer, convey, sell or otherwise dispose of the whole or any part of this Contract to any person, firm or corporation without written consent of the Director of Public Works or his authorized representative.



**ARTICLE XXII – DEFAULT**

The following shall constitute a default an “**Event of Default**” by the Contractor under this Contract:

- A. If the Contractor shall fail to strictly observe or perform one or more of the terms, conditions, covenants and agreements of this Contract;
- B. If there shall be placed on any property owned by the Village any mechanics’, materials’ or suppliers’ lien;
- C. If there shall be instituted any proceeding against the Contractor seeking liquidation, dissolution or similar relief and the same shall not be dismissed within forty-five (45) calendar days;
- D. If there shall be appointed any trustee, receiver or liquidator of the Contractor and such appointment shall not have been vacated within forty-five (45) calendar days; and
- E. If the Contractor fails to maintain or obtain any and all permits, licenses and the like, if any, required by the Village, State or Federal governments for the Work.

Upon any Event of Default the Village shall have the option of (i) terminating the Contract; (ii) pursuing any remedy available to it at law or in equity; or (iii) pursuing both simultaneously. In addition, upon an Event of Default, the Village may withhold payments due to the Contractor until it has hired a replacement of the Contractor and deducted all costs of hiring a replacement.

**ARTICLE XXIII – DELAYS**

The Contractor shall not be liable in damages for delays in performance when such delay is the result of fire, flood, strike, acts of God, or by any other circumstances which are beyond the control of the Contractor; provided, however, under such circumstances the Village may, at its option, cancel the Contract.

**ARTICLE XXIV – COMPLIANCE WITH LAWS**

The Contractor shall comply with all applicable laws, regulations and rules promulgated by any federal, state, local, or other governmental authority or regulatory body pertaining to all aspects of the Work, now in effect, or which may become in effect during the performance of the Work. The scope of the laws, regulations, and rules referred to in this paragraph includes, but is in no way limited to, the Illinois Human Rights Act, Illinois Equal Pay Act of 2003, Occupational Safety & Health Act along with the standards and regulations promulgated pursuant thereto (including but not limited to those safety requirements involving work on elevated platforms), all forms of traffic regulations, public utility, Interstate and Intrastate Commerce Commission regulations, Workers’ Compensation Laws, Public Construction Bond Act, Public Works Preference Act, Employment of Illinois Workers on Public Works Act, USA Security Act, federal Social Security Act (and any of its titles), and any other law, rule or regulation of the Illinois Department of Labor, Department of Transportation, Illinois Environmental Protection Act, Illinois Department of Natural Resources, Illinois Department of Human Rights, Human Rights Commission, EEOC, and the Village of Buffalo Grove. Notwithstanding the following, the Contractor shall particularly note that:

**A. NO DISCRIMINATION** – The Contractor shall comply with the provisions of the Illinois Public Works Employment Discrimination Act and the Illinois Human Rights Act/Equal Opportunity Clause which, pursuant to Illinois law, are deemed to be part of this Contract.

**B. FREEDOM OF INFORMATION** - The Contractor agrees to furnish all documentation related to the Contract, the Work and any documentation related to the Village required under an Illinois Freedom of Information Act (ILCS 140/1 et. seq.) (“**FOIA**”) request within five (5) calendar days after the Village issues Notice of such request to the Contractor. The Contractor agrees to defend, indemnify and hold harmless the Village, and agrees to pay all reasonable costs connected therewith (including, but not limited to attorney’s and witness fees, filing fees and any other expenses) for the Village to defend any and all causes, actions, causes of action, disputes, prosecutions, or conflicts arising from Contractor’s actual or alleged violation of FOIA or the Contractor’s failure to furnish all documentation related to a FOIA request within five (5) calendar days after Notice from the Village for the same. Furthermore, should the Contractor request that the Village utilize a lawful exemption under FOIA in relation to any FOIA request thereby denying that request, Contractor agrees to pay all costs connected therewith (such as attorneys' and witness fees, filing fees and any other expenses) to defend the denial of the request. This defense shall include, but not be limited to, any challenged or appealed denials of FOIA requests to either the Illinois Attorney General or a court of competent jurisdiction.

**C. ILLINOIS WORKERS ON PUBLIC WORKS ACT** - To the extent applicable, the Contractor shall comply with the Illinois Workers on Public Works Act, 30 ILCS 570/1 et seq., and shall provide to the Village any supporting documentation necessary to show such compliance.

**D. NOT A BLOCKED PERSON** - The Contractor affirms and covenants that neither the Contractor nor any individual employed by the Contractor for this Work or under this Contract is a person forbidden from doing business with a unit of local government under Executive Order No. 13224 (Sept 23, 2001), 66 Fed.Reg. 49,079 (Sept 23, 2001) or is a person registered on the Specially Designated Nationals and Blocked Persons List. The Contractor shall indemnify the Village from all costs associated with failure to comply with this paragraph.

**E. SUBSTANCE ABUSE PREVENTION ON PUBLIC WORKS ACT** - The Contractor knows, understands and acknowledges its obligations under the Substance Abuse Prevention on Public Works Act (820 ILCS 265/1 et seq.), and shall comply and require all subcontractors and lower tiered contractors to comply with the requirements and provisions thereof.

#### **ARTICLE XXV – NO WAIVER OF RIGHTS**

A waiver by the Village of any Event of Default or any term of provision of this Contract shall not be a waiver of the same Event of Default, another Event of Default or any other term or provision of this Contract.

#### **ARTICLE XXVI – CONTROLLING LAW AND VENUE**

This Contract is entered into in the State of Illinois, for work to be performed in the State of Illinois and shall be governed by and construed in accordance with the laws of the State of Illinois. Any legal matters or dispute shall be resolved in the Circuit Court of Cook County and the Parties hereby submit to the jurisdiction of such Circuit Court. This Contract shall be construed without regard to any presumption or other rule requiring construction against the Party causing the Contract to be drafted.

**ARTICLE XXVII – MISCELLANEOUS**

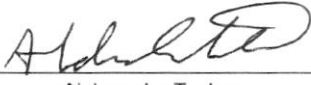
- A. AMENDMENT** – This Contract may be amended only in writing executed by both Parties.
- B. NO RECORDING** – This Contract, or a memorandum thereof, may not be recorded in any form by either Party. If either Party records this Contract, or a memorandum thereof, they shall immediately file a release of the same.
- C. COUNTERPARTS** – This Contract may be executed by the Parties in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute an original instrument.
- D. SECTION HEADINGS** – The headings in the Contract are intended for convenience only and shall not be taken into consideration in any construction or interpretation of the Contract.
- E. NO THIRD-PARTY BENEFICIARIES** – This Contract does not confer any rights or benefits on any third party.
- F. BINDING EFFECT** – This Contract shall be binding and inure to the benefit of the Parties hereto, their respective legal representatives, heirs and successors-in-interest.
- G. ENTIRE AGREEMENT** – This Contract supersedes all prior agreements and understandings and constitutes the entire understanding between the Parties relating to the subject matter hereof.
- H. SEVERABILITY** - If any term, condition or provision of the Contract is adjudicated invalid or unenforceable, the remainder of the Contract shall not be affected and shall remain in full force and effect, to the fullest extent permitted by law.
- I. TORT IMMUNITY DEFENSES** - Nothing contained in this Contract is intended to constitute nor shall constitute a waiver of the rights, defenses, and immunities provided or available to the Village under the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10 *et seq.*
- J. CALENDAR DAYS AND TIME.** Unless otherwise provided in this Contract, any reference in this Contract to “day” or “days” shall mean calendar days and not business days. If the date for giving of any notice required to be given, or the performance of any obligation, under this Contract falls on a Saturday, Sunday or federal holiday, then the notice or obligation may be given or performed on the next business day after that Saturday, Sunday or federal holiday.
- K. TERMINATION OF CONTRACT.** The Contract may be terminated, in whole or in part, by either party if the other party substantially fails to fulfill its obligations under the Contract through no fault of the terminating party; or the Village may terminate the Contract, in whole or in part, for its convenience. However, no such termination may be effected unless the terminating party gives the other party: (1) not less than thirty (30) calendar days written notice by certified mail of intent to terminate, and (2) an opportunity for a meeting with the terminating party before termination.

IN WITNESS WHEREOF, the Parties hereto have caused the Contract to be executed as of the Effective Date.

**Village of Buffalo Grove,**  
an Illinois home-rule unit of government

**Company Acres Enterprises LLC d/b/a Yellowstone Landscape, Inc.**  
[An Illinois incorporated company]

By:   
Name: Dane Bragg  
Title: Village Manager

By:   
Name: Aleksander Tucker  
Title: Business Development Manager

CONTRACT EXHIBIT A- DESCRIPTION OF THE WORK

**[Insert Description of the Work]**

## SCOPE OF WORK

The work services, equipment, labor and/or materials below shall be collectively referred to as the “Work”:

The following request for bid involves planting an estimated **three hundred (300)** shade trees with a **caliper size of 2.5”** in the Village of Buffalo Grove, Illinois, as herein specified and directed by the Deputy Director of Public Works Operations, Department of Public Works, 51 Raupp Boulevard, Buffalo Grove, Illinois, 60089.

- The trees listed as “Spring Planting” to be planted under this contract shall be installed prior to **June 14, 2024**.

A Village employee will visit the growing site and mark all trees for planting by means of a permanent tag. Only those trees tagged by the Village will be accepted for planting and payment. Final acceptance will be done after planting is completed in the Village. No more than **Four (4)** nurseries are to be used as municipal staff will need to visit each location.

### GUARANTEE

Any tree, which in the opinion of the Deputy Director of Public Works Operations or his authorized representative, that is dead, shall be replaced within thirty (30) days after formal notification from the Village of Buffalo Grove.

The installation of all trees shall be fully guaranteed for a period of one (1) year from the date of installation. **A written guarantee shall be attached to the bid.**

### REJECTION OF MATERIAL

The Deputy Director of Public Works Operations or his authorized representative, reserves the right to reject any plant material which does not comply with the specifications, and all rejected plant materials shall be immediately removed by the contractor from the premises of the Village and the Deputy Director of Public Works Operations will not assume any responsibility for such rejected material.

### QUANTITY

The right is reserved to the Village to **increase or decrease** the quantities shown depending upon the availability of stock and inspection results.

### DELIVERY

The contractor shall consult with the Deputy Director of Public Works Operations or his authorized representative, concerning the details and scheduling of the work contemplated herein, and shall be governed by the decisions of said Deputy Director.

No material shall be dug or loaded for shipment from the nursery when the temperature is below thirty-two degrees (32 degrees) above zero (Fahrenheit), and when the depth of frost in the grounds exceeds one inch (1”).

Roots of material shall not be subject to temperatures below thirty-two degrees (32 degrees) above zero (Fahrenheit). All material whose roots have been frozen shall be rejected.

The contractor shall comply with all good trade practices to insure the arrival of stock at the stated delivery point in the best condition for successful growth without injury of any nature.

All trees shall be delivered to a location within the Village of Buffalo Grove, Illinois as directed by the Deputy Director of Public Works Operations.

## ADOPTED STANDARDS

All plants will be handled in accordance with accepted horticultural practices and professional standards as recommended by the Illinois Landscape Contractors Association.

## INSPECTION OF PLANT MATERIAL

The nursery supplying plant material has been visited before the award of the contract. Material, which is suitable for the Village's requirements, has been inspected and will be selected by the Deputy Director of Public Works Operations or his authorized representative.

## QUALITY OF PLANT MATERIAL

Material shall be in a live, healthy condition free from dead branches, blemishes, scars decayed spots, frost cracks, disfiguring knots, bruises, broken bark or mutilation of any nature.

Only material dug with the earth ball from the nursery growing location will be acceptable. Material with a composition or processed ball will be rejected.

## PLANTING

Tree shall be planted in holes at **least twelve (12) inches wider than the diameter of the ball and a minimum of two (2) feet in depth**. In unfavorable ground conditions, the contractor shall place approximately six (6) inches of loose topsoil in the bottom of the excavation before planting the tree. All excess spoilage and/or soil are to be removed by the contractor. All string and burlap from the top 30% of the ball shall be removed prior to mulch application. All trees must be watered immediately after planting by the contractor. Failure to water trees at the time of the planting will result in a monetary penalty of \$250 per occurrence.

The intended locations of trees to be planted are shown in **Appendix A**. A more detailed map & list will be provided to the awarded contractor for the planting. The list may be provided in 2 or 3 parts, with the first part of the list as most of the work. The Buffalo Grove Project Manager shall be notified if a tree must be moved from the original marked location.

Trees shall be planted with the root flare at grade level up to 2 inches above grade level. Trees planted with the root flare below grade level will not be considered acceptable.

Tree planting details:

- The original soil, unless it lacks the basic properties necessary to grow plants, shall be used instead of amendments.
- Nylon, ropes, nylon-based burlap shall be removed prior to tree planting.
- Non-nylon-based burlap and wire baskets shall be removed from the top two-thirds of the planting hole. Once the tree planting is complete, exposed burlap or ropes will be considered unacceptable.
- Trees shall be watered after planting to eliminate air pockets.
- Trees should have a donut shaped mulch ring placed around them no higher than 4 inches.

The contractor agrees to indemnify the Village of Buffalo Grove for any and all violations of laws and any rules and regulations now or hereafter issued.

## USE OF FIRE HYDRANTS

The indiscriminate use of fire hydrants is strictly prohibited. The Contractor can obtain non-potable water in bulk at no charge at the Buffalo Grove Public Works Department, 51 Raupp Blvd. The Contractor shall provide a water truck or containment and driver to obtain and transport the water. All water obtained from the Village shall be used for this project only. If deemed necessary, the Village reserves the right to restrict or refuse the use of Village water. The Contractor will be responsible for executing the required paperwork and follow all requirements of the Village. If it is determined that the Contractor or its subcontractors operate or use a Village fire hydrant, a minimum monetary penalty of \$1,000 per occurrence that will be imposed.

## JULIE NOTIFICATION

The Contractor shall call the Joint Utility Locating Information for Excavators (JULIE) (1-800-892-0123 or 811), a minimum of forty-eight (48) hours in advance of work being done in the area.

For utilities which are not members, excluding homeowners, the Contractor shall contact the owners directly. The Contractor will be required to cooperate with all utility companies and municipal agencies involved in connection with the removal, temporary relocation, reconstruction or abandonment by these agencies of any and all services.

No additional compensation will be allowed the Contractor for any expense incurred by complying with these requirements, or because of delays, inconvenience or interruptions in his work resulting from the failure of the municipal agencies or utility company to remove, relocate, reconstruct or abandon their services.

## TRAFFIC CONTROL AND WORK AREAS

The Contractor shall erect substantial barricades to protect his work at all points as specified by Federal and State Standards for work zone protection. The Contractor shall place at such points the necessary warning signs, lights, and other suitable devices to protect his work properly and to provide for the convenience and safety of the public at all times. The Contractor shall maintain such barricades, signs, lights and protective devices until the need for them has passed.

In addition, the Contractor shall conform to any Federal and State Department of Transportation regulations applicable to work being performed on or along roadways and any other areas of vehicular activity. The Contractor shall use necessary signage, barricades, lights, directional devices, and any other available means of directing a safe transition of vehicular traffic past the work site, with the least inconvenience possible to said vehicular traffic.

## WORK HOURS

For the purpose of this agreement, Business Work Hours shall be Monday through Friday from 7:00 am until 4:00 pm, unless otherwise authorized by the Deputy Director of Public Works. Any work outside the allowed time periods in accordance with the Village Ordinance, including but not limited to material deliveries, mobilization of equipment, warming up machinery, or truck staging, shall be imposed a \$250 monetary penalty for each occurrence.

## CARE AND PROTECTION OF PROPERTY

A. Contractor shall be responsible for the preservation of all public and private property and use every precaution necessary to prevent damage thereto. If any direct or indirect damage is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work on the part of the contractor, restore such property to a condition similar or equal to that existing before the damage was done, or make good the damage in other manner acceptable to the Village. Any unapproved access to private property will result in a monetary penalty of \$500 for each occurrence.



B. The Contractor shall take all necessary precautions when working near mailboxes. If at the Contractor's discretion, a mailbox will interfere with construction operations, a temporary mailbox shall be located per the United States Postal Service requirements and the permanent mailbox reinstalled following said operation. At no time shall a resident be without a mailbox or not receive mail due to a mailbox being removed, replaced or damaged. The Contractor shall replace, at no additional cost to the Owner, any mailbox or post which has been damaged by the Contractor's operations due to neglect, misconduct or poor workmanship. The cost of all materials required and all labor necessary to comply with the above Provisions will not be paid for separately, but shall be considered as included in the unit bid prices of the contract, and no additional compensation will be allowed. Public Works will provide mailbox installation requirements if needed.

The Contractor must maintain access for both residents and mail carriers to all mailboxes throughout the duration of the project.

C. Any damage to existing hardscape from tracked equipment or due to the Contractor's negligence, workmanship, or neglect shall be replaced at the Contractor's expense. It is recommended rubber tired, or rubber tracked equipment is used. Any unwarranted disturbance to the existing hardscape to remain will warrant repairs made joint to joint and in conformance with the bid documents with limits specified in the Maintenance Letter of Credit general condition. The Village shall determine the limit of removal and replacement operations, and all work shall be completed to the satisfaction of the Engineer. Hard surfaces shall also be left in a clean and usable state, which generally will require sweeping following work. Failure to appropriately clean up and/or sweep an area when work is complete at that area will result in a minimum monetary penalty of \$250 for each occurrence.

#### **Option 1. Additional Watering**

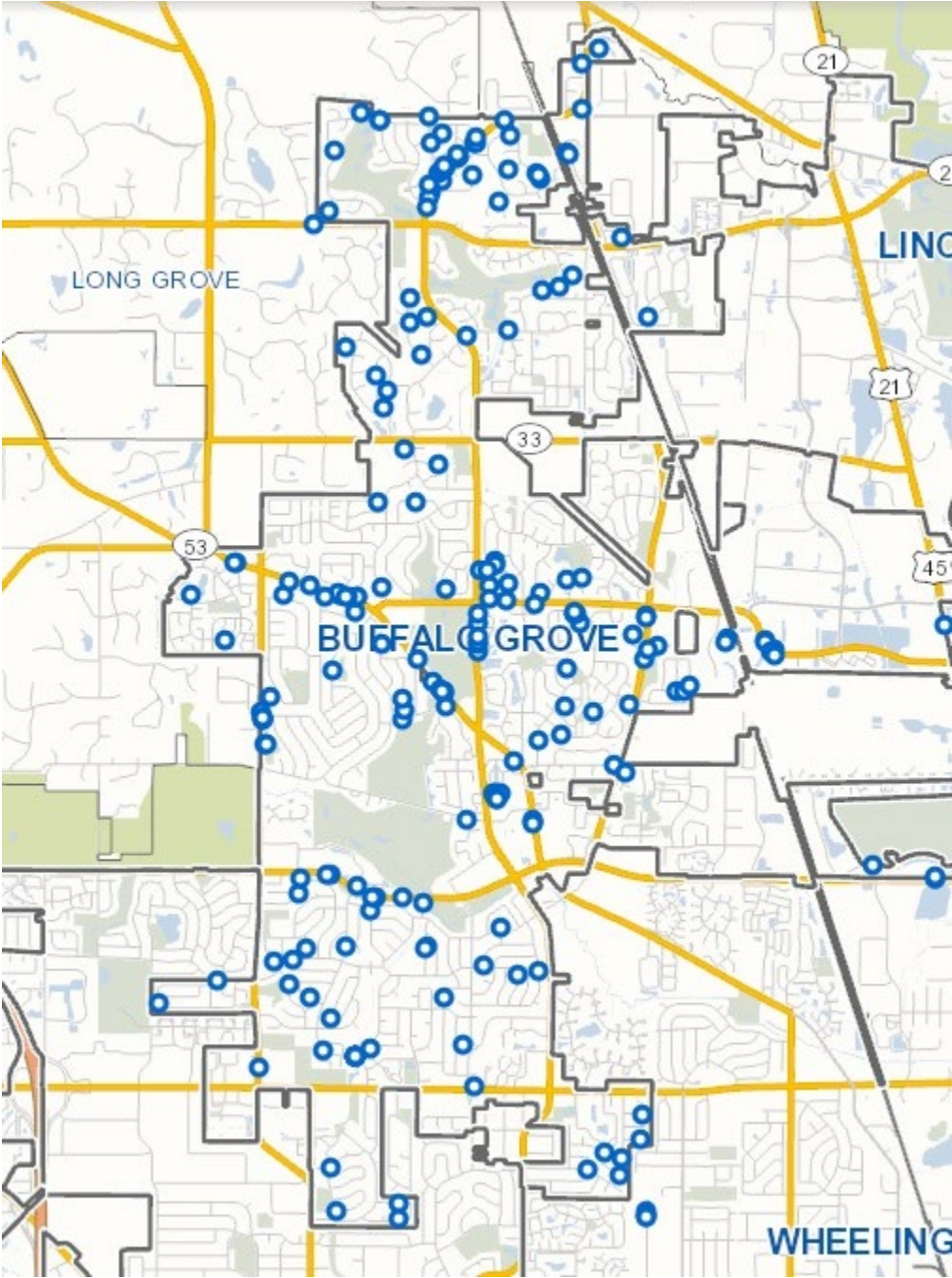
The contractor shall provide all equipment and materials necessary to water each tree that has been planted with 25 gallons of water each visit. Costs shall be provided based upon a single visit to the Village to water all trees planted in the Spring by the contractor. Water shall be provided by the Village of Buffalo Grove from a single location at 51 Raupp Blvd. Buffalo Grove IL 60089 at no cost to the contractor.

#### **Monetary Penalties**

All work shall be completed in accordance with the Contract Documents in a reasonable and timely manner. For each occurrence that work is not completed in accordance with the Contract Documents or in a reasonable and timely manner, a monetary penalty will be deducted from the final pay application. The Contractor shall make themselves and all subcontractors aware of the following deficiencies and deductions:

- Failure to water trees at the time of the planting will result in a monetary penalty of \$250 per occurrence.
- Any work outside the allowed time periods in accordance with the Village Ordinance, including but not limited to material deliveries, mobilization of equipment, warming up machinery, or truck staging, shall be imposed a \$250 monetary penalty for each occurrence.
- Any unapproved access to private property will result in a monetary penalty of \$500 for each occurrence.
- Failure to appropriately clean up and/or sweep an area when work is complete at that area will result in a minimum monetary penalty of \$250 for each occurrence.
- The indiscriminate use of fire hydrants is strictly prohibited. If it is determined that the Contractor or its subcontractors operate or use a Village fire hydrant without Village permission, a minimum monetary penalty of \$1,000 per occurrence that will be imposed. Failure to provide a 12" air-gap when filling water at 51 Raupp Blvd will result in a minimum monetary penalty of \$250 for each occurrence.
- The Village reserves the right to charge up to \$50 per tree, per reinspection during the punch list phase.

APPENDIX A – INTENDED PLANTING LOCATION MAP



**EXHIBIT B - SCHEDULE OF PRICES**  
**Spring Planting- 2.5" Caliper Trees**

VoBG-2024-08

Schedule of Prices Spring Planting 2024												
Common Name	Botanical Name	Requested Base Quantity	Base Unit Price	Base Cost	Requested Quantity Alt A	Alt A Unit Price	Alt A Cost	Requested Quantity Alt B	Alt B Unit Price	Alt B Cost	Total Cost	
1	Worplesdon Sweetgum	Liquidambar styraciflua 'Worplesdon'	0	\$ -			\$ -			\$ -	\$ -	
2	Village Green Japanese Zelkova	Zelkova serrata 'Village Green'	10	398	\$ 3,980.00		\$ -			\$ -	\$ 3,980.00	
3	Afterburner® Black Tupelo	Nyssa sylvatica 'David Odom' Straight Species only	10	384	\$ 3,840.00		\$ -			\$ -	\$ 3,840.00	
4	Perkins Pink Yellowwood	Cladrastis kentukea 'Perkins Pink' Straight Species only	10	361	\$ 3,610.00		\$ -			\$ -	\$ 3,610.00	
5	Emerald City® Tulip Tree	Liriodendron tulipifera 'JFS-Oz'	10	406	\$ 4,060.00		\$ -			\$ -	\$ 4,060.00	
6	Fort McNair Horsechestnut	Aesculus x carnea 'Fort McNair' Autumn Splendor 2.5' Sub	5	421	\$ 2,105.00		\$ -			\$ -	\$ 2,105.00	
7	Purple Robe Black Locust	Robinia pseudocacia 'Purple Robe' 2 inch sub available	5	350	\$ 1,750.00		\$ -			\$ -	\$ 1,750.00	
8	EXCLAMATION!™ London Planetree	Platanus x acerifolia 'Morton Circle'	25	373	\$ 9,325.00	5	373	\$ 1,865.00	5	373	\$ 1,865.00	\$ 13,055.00
9	Swamp White Oak	Quercus bicolor	25	402	\$ 10,050.00	5	402	\$ 2,010.00	5	402	\$ 2,010.00	\$ 14,070.00
10	Ironwood	Ostrya virginiana	10	373	\$ 3,730.00		\$ -			\$ -	\$ 3,730.00	
11	Quaking Aspen	Populus tremuloides	5	381	\$ 1,905.00		\$ -			\$ -	\$ 1,905.00	
12	Hardy Rubber Tree	Eucommia ulmoides 5 Available in 2.5"	5	421	\$ 2,105.00		\$ -			\$ -	\$ 2,105.00	
13	Canada Red Chokecherry	Prunus virginiana 'Canada Red'	5	381	\$ 1,905.00		\$ -			\$ -	\$ 1,905.00	
14	Windover Gold Ginkgo	Ginkgo biloba 'Edwards First'	10	546	\$ 5,460.00		\$ -			\$ -	\$ 5,460.00	
15	Princeton Sentry® Ginkgo	Ginkgo biloba 'Princeton Sentry'	10	546	\$ 5,460.00	5	546	\$ 2,730.00		\$ -	\$ 8,190.00	
16	Espresso™ Kentucky Coffee Tree	Gymnocladus dioica 'Espresso-JFS'	15	406	\$ 6,090.00		\$ -			\$ -	\$ 6,090.00	
17	Spring Snow Crabapple	Malus 'Spring Snow'	25	353	\$ 8,825.00		\$ -			\$ -	\$ 8,825.00	
18	Golden Raindrops® Crabapple	Malus 'Schmidtcutleaf'	25	353	\$ 8,825.00		\$ -			\$ -	\$ 8,825.00	
19	Autumn Brilliance Serviceberry Single Stem	Amelanchier x grandiflora 'Autumn Brilliance'	10	386	\$ 3,860.00		\$ -			\$ -	\$ 3,860.00	
20	Green Whisper® Bald Cypress	Taxodium distichum 'JFS-SGPN'	0	\$ -			\$ -			\$ -	\$ -	
21	Bald Cypress	Taxodium distichum	10	406	\$ 4,060.00	5	406	\$ 2,030.00	5	406	\$ 2,030.00	\$ 8,120.00
22	Beijing Gold® Tree Lilac	Syringa pekinensis 'Zhang Zhiming'	20	382	\$ 7,640.00		\$ -			\$ -	\$ 7,640.00	
		Total Trees	250	\$ -		20	\$ -		15	\$ -	\$ -	
				<b>Base Bid Total</b>	\$ 98,585.00		<b>Alt A Total</b>	\$ 8,635.00		<b>Alt B Total</b>	\$ 5,905.00	
										<b>Total Cost</b>	\$ 113,125.00	

**EXHIBIT B - SCHEDULE OF PRICES (cont.)**

- 1. Spring Planting Base Bid Total Cost \$ 98,585.00
- 2. Spring Planting Alt A Total Cost \$ 8,635.00
- 3. Spring Planting Alt B Total Cost \$ 5,905

**Total Cost (Items. 1 +2 + 3) \$** 113,125.00

**Option 1. Additional Watering Cost per Tree \$** 10.50

**EXTENSION**

Do you agree that escalating prices shall be no more than the Consumer Price Index for All Urban Consumers (CPI-U) in the Chicago area or 3% whichever is less., for a possible one (1) year extensions (please initial)?

Yes AT No

