



# City of San Leandro

Meeting Date: February 18, 2020

## Staff Report

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**File Number:** 20-032 **Agenda Section:** CONSENT CALENDAR

**Agenda Number:** 8.D.

**TO:** City Council

**FROM:** Jeff Kay  
City Manager

**BY:** Debbie Pollart  
Public Works Director

**FINANCE REVIEW:** Liz Warmerdam  
Interim Finance Director

**TITLE:** Staff Report for a City of San Leandro City Council Resolution to Authorize the City Manager to Execute a Non-Professional Services Agreement with Arborist Now, Inc. for Boulevard Yarwood Sycamore Tree Trimming (563 Trees Total) in the amount of \$70,375

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### SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council Authorize the City Manager to execute a Non-Professional Services Agreement (NPSA) with Arborist Now, Inc. for trimming of identified Boulevard Yarwood Sycamore trees (563 trees total) for a total of \$70,375.

### BACKGROUND

On December 3, 2019, the Finance Department issued Bid No. 19-20.007 for Yarwood Sycamore tree trimming along the City's main thoroughfares, otherwise referred to as boulevards. Five firms submitted bids on or before the submittal deadline. Arborist Now, Inc. submitted the lowest bid for a price of \$125.00 per tree, with a total contract amount of \$70,375 to trim 563 trees. The bid price includes all labor, materials, disposal, transportation, and equipment/staffing necessary to perform the work.

Historically and up until approximately 2010, the Boulevard Sycamore trees (those existing primarily on the City's main thoroughfares, including E. 14th Street, Davis Street, Bancroft Avenue, etc.) were trimmed on an annual basis. This species of sycamore tree grows quickly and keeping them trimmed helps to reduce branch/tree failures, especially during and after storm events. In an effort to balance the General Fund budget during the last recession, the City lengthened the duration of time between trimmings, initially completing work on approximately half of the boulevard trees each year.

When the project was last bid in late 2016, the contractor's pricing was very competitive (and likely under market value) at \$48/tree and a total of 1,192 trees were trimmed. For that bid, there

was only one other bidder, with a per tree cost of \$250. The winning contractor from 2016 is based in Southern California and did not bid on this current project.

### **Analysis**

The proposed contract price reflects a 152% increase over the last bid issued three years ago, but is also 73% cheaper than the second-lowest current bidder. Because tree trimming pricing has increased in the intervening years, and in order to stay within budget, the total number of trees included has been reduced by approximately half (i.e. from 1,192 to 563).

### **Budget Authority**

If the contract is authorized by the City Council, Staff will execute a purchase order for \$70,375 for FY2020 in account 010-33-001-5340. There is sufficient budget in the account for this contract. No additional appropriations are requested.

### **ATTACHMENT**

#### **Attachment to Related Legislative Files**

Attached to Resolution:

- Non-Professional Services Agreement between the City of San Leandro and Arborist New, Inc. for Boulevard Sycamore Tree Trimming

**PREPARED BY:** Debbie Pollart, Director, Public Works Department



# City of San Leandro

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## Resolution - Council

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**File Number:** 20-033 **Agenda Section:** CONSENT CALENDAR

**Agenda Number:**

**TO:** City Council

**FROM:** Jeff Kay  
City Manager

**BY:** Debbie Pollart  
Public Works Director

**FINANCE REVIEW:** Liz Warmerdam  
Interim Finance Director

**TITLE:** RESOLUTION of the City of San Leandro City Council to Authorize the City Manager to Execute a Non-Professional Services Agreement with Arborist Now, Inc. for Boulevard Yarwood Sycamore Tree Trimming in the Amount of \$70,375 for 563 Trees

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WHEREAS, a draft agreement between the City of San Leandro and Arborist Now, Inc. is presented to this City Council; and

WHEREAS, the City Council is familiar with the contents thereof; and

WHEREAS, the City Manager recommends approval of said agreement.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

1. That said agreement of \$70,375 with Arborist Now, Inc. has funding in account 010-33-001-5340 and substantially in the form presented is hereby approved and execution by the City Manager is hereby authorized; and
2. That the City Manager is authorized to make non-substantial revisions to said agreement, subject to the approval of the City Attorney; and
3. That an original executed agreement shall be attached to and made a part of this resolution.

**NON-PROFESSIONAL SERVICES AGREEMENT BETWEEN  
THE CITY OF SAN LEANDRO AND  
ARBORIST NOW, INC.  
FOR  
BOULEVARD YARWOOD SYCAMORE TREE TRIMMING**

THIS AGREEMENT for tree trimming services is made by and between the City of San Leandro ("City") and Arborist Now, Inc. ("Contractor") (together sometimes referred to as the "Parties") as of February 3, 2020 (the "Effective Date").

**Section 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on April 30, 2020, and Contractor shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Contractor to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as referenced in Section 8.
- 1.2 Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Subsection 1.2 above and to satisfy Contractor's obligations hereunder.
- 1.5 City of San Leandro Living Wage Rates.** This contract may be covered by the City of San Leandro Living Wage Ordinance (LWO). Bidder's attention is directed to the San Leandro Municipal Code, Title 1, Chapter 6, Article 6. Successful Bidder must submit completed self-certification form and comply with the LWO if covered.
- 1.6 Public Works Contractor Registration.** Contractor agrees, in accordance with Section 1771.1 of the California Labor Code, that Consultant or any subconsultant shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work,

as defined in Chapter 1 of Part 7 of Division 2 of the California Labor Code, unless currently registered and qualified to perform public work pursuant to California Labor Code section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to California Labor Code section 1725.5. Contractor agrees, in accordance with Section 1771.4 of the California Labor Code, that if the work under this Agreement qualifies as public work, it is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

**Section 2. COMPENSATION.** City hereby agrees to pay Contractor a sum not to exceed \$70,375.00 (seventy thousand, three hundred and seventy-five dollars and no cents), at \$125.00 per tree for 563 trees, notwithstanding any contrary indications that may be contained in Contractor's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Contractor's proposal, attached as Exhibit B, regarding the amount of compensation, the Agreement shall prevail. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Contractor shall not bill City for duplicate services performed by more than one person.

Contractor and City acknowledge and agree that compensation paid by City to Contractor under this Agreement is based upon Contractor's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Contractor. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Contractor and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

**2.1 Invoices.** Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the

hours spent by each person, a brief description of the work, and each reimbursable expense;

- The total number of hours of work performed under the Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing services hereunder;
- The Contractor's signature;
- Contractor shall give separate notice to the City when the total number of hours worked by Contractor and any individual employee, agent, or subcontractor of Contractor reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Contractor and City. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Contractor and City, if applicable.

**2.2 Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.

**2.3 Final Payment.** City shall pay the last 10% of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.

**2.4 Total Payment.** City shall pay for the services to be rendered by Contractor pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Contractor submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

**2.5 Reserved.**

**2.6 Reimbursable Expenses.** Reimbursable expenses are not included with this project and are not chargeable to City.

**2.7 Payment of Taxes.** Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

**2.8 Payment upon Termination.** In the event that the City or Contractor terminates this Agreement pursuant to Section 8, the City shall compensate the Contractor for all

outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets to verify costs incurred to that date.

- 2.9 Authorization to Perform Services.** The Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.
- 2.10 Liquidated Damages.** Failure of Contractor to respond to problems referred to it by City within the time limits established in Subsection 1.2 of this Agreement shall result in liquidated damages as set forth in Exhibit A.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Contractor only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein. Contractor shall make a written request to City to use facilities or equipment not otherwise listed herein.

- 3.1 Safety Requirements.** In accordance with generally accepted construction practices and state law, Contractor shall be solely and completely responsible for conditions on the jobsite, including safety of all persons and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours.

Contractor shall take all necessary precautions and provide all necessary safeguards to prevent personal injury and property damage. Contractor shall provide protection for all persons including, but not limited to, its employees and employees of its subcontractors; members of the public; and employees, agents, and representatives of the City and regulatory agencies that may be on or about the work.

The services of the City in conducting review and inspection of Contractor's performance is not intended to include review of the adequacy of Contractor's work methods, equipment, bracing or scaffolding, or safety measures, in, on, or near any Contractor jobsite.

All work and materials shall be in strict accordance with all applicable state, city, county, and federal rules, regulations and codes, with specific attention to the United States Department of Labor Occupational Health and Safety Administration (OSHA) requirements. Contractor shall be solely responsible for compliance with all city, county, and state explosive transport, storage, and blasting requirements and for any damages caused by such operations.

Contractor is hereby informed that work on City property could be hazardous. Contractor shall carefully instruct all personnel working on City property that all conditions of the property are potentially hazardous work areas as to potential dangers and shall provide such necessary safety equipment and instructions as are necessary to prevent injury to personnel and damage to property. Special care shall be exercised relative to work underground.

In addition to complying with all other safety regulations, Contractor shall abide by any and all other City requirements contained in any specifications, special conditions or manuals, which shall be made available by City upon request.

Contractor shall provide and maintain all necessary safety equipment such as fences, barriers, signs, lights, walkways, guards, and fire prevention and fire-fighting equipment and shall take such other action as is required to fulfill its obligations under this section. It is the intent of the City to provide a safe working environment under normal conditions. **CONTRACTOR IS ADVISED THAT CITY'S OPERATIONS AND PROPERTY ARE INHERENTLY HAZARDOUS BECAUSE OF CONDITIONS SUCH AS CONFINED SPACES, POTENTIALLY EXPLOSIVE ATMOSPHERES, AND POSSIBLE EXPOSURE TO PATHOGENS.**

Contractor shall maintain all portions of the jobsite in a neat, clean, and sanitary condition at all times. If required by the City, toilets shall be furnished by Contractor where needed for use of its employees and their use shall be strictly enforced. Contractor shall not use the City's existing sanitary facilities, unless previously authorized by the City.

Contractor shall keep adequate first aid facilities and supplies available and instruction in first aid for its employees shall be given.

City reserves the right to require that Contractor bring onto the project or engage the services of a licensed safety engineer at any time during the term of this Agreement. If Contractor does not have a licensed safety engineer on staff, then City may require that Contractor engage a subcontractor or subconsultant as the project's safety engineer. Contractor shall bear all costs in connection with meeting the requirements of this section.

**Section 4. INSURANCE REQUIREMENTS.** Before fully executing this Agreement, Contractor, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Contractor shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Contractor's bid. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence to City that such insurance is in effect. **VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION.** Contractor shall maintain all required insurance listed herein for the duration of this Agreement.



**4.1 Workers' Compensation.**

**4.1.1 General Requirements.** Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$1,000,000 (ONE MILLION DOLLARS) per accident. In the alternative, Contractor may rely on a self-insurance program to meet these requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents, and subcontractors.

**4.1.2 Submittal Requirements.** To comply with Subsection 4.1, Contractor shall submit the following:

- a. Certificate of Workers' Compensation Insurance in the amounts specified in the section; and
- b. Waiver of Subrogation Endorsement as required by the section.

**4.2 Commercial General and Automobile Liability Insurance.**

**4.2.1 General Requirements.** Contractor, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than \$2,000,000 (TWO MILLION DOLLARS) and automobile liability insurance for the term of this Agreement in an amount not less than \$2,000,000 (TWO MILLION DOLLARS per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

**4.2.2 Minimum Scope of Coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance

Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

**4.2.3 Additional Requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. City, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Contractor; or automobiles owned, leased, hired, or borrowed by the Contractor.
- c. Contractor hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Contractor agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.
- d. For any claims related to this Agreement or the work hereunder, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

**4.2.4 Submittal Requirements.** To comply with Subsection 4.2, Contractor shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
- b. Additional Insured Endorsement as required by the section;
- c. Waiver of Subrogation Endorsement as required by the section; and
- d. Primary Insurance Endorsement as required by the section.

**4.3 All Policies Requirements.**

**4.3.1 Acceptability of Insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

**4.3.2 Verification of Coverage.** Prior to beginning any work under this Agreement, Contractor shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Contractor by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability

Insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Contractor beginning work, it shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

**4.3.3 Deductibles and Self-Insured Retentions.** Contractor shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

**4.3.4 Wasting Policies.** No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

**4.3.5 Endorsement Requirements.** Each insurance policy required by Section 4 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City.

**4.3.6 Subcontractors.** Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

**4.4 Submittal of Proof of Insurance Coverage.** All certificates of insurance and original endorsements effecting coverage required in this Section 4 must be electronically submitted through the City's online insurance document management program, PINS Advantage. Contractor shall comply with all requirements provided by City related to the PINS Advantage program.

**4.5 Remedies.** In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or

- Terminate this Agreement.

**Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.** Contractor shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Contractor's performance of the Services or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of City.

The Contractor's obligation to defend and indemnify shall not be excused because of the Contractor's inability to evaluate Liability or because the Contractor evaluates Liability and determines that the Contractor is not liable to the claimant. The Contractor must respond within 30 days, to the tender of any claim for defense and indemnity by the City, unless this time has been extended by the City. If the Contractor fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Contractor under and by virtue of this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the claim or suit for damages, or until the Contractor accepts or rejects the tender of defense, whichever occurs first.

Notwithstanding the forgoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of Contractor to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

**Section 6. STATUS OF CONTRACTOR.**

- 6.1 Independent Contractor.** At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.3; however, otherwise City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System

(PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

- 6.2 Contractor Not an Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

**Section 7. LEGAL REQUIREMENTS.**

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Contractor and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Contractor and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 Nondiscrimination and Equal Opportunity.** Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

Contractor shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

**Section 8. TERMINATION AND MODIFICATION.**

**8.1 Termination.** City may cancel this Agreement at any time and without cause upon written notification to Contractor.

Contractor may cancel this Agreement upon 30 (thirty) days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or the City in connection with this Agreement.

**8.2 Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Contractor understands and agrees that, if City grants such an extension, City shall have no obligation to provide Contractor with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Contractor for any otherwise reimbursable expenses incurred during the extension period.

**8.3 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.

**8.4 Assignment and Subcontracting.** City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.

**8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.

**8.6 Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, the following:

**8.6.1** Immediately terminate the Agreement;

- 8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
- 8.6.3 Retain a different contractor to complete the work described in Exhibit A not finished by Contractor; or
- 8.6.4 Charge Contractor the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the work.

**Section 9. KEEPING AND STATUS OF RECORDS.**

- 9.1 **Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Contractor hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Contractor agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both Parties.
- 9.2 **Contractor's Books and Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of 3 years after final payment under the Agreement.

**Section 10. MISCELLANEOUS PROVISIONS.**

- 10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Contractor shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Section 1090 *et seq.*

Contractor hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Contractor was an employee, agent, appointee, or official of the City in the previous 12 months, Contractor warrants that it did not participate in any manner in the forming of this Agreement. Contractor understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Contractor will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Contractor will be required to reimburse the City for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of California Government Code Section 1090 *et seq.*, and, if applicable, will be disqualified from holding public office in the State of California.

- 10.7 Solicitation.** Contractor agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.8 Contract Administration.** This Agreement shall be administered by Debbie Pollart, City of San Leandro Public Works Director ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.



**10.9 Notices.** Any written notice to Contractor shall be sent to:  
Jean Claude Rochat, President/Secretary  
Arborist Now, Inc.  
580 California Street, 12<sup>th</sup> Floor  
San Francisco, CA 94104  
[Jean-claude@arboristnow.com](mailto:Jean-claude@arboristnow.com)

Any written notice to City shall be sent to:  
Debbie Pollart, Public Works Director  
14200 Chapman Road  
San Leandro, CA 94578  
[dpollart@sanleandro.org](mailto:dpollart@sanleandro.org)

With a copy to:  
City of San Leandro  
Department of Finance  
c/o Purchasing Agent  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577

**10.10 Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, B, and C represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

<u>Exhibit A</u>	Scope of Services
<u>Exhibit B</u>	Compensation Schedule
<u>Exhibit C</u>	California Labor Code Section 1720 Information

**10.11 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

**10.12 Certification per Iran Contracting Act of 2010.** In the event that this contract is for one million dollars (\$1,000,000.00) or more, by Contractor's signature below Contractor certifies that Contractor, and any parent entities, subsidiaries, successors or subunits of Contractor are not identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5 of the California Public Contract Code, as applicable.

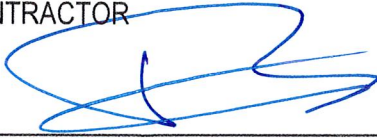
**SIGNATURES ON FOLLOWING PAGE**

The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

CITY OF SAN LEANDRO

CONTRACTOR

\_\_\_\_\_  
Jeff Kay, City Manager

  
\_\_\_\_\_  
Jean Claude Rochat, President  
Arborist Now, Inc.

Attest:

\_\_\_\_\_  
1000027319  
Contractor DIR Registration Number

\_\_\_\_\_  
Leticia I. Miguel, City Clerk

Approved as to Fiscal Authority:

\_\_\_\_\_  
Elizabeth Warmerdam, Assistant City Manager/Interim Finance Director

\_\_\_\_\_  
010-33-001-5340  
Account Number

Approved as to Form:

\_\_\_\_\_  
Richard D. Pio Roda, City Attorney

3008127.1

## EXHIBIT A

### CITY OF SAN LEANDRO SCOPE OF SERVICES BOULEVARD YARWOOD SYCAMORE TREE TRIMMING Bid No. 19-20.007

**1. SUMMARY:** The work includes all services, labor, materials, transportation and equipment necessary to perform the work described in these specifications.

**2. SCOPE:** Furnish all labor, tools, equipment, materials, transportation, and perform all operations necessary and incidental to proper execution and completion of all tree trimming in accordance with the specifications. Work consists of trimming Yarwood Sycamore trees on major boulevards and adjacent side streets as outlined below and as directed by the Streets Supervisor.

**3. QUANTITIES:** Approximate quantities and locations are shown on the following pages. Exact quantities and locations shall be as authorized by the Streets Supervisor of the City of San Leandro or his designated representative. No payment shall be made for any work performed which is not authorized. The City may elect to change quantities of trees for trimming by up to 25% without change in bid amount per tree.

**4. STANDARDS:** All tree trimming is to be done in accordance with the American National Standard for Tree Care Operations - Tree, Shrub, and Other Woody Plant Management - Standard Practices (Pruning) (2017); Third Edition, Best Management Practices – Tree Pruning (2019), and in compliance with ANSI Z133 (2017 Safety Standards). Specifically, the quality of work shall be consistent with the National Arborist Association definition of Fine Pruning (Class 1). Contractor and all employees performing pruning are required to have a thorough knowledge of these standards and is to have copies of these standards on all sites where work is being performed.

In addition, in order to minimize damage to the trees, no pruning is allowed with circular saws and no climbing with spikes is allowed.

Trees are to be raised from the sidewalk and street, thinned, shaped, trimmed back from buildings, wires, street lights and signs cleared as much as possible, long/heavy limbs lightened, and as is consistent with the growth stage of the tree, have all basal and inside sucker growth removed as is consistent with the above standards. On large mature trees, no scaffold limbs or major limbs shall be removed, as is consistent with ISA pruning standards, unless authorized by City representative. Smaller trees limb removal may be required to establish scaffold limbs or to improve weight distribution.

Contractor will not be paid for any trees not trimmed consistent with these specifications. If at any time, Contractor shows an inability to trim consistent with these specifications, the Streets Supervisor, or said representative, will have the authority to order Contractor to cease all trimming and to have the purchase order cancelled.

Successful Bidder must possess current California Contractors License D-49 Tree Trimming for duration of contract.

**5. MOBILIZATION:** Contractor selected shall have five (5) weekdays from notice by City to provide proof of insurance, proof of Contractor's license, proof of business license and such other documentation as required.

**6. WORKDAYS:** All trimming is to be completed within sixty (60) workdays from award of contract. This is inclusive of all weather conditions that may occur during the 60 days.

**7. HOURS OF OPERATION:** All trimming is to be done between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, unless prior approval is granted by the Streets Supervisor or his designated representative.

**8. PAYMENT:** Payment shall be on a per tree basis. Only trees approved for trimming by the City Streets Supervisor will be paid for. No payment will be made for any tree which is not trimmed as per these specifications. If the Contractor's activities damage a tree to the extent where it will not recover with good form in the sole judgment of the City's Streets Supervisor, Contractor shall remove and replace the damaged tree with a replacement tree approved by the City. All such removal/replacement costs will be borne by the Contractor with no payment from the City. If Contractor does not replace a damaged tree, \$500 per damaged tree will be withheld from any payment due Contractor. Invoices shall be prepared by the listing of street names, side of street (North, East, West, South), what block to what block, and total number of trees trimmed on that side of the specified street in between each block.

**9. WEEKLY MEETINGS:** Contractor shall be required to meet weekly with the Streets Supervisor or his representative to confirm the work completed, discuss any issues that may have occurred, and to review the contractor's proposed work schedule.

**10. CLEANUP:** All branches, brush, leaves, chips, and sawdust are to be removed from the site and properly disposed of by the Contractor as part of the bid price. The intent is that all areas are to be left in as clean a condition or better than before the Contractor's operations. Cleanup is to be done continuously as each tree is finished. No brush is to be left at any of the tree sites.

**11. TRAFFIC CONTROL AND ACCESS:** Contractor shall not completely obstruct public pedestrian pathways or deny access to private property at any time. No streets shall be closed at any time. The Contractor may establish "No Parking" zones, contiguous to the work area by posting signs. The City will enforce parking restrictions only when the Contractor has posted the proper signs and has notified the City Police Department a minimum of 48 hours in advance of the required restriction period. Construction signs, lights, barricades, etc., shall conform to the latest revision of the Manual of Warning Signs, Lights and Devices for Use in Performance of Work Upon Highways, by California Department of Transportation. Please note that failure by the Contractor to perform work within established rules for work zone safety may result in the Contractor being ordered to cease work operations and to make corrective actions related to work zone safety.

**12. CORRECTION OF HAZARDOUS CONDITIONS:** If, in the determination of the Streets Supervisor, any work done or omitted by the Contractor or any act of vandalism or theft has created a condition hazardous to the public, the Streets Supervisor will notify the Contractor's office by telephone (or by via cell phone). The Contractor shall commence correction of such condition by placement of barricades or as otherwise directed by the City within one (1) hour of receipt of such notice at Contractor's office or cell phone and

shall complete correction thereof on the same calendar day, regardless of the size of the working force required or the number of hours of work required. If the contractor cannot be reached by telephone or fails to respond to the hazardous condition within the specified one (1) hour limit, the City shall have the authority to cause said hazardous condition to be corrected and deduct the cost thereof from any amounts due or to become due the Contractor. Such costs shall include any minimum or base costs for labor, materials or equipment as required by contracts, agreements or supplier but in no case shall such cost be less than \$250 per hazardous condition per location.

**13. LIQUIDATED DAMAGES:** Failure to start and complete all work specified within the time allowed shall constitute material breach of contract. The "time allowed" will be calculated from the date of the Purchase Order issuance through the Project Delivery as indicated. Failure of Contractor to complete the work within the time allowed will result in damages, and for each consecutive day in excess, the contractor shall pay to the City the sum of \$100.00 per calendar day. Such amount shall not be construed as a penalty but as a minimum value of liquidated damages that may be deducted from payment due to the contractor if such delay occurs.

**E. 14th Street - EAST Side - South to North**

Address #	No. of Trees	Comments	Address #	No. of Trees	Comments
15640	1		2164	2	
15640A	1		2150	7	
15540	1		2000	1	
15508	1		1990	1	
15498	2		1938	2	
15350	1		1890	1	
15296	2		1800	1	
15212	1	Hanging on/over bld. - Cut back	1680	1	Hanging on/over bld. - Cut back
15180	1		1668	2	Hanging on/over bld. - Cut back
15118	1		1632	3	
15082	1		1580	1	Hanging on/over bld. - Cut back
15050	1		1520	3	
15016	2		1476	2	
14836	1		1456	1	Hanging on/over bld. - Cut back
14834	2		1400	3	
14822	1		1394	1	
14812	2	Hanging on/over bld. - Cut back	1376	1	
14808	1		1350	1	Hanging on/over bld. - Cut back
14760-14608	11		1322	2	Hanging on/over bld. - Cut back
14590	1		1298	2	Hanging on/over bld. - Cut back
14550	2	Hanging on/over bld. - Cut back	1222	1	
14366	3		1210	3	
14340	3		1120	4	
14000	1		1060	2	
13990	1		1032	2	
13922	1		1000	7	Hanging on/over bld. - Cut back
13808A	3		856	2	Hanging on/over bld. - Cut back
13780	1	Hanging on/over bld. - Cut back	792	2	Hanging on/over bld. - Cut back
13730	2		710	2	Hanging on/over bld. - Cut back
13666	1		696	2	Hanging on/over bld. - Cut back
2398	1		632	1	
2396	1		608	2	Hanging on/over bld. - Cut back
2300	3	Hanging on/over bld. - Cut back	564	2	Hanging on/over bld. - Cut back
2298	1	Hanging on/over bld. - Cut back	496	1	
2250	1	Hanging on/over bld. - Cut back	460	3	Couldn't mark the trees
2300	3	Hanging on/over bld. - Cut back	452	1	
2298	1	Hanging on/over bld. - Cut back	400	2	
2250	1	Hanging on/over bld. - Cut back	370	2	
2184	1		312	2	Hanging on/over bld. - Cut back
<b>Subtotal East Side E. 14th:</b>	<b>147</b>				

Side Streets off E. 14th						
	3	21 Thornton St.			2	600 Dutton
	1	162 Parrot St.			3	633 Dutton
	3	159 Parrot St.			1	116 Garcia
	1	137 Parrot St.			1	112 Garcia
	1	104 Parrot St.			2	823 Estabrook on Alvarado
	1	1601 E. 14th on Parrot				
	3	1585 E. 14th on Parrot				
	2	West of 123 Estudillo				
	1	1200 E. 14th on Callan				
	3	15 Dutton				
	1	601 E. 14th on Best				
	1	699 E. 14th on Peralta				
	2	575 Dutton				
	2	593 Dutton				
<b>Subtotal Side Streets off E. 14th:</b>			<b>34</b>			

Davis Street		
Address #	No. of Trees	Comments
320	3	
321	3	Hanging on/over bld. - Cut back
345	1	Hanging on/over bld. - Cut back
400	3	
440	4	
451	4	
500	2	
501	1	Hanging on/over bld. - Cut back
517	2	Hanging on/over bld. - Cut back
794	4	
902	1	
1001	2	Hanging on/over bld. - Cut back
1076	1	
1080	2	
1109	4	Hanging on/over bld. - Cut back
1120	3	
1190	1	
1200	1	
1288	3	
	14	Across from 1288 Davis along sound wall
1001	7	
	6	In front of Thrasher Park on Davis St.
<b>72</b>		<b>Subtotal Davis Street</b>

Doolittle Drive		
Address #	No. of Trees	Comments
1500	2	
<b>2</b>		<b>Subtotal Doolittle Drive</b>

San Leandro Blvd.		
Address #	No. of Trees	Comments
500	12	Davis/SLB
1001-1129	9	
<b>21</b>		<b>Subtotal San Leandro Blvd.</b>

Marina Blvd.		
Address #	No. of Trees	Comments
512	1	
800	2	
900	3	
2180	1	Orchard/Marina
1152	2	
1302	1	
767	1	
765	3	
575	1	
467	1	
<b>16</b>		<b>Subtotal Marina</b>



E. 14th Street - WEST side - North to South					
Address #	No. of Trees	Comments	Address #	No. of Trees	Comments
145	1		2001	1	
201	1		2089 A	3	Hanging on/over bld. - Cut back
229	1		2089 D	1	
301	1		2103	3	Hanging on/over bld. - Cut back
333	3		2179	3	
355	2		2185	2	
375	2	Hanging on/over bld. - Cut back	2187	1	
415	1	Hanging on/over bld. - Cut back	2193	2	
485	1	Hanging on/over bld. - Cut back	????	3	Across from 2334 E. 14th
497	1		2399	6	Hanging on/over bld. - Cut back
555	8	Hanging on/over bld. - Cut back	13847	6	
645	6	Hanging on/over bld. - Cut back	13999	2	
835	10	Hanging on/over bld. - Cut back (4)	14075	3	
1145	5	Hanging on/over bld. - Cut back	14251	1	Hanging on/over bld. - Cut back
1301	2	Hanging on/over bld. - Cut back	14285	1	Hanging on/over bld. - Cut back
1319	1		14405	1	
1371 B	1	Hanging on/over bld. - Cut back	14417	2	
1371	1	Hanging on/over bld. - Cut back	14505	3	
1423	2	Hanging on/over bld. - Cut back	14589	1	
1443 A	2		14621	1	
1475	1	Hanging on/over bld. - Cut back	14657	3	Hanging on/over bld. - Cut back
1515	4	Hanging on/over bld. - Cut back	14701	1	
1575	3	Hanging on/over bld. - Cut back	14823	3	
1601	3	Hanging on/over bld. - Cut back	14829	4	
1699	2		14835	2	Hanging on/over bld. - Cut back
1711	1	Hanging on/over bld. - Cut back	14845	3	
1761	2	Hanging on/over bld. - Cut back	15251	1	
1793	3	Hanging on/over bld. - Cut back	15255	1	
1801	3	Hanging on/over bld. - Cut back			
1835	2	Hanging on/over bld. - Cut back			
1877	2	Hanging on/over bld. - Cut back			
1977	2				
Subtotal West Side E. 14th:		144			

MacArthur Blvd.		
Address #	No. of Trees	Comments
201A	1	
245	1	Hanging on/over bld. - Cut back
293	2	Hanging on/over bld. - Cut back
311	1	
341	2	
347	1	
355	1	
361	1	
371	1	
377	1	
555	2	
565	1	
599	2	
601	5	On Lewis
601-659	4	Hanging on/over bld. - Cut back
703	1	Hanging on/over bld. - Cut back
709	1	Hanging on/over bld. - Cut back
735	2	Hanging on/over bld. - Cut back
933	3	Hanging on/over bld. - Cut back
951	4	
1001	2	Hanging on/over bld. - Cut back
1005-1027	6	Hanging on/over bld. - Cut back
1051-1057	6	Hanging on/over bld. - Cut back
1097	1	Hanging on/over bld. - Cut back
1105	1	Hanging on/over bld. - Cut back
1109	1	Hanging on/over bld. - Cut back
1225	1	Hanging on/over bld. - Cut back
1235	1	Hanging on/over bld. - Cut back
1255	2	Hanging on/over bld. - Cut back
1273	1	Hanging on/over bld. - Cut back
650	3	
392	4	
326	1	
950	5	
	<b>72</b>	<b>Subtotal MacArthur</b>

Bancroft		
Address #	No. of Trees	Comments
235	1	
245	1	
247	1	
267	1	
367	2	
379	1	
593	2	Victoria Circle - Cut back hangs
603	1	Victoria Circle
425	1	Hanging on/over bld. - Cut back
445	1	
505	1	
519	1	
525-571	8	
599-685	3	
600	1	
600 B & C	4	
562	2	
532	6	
500	1	
496	1	
478	1	
470	1	
460	1	
450	1	
414	1	
380	1	
366	1	
340	2	
298	2	
250	1	
238	1	
214	1	
204	1	
	<b>55</b>	<b>Subtotal Bancroft</b>

**TOTAL ALL TREES: 563**

**EXHIBIT B**

**COMPENSATION SCHEDULE**

CITY OF SAN LEANDRO

REQUEST FOR BID

<b>SUBMIT BID TO:</b> City of San Leandro Purchasing Department 835 East 14th Street San Leandro, CA 94577	<b>FOR FURTHER INFORMATION CONTACT:</b> Liz Jimenez, Public Works Services Manager LJimenez@sanleandro.org 510-577-6068
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<b>BID NO:</b> 19-20.007	<b>DATE MAILED:</b> December 3, 2019	<b>THIS BID MUST BE DELIVERED TO THE CITY BEFORE:</b> 3:00 P.M., Wednesday, December 18, 2019
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QTY.	DESCRIPTION	UNIT PRICE	EXTENSION
<b>563 Trees</b>	<p align="center"><b>City of San Leandro INVITATION FOR BIDS</b></p> <p align="center"><b>BOULEVARD YARWOOD SYCAMORE TREE TRIMMING Bid No. 19-20.007</b></p> <p>Notice is hereby given that sealed bids will be received at the Purchasing Office, until <b>3:00 PM, Wednesday, December 18, 2019</b> local time, at which time they will be publicly opened and read for furnishing all labor, materials and equipment, and performing all work necessary and incidental to trim approximately 563 Yarwood Sycamore Trees located along local boulevards and adjacent roadways throughout the Invitation for Bids, and <b>Attachment A - Scope of Services - Boulevard Yarwood Sycamore Tree Trimming</b> incorporated herein.</p> <p>Bids shall be delivered and addressed to the City of San Leandro, Purchasing Agent, 835 E. 14<sup>th</sup> Street, San Leandro, California, 94577, and shall be labeled "<b>Boulevard Yarwood Sycamore Tree Trimming, Bid No. 19-20.007</b>". Any Bidder who wishes their bid to be considered is responsible for making certain that their bid is received in the Purchasing Office by the proper time. No oral, telegraphic, electronic, facsimile, or telephonic bids or modifications will be considered unless specified. Bids received <b>after</b> the scheduled Bid Submittal Deadline will be returned unopened.</p> <p>It is the responsibility of the Bidder to see that any bid submitted shall have sufficient time to be received by the Purchasing Office before the Bid Submittal Deadline. Late bids will be returned to the Bidder unopened.</p>	<p>\$ 125.00 PER TREE PRICE</p>	<p>\$ 70,375.00 GRAND TOTAL</p>

To bid, complete and return this *Invitation for Bids form (pages 1-3)*, and the completed **Attachment B – Experience Statement** in a sealed envelope. The envelope shall be marked with the project name and bid number. The bid must be received by the date and time shown in order to be considered. Deliver envelope to: City of San Leandro Purchasing Dept., 835 E. 14<sup>th</sup> Street, San Leandro, CA 94577. Please note that there is a one-day delay in mail delivery to City Hall by the US Postal Service.

Firm Arborist Now Inc

Date 12-17-19

Address 580 California St. 12th Floor

Phone 415-310-7781

San Francisco, CA 94104

Fax \_\_\_\_\_

By (Signature) 

Email jean-claude@arboristnow.com

Print Name Jean Claude Rochat

Title President

Contractor's DIR Registration No. 1000027319

## EXHIBIT C

### PROVISIONS REQUIRED FOR PUBLIC WORKS CONTRACTS PURSUANT TO CALIFORNIA LABOR CODE SECTION 1720 ET SEQ.

#### HOURS OF WORK:

- A. In accordance with California Labor Code Section 1810, 8 hours of labor in performance of the services described in Exhibit A shall constitute a legal day's work under this contract.
- B. In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the services described in Exhibit A is limited to 8 hours during any one calendar day, and 40 hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of 8 hours during any one calendar day and 40 hours during any one calendar week is permitted upon compensation for all hours worked in excess of 8 hours during any one calendar day and 40 hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.
- C. The Contractor and its subcontractors shall forfeit as a penalty to the City \$25 for each worker employed in the performance of the services described in Exhibit A for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day, or more than 40 hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 and following.

#### WAGES:

- A. In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the services described in Exhibit A are to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the City Public Works Office and shall be made available on request. The Contractor and subcontractors engaged in the performance of the services described in Exhibit A shall pay no less than these rates to all persons engaged in performance of the services or work.
- B. In accordance with California Labor Code Section 1775, the Contractor and any subcontractors engaged in performance of the services described in Exhibit A shall comply with California Labor Code Section 1775, which establishes penalties per day for each worker engaged in the performance of the services described in Exhibit A that the Contractor or any subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Contractor or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Contractor or subcontractor in meeting applicable prevailing wage obligations, or the willful failure by the Contractor or subcontractor to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Contractor or subcontractor had knowledge of their

obligations under the California Labor Code. The Contractor or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the services described in Exhibit A is not paid the general prevailing per diem wages by the subcontractor, the Contractor is not liable for any penalties therefore unless the Contractor had knowledge of that failure or unless the Contractor fails to comply with all of the following requirements:

1. The contract executed between the Contractor and the subcontractor for the performance of part of the services described in Exhibit A shall include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
  2. The Contractor shall monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
  3. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the services described in Exhibit A.
  4. Prior to making final payment to the subcontractor, the Contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages for employees engaged in the performance of the services described in Exhibit A and any amounts due pursuant to California Labor Code Section 1813.
- C. In accordance with California Labor Code Section 1776, the Contractor and each subcontractor engaged in performance of the services described in Exhibit A shall keep accurate payroll records showing the name, address, social security number, work, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in performance of the services described in Exhibit A. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
1. The information contained in the payroll record is true and correct.
  2. The employer has complied with the requirements of California Labor Code Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project.

The payroll records required pursuant to California Labor Code Section 1776 shall be certified and sent directly to the Labor Commissioner, and available for inspection by the Owner and its authorized representatives, the Division of Labor Standards Enforcement, the Division of

Apprenticeship Standards of the Department of Industrial Relations and shall otherwise be available for inspection in accordance with California Labor Code Section 1776.

- D. In accordance with California Labor Code Section 1777.5, the Contractor, on behalf of the Contractor and any subcontractors engaged in performance of the services described in Exhibit A, shall be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.
  
- E. In case it becomes necessary for the Contractor or any subcontractor engaged in performance of the services described in Exhibit A to employ for the services described in Exhibit A any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Contractor or subcontractor shall pay the minimum rate of wages specified therein for the classification which most nearly corresponds to services described in Exhibit A to be performed by that person. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.