

AGREEMENT
BETWEEN THE CITY OF
BRENTWOOD

THE DAVEY TREE EXPERT
COMPANY,
FOR THE PROVISION OF
ON-CALL SUPPORTIVE URBAN
FOREST TREE CARE SERVICES

AGREEMENT made, effective the _____ day of _____, 2016, by and between the City of BRENTWOOD (hereinafter referred to as the "CITY") a municipal corporation with its principal place of business located at 2348 S. BRENTWOOD BOULEVARD, BRENTWOOD, MO 63144, and The Davey Tree Expert Company, (hereinafter referred to as "DAVEY") a company with its principal place of business located at 1500 North Mantua Street, P.O. Box 5193, Kent, Ohio 44240-5193.

WITNESSETH

WHEREAS, the CITY issued a Request for Proposals (hereinafter referred to as the "RFP", which is incorporated herein and made a part hereof by reference) dated OCTOBER 2, 2016 for the provision of ON-CALL SUPPORTIVE URBAN FOREST SERVICES to the City of BRENTWOOD,

WHEREAS, DAVEY submitted a Proposal (hereinafter referred to as the "Proposal", which is incorporated herein and made a part hereof by reference) dated OCTOBER 20, 2016, for the provision of said services, and;

WHEREAS, the CITY has awarded DAVEY the contract to provide the aforementioned services,

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY COVENANT AND AGREE AS FOLLOWS:

ARTICLE I. SCOPE OF SERVICES

DAVEY agrees to provide the scope of services as outlined in the City's Request for Proposals dated OCTOBER 2, 2016.

ARTICLE II. TERM OF CONTRACT

The contract period for the services contemplated by this RFP will be three (3) years commencing on _____ 2016 and terminating on _____. The City of BRENTWOOD will have the option to extend the agreement for two (2) additional one (1) year periods upon budget approval.

ARTICLE III. FEES

In consideration of the terms and obligations of this AGREEMENT, the CITY agrees to pay, and DAVEY agrees to accept, the following fees for the services contemplated herein: See attached fee schedule attached as Schedule "A".

DAVEY shall submit to the CITY itemized bills, properly executed claim forms, vouchers, and such other necessary information or supporting documentation as may be required by the CITY in order to process payment for fees. DAVEY agrees that no additional fees will be charged to the City of BRENTWOOD without prior written consent by the CITY.

ARTICLE IV. RELATIONSHIP

DAVEY is, and will function as, an independent contractor under the terms of this AGREEMENT and shall not be considered an agent or employee of the CITY for any purposes.

Regular service requests will be made by the CITY and DAVEY will be allowed flexibility to prioritize and complete work. DAVEY will promptly respond to emergency situations (as outlined in the RFP).

ARTICLE V. LICENSURE & CERTIFICATION

DAVEY shall at all times obtain and maintain any and all licenses and certifications required by the State of MISSOURI to perform the services contemplated by this AGREEMENT.

ARTICLE VI. WORKING WITH LIVING THINGS

As trees and other plant life are living, changing organisms affected by factors beyond our control, no guarantee on tree, plant, or general landscape safety, health, or condition is expressed or implied and is disclaimed in this contract unless that guarantee is specifically stated in writing by the company. Arborists cannot detect or anticipate every condition or event that could possibly lead to the structural failure of a tree or guarantee that a tree will be healthy or safe under all circumstances. Trees can be managed but not controlled. When elevated risk conditions in trees are observed and identified by our representatives and a contract has been signed to proceed with the remedial work we have recommended, we will make a reasonable effort to proceed with the job promptly. However, we will not assume liability for any accident, damage or injury that may occur on the ground or to any other object or structure prior to us beginning the tree maintenance work.

ARTICLE VII. INDEMNIFICATION

DAVEY agrees to defend, indemnify, and save harmless the CITY and its officers, employees and agents, from and against all claims, actions, causes of action, injuries, damages, losses, liabilities, and expenses (including, without limitation, reasonable attorney's fees and court costs) arising out of, or in consequence of, any negligent or intentional act or omission of DAVEY to the extent of its or their responsibility for such claims, actions, causes of action, injuries, damages, losses, liabilities, and expenses.

ARTICLE VIII. INSURANCE

DAVEY shall procure and maintain throughout the term of this AGREEMENT, without any additional expense to the CITY the insurance coverage listed as required in the RFP.

Each policy of insurance required shall be in form and content satisfactory to the Corporation Counsel, and shall provide that:

- (a) The City of BRENTWOOD is named as an additional named insured.
- (b) The insurance policies shall not be changed or cancelled until the expiration of thirty (30) days after written notice to the City of Corporation Counsel's Office.
- (c) The insurance policies shall be automatically renewed upon expiration and continued in force unless the City of BRENTWOOD_ Corporation Counsel's Office is given sixty (60) days written notice to the contrary.

No work shall be commenced under the contract until DAVEY has delivered to the Corporation Counsel or his designee proof of issuance of all policies of insurance required by the Contract to be procured by DAVEY.

ARTICLE IX. TERMINATION OF AGREEMENT

Notwithstanding any provisions of this Agreement, the City shall have the right at any time, with or without cause, to terminate this Agreement and the services contemplated by this Agreement upon thirty (30) days written notice of such termination. In the event of such termination of this Agreement, the contract term set forth in Article II shall be changed accordingly and DAVEY shall be entitled to compensation for all services theretofore authorized and performed pursuant to this Agreement in accordance with Article III of this Agreement.

ARTICLE X. MODIFICATIONS

This AGREEMENT may only be modified by a formal written amendment executed by the CITY and DAVEY.

ARTICLE XI. PARTIAL INVALIDITY

If any term, part, provision, section, subdivision, or paragraph of this AGREEMENT shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining terms, parts, provisions, sections, subdivisions, or paragraphs thereof.

ARTICLE XII. CONTRACT DOCUMENTS

It is understood and agreed by the parties hereto that the following documents are incorporated into and form part of this AGREEMENT:

- i. The CITY'S RFP dated OCTOBER 2, 2016;
- ii. DAVEY's Proposal dated OCTOBER 20, 2016;
- iii. Fee Schedule "A"

In the event of any discrepancy, disagreement, or ambiguity among the documents referenced above, said documents shall be given preference in the following order to interpret and to resolve any such discrepancy, disagreement, or ambiguity:

- i. This AGREEMENT;
- ii. Fee Schedule "A"
- ii. The CITY's RFP dated October 2, 2016
- iii. DAVEY's Proposal dated October 20, 2016.

ARTICLE XIII. NOTICES

All notices required under this AGREEMENT shall be in writing and either hand-delivered or properly mailed by certified mail, return receipt requested, to the addresses set forth below;

The Davey Tree Expert Company
Joe Gregory, Assistant Manager of Natural Resources Consulting
1500 North Mantua Street
Kent, Ohio 44240

ARTICLE XIV. GOVERNING LAW

This AGREEMENT shall be governed by and construed according to the law of the State of _____.

IN WITNESS WHEREOF, the parties hereto hereby execute this AGREEMENT and make it effective as of the day and year first written above.

THE CITY OF _____

The Davey Tree Expert Company

Mayor

Joe Gregory, Assistant Manager of Natural Resources Consulting

FEE STRUCTURE “A”

Standard Rates

Item	Size	Tree Removal; No Utility Line	Tree Removal; Near Utility Line	Stump Removal; No Utility Line	Stump Removal; Near Utility Line	Pruning; No Utility Line	Pruning; Near Utility Line
1	0-6"	\$160	\$160	\$90	\$90	\$80	\$80
2	7-12"	\$640	\$640	\$120	\$120	\$160	\$160
3	13-18"	\$1,360	\$1,360	\$140	\$140	\$480	\$480
4	19-24"	\$1,680	\$1,680	\$150	\$150	\$640	\$640
5	25-30"	\$1,920	\$1,920	\$160	\$160	\$720	\$720
6	31-36"	\$2,400	\$2,400	\$200	\$200	\$800	\$800
7	37-42"	\$3,300	\$3,300	\$225	\$225	\$880	\$880
8	43-48"	\$3,300	\$3,300	\$225	\$225	\$960	\$960
9	49-54"	\$3,300	\$3,300	\$225	\$225	\$1,040	\$1,040
10	55-60"	\$3,300	\$3,300	\$225	\$225	\$1,120	\$1,120

A “winter rate” discount of 10% may be applied for tree removal and pruning work scheduled between December and February. A maximum discount of 20% may be applied when five (5) or more projects are grouped into one work order request; this “bulk rate” requires that Davey have flexibility to prioritize and schedule the work. Discounts may not be combined to exceed 20%.

Emergency Rates: These rates are equal to standard rates, however, no discounts apply.

Item	Size	Emergency Tree Removal; No Utility Line	Emergency Tree Removal; Near Utility Line	Emergency Pruning; No Utility Line	Emergency Pruning; Near Utility Line
1	0-6"	\$160	\$160	\$80	\$80
2	7-12"	\$640	\$640	\$160	\$160
3	13-18"	\$1,360	\$1,360	\$480	\$480
4	19-24"	\$1,680	\$1,680	\$640	\$640
5	25-30"	\$1,920	\$1,920	\$720	\$720
6	31-36"	\$2,400	\$2,400	\$800	\$800
7	37-42"	\$3,300	\$3,300	\$880	\$880
8	43-48"	\$3,300	\$3,300	\$960	\$960
9	49-54"	\$3,300	\$3,300	\$1,040	\$1,040
10	55-60"	\$3,300	\$3,300	\$1,120	\$1,120

Planting Rates

Size	Tree Planting; Tree Furnished by City	Tree Planting; Tree furnished by contractor
7 Gal. Size	\$95	\$95 + material cost/warranty
15 Gal. Size	\$225	\$225 + material cost/warranty
Balled and Burlapped	\$300	\$300 + material cost/warranty

Prices for Services Other Than Tree Removals:

Item	Billable Expense	Bill Rate \$ per _	Emergency Rate	Unit Price
1	Crew Work Order Hour (3 people)	\$240/hour		
2	Equipment Hour (Crane): Standard equipment included in quoted price.	\$150/hour		
3	Materials and supplies May include: trees, top soil, grass seed, mulch, stakes, cabling and bracing			Cost + 20%
4	Supervision/Management: included in cost no charge			
5	Chemical Treatment	\$150/hour		
5	Quarterly Level 1 Assessment (annually)	\$90/hour		\$2,200
6	Quarterly Level 1 Assessment (quarterly)	\$90/hour		\$720/quarter
7	Urban Forest Health Assessment and Action Plan			\$700

Any additional urban forestry consulting services will be billed at \$90/hour.

Proposed unit prices include time to update Brentwood’s TreeKeeper program once work is complete and drafting clear reporting and summaries for staff, City Council and/or resident updates. Davey Tree Experts will follow proper protocol for work near utilities and coordinate with appropriate service providers as needed. The quoted pruning and removal price assumes there is adequate equipment access and work can be performed with in-house resources; if work requires additional equipment (i.e. crane) additional fees will be added. Quoted prices are fixed for two years and subject to a 5% annual increase starting in year three.

Emergency response will be billed at the standard rates except during “catastrophic” circumstances including (but not limited to) extreme ice storms, tornados, and other natural disasters. Additionally, special circumstances including (but not limited to) challenging tree locations or hazardous situations may be denied or billed appropriately.