

## PROFESSIONAL SERVICES AGREEMENT

Project: Kohlerlawn Cemetery Tree Planting

Contractor: **SuperTrees Inc.**

Owner: City of Nampa, Canyon County, Idaho, a Municipal Corporation

THIS AGREEMENT, made this \_\_\_\_\_, **2024** by and between the City of Nampa, a Municipal Corporation organized under the laws of the State of Idaho, hereinafter referred to as "CITY", and **SuperTrees Inc.** hereinafter referred to as "CONTRACTOR", a corporation organized under the laws of the State of Idaho.

1. **Scope of Service:** CONTRACTOR will perform all services, and comply in all respects, as specified in CONTRACTOR Proposal **Kohlerlawn Cemetery Tree Planting Project Request for Proposal** (Appendix C), dated **September 27, 2024**, a copy of which is attached hereto and incorporated by reference here. If there is any conflict between the provisions of the Proposal in Appendix C and the body of this Agreement the terms of the body of the Agreement shall govern and control. CONTRACTOR shall provide a weekly progress report of completed work for review by the City of Nampa by email to the City Forester. In addition, CONTRACTOR will plant **(155) trees** in designated areas. Refer to Appendix A- Kohlerlawn Cemetery Master Tree Planting Map. CONTRACTOR will include the service of clean up and hauling off of all debris, materials and trash. Services will be provided at Kohlerlawn Cemetery – 76 6<sup>th</sup> Street North, Nampa, ID 83687.
2. **Time of Performance:** All services contracted will be provided between the dates of February 17, **2025**, and concluding on April 18, **2025**. The term may be modified by mutual written agreement of the parties. CONTRACTOR shall provide an estimated work schedule and be flexible with Cemetery operations and funeral services.
3. **Terms of Payment:** CITY shall pay the CONTRACTOR a sum not to exceed **\$76,725.00** for actual costs incurred as outlined in the **Kohlerlawn Cemetery Tree Planting Bid Sheet** (Appendix B) attached hereto and incorporated herein. The CONTRACTOR shall provide CITY with an itemized, final invoice by April 30, **2025**. The invoice shall be accepted and processed for payment in accordance with Idaho Code Section 67-2302.
4. **Indemnification and Insurance:** CONTRACTOR will indemnify and save and hold harmless CITY from all for all losses, claims, actions, judgments for damages, or injury to persons property, and losses and expenses caused or incurred by CONTRACTOR, its servants, agents, employees, guests, and business invitees, and not caused by or arising out of the tortuous

conduct of CITY or its employees. In addition, CONTRACTOR will maintain, and specifically agrees that it will maintain, throughout the term of this Agreement, liability insurance, in which CITY will be named an additional insured in the minimum amount as specified in the Idaho Tort Claims Act set forth in Title 6, Chapter 9 of the Idaho Code. The limits of insurance will not be deemed a limitation of the covenants to indemnify and save and hold harmless CITY; and if CITY becomes liable for an amount in excess of the insurance limits, herein provided, CONTRACTOR covenants and agrees to indemnify and save and hold harmless CITY from and for all such losses, claims, actions, or judgments for damages or liability to persons or property. CONTRACTOR will provide CITY with Certificate of Insurance with a minimum coverage amount of \$1,000,000.00 per occurrence/\$2,000,000 aggregate, or other proof of insurance evidencing CONTRACTOR compliance with the requirements of this paragraph and file such proof or insurance with the City. In the event the insurance minimums are changed, CONTRACTOR will immediately submit proof of compliance with the changed limits. Additionally, CONTRACTOR will maintain Workers' Compensation Insurance, in the statutory limits as required by law. Evidence of all insurance will be submitted to Nampa Parks Department, 312 1<sup>st</sup> Street South, Nampa, Idaho 83651.

5. Independent Contractor: In all matters pertaining to this agreement, CONTRACTOR will be acting as an independent Contractor, and neither CONTRACTOR nor any officer, employee, or agent of CONTRACTOR will be deemed an employee of CITY. The selection and designation of the personnel of CITY in the performance of this agreement will be made of CITY.
  
6. Notices: Any and all notices required to be given by either of the parties hereto, unless otherwise stated in this agreement, will be in writing and be deemed communicated when mailed in the United States mail, certified, return receipt requested, addressed as follows:

City of Nampa  
Parks & Forestry Department  
C/O Adam Mancini  
312 1<sup>st</sup> Street South  
Nampa, ID 83651

SuperTrees Inc.  
2875 W. 12600 S  
Riverton, UT 84065

Either party may change their address for the purpose of this paragraph by given written notice of such change to the other in the manner herein provided.

7. Dispute Resolution: In the event, CONTRACTOR institutes litigation to enforce or interpret the provisions of this Agreement, such litigation is to be brought and adjudicated in the appropriate court Canyon County or Ada County, Idaho. Should any litigation be commenced between the parties hereto concerning this Agreement, the prevailing will be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorney's fees as determined by a Court of competent jurisdiction. This provision will be deemed to be a separate contract between the parties and will survive any default, termination, or forfeiture of this Agreement.
8. Time is of the Essence: The parties hereto acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, and provision hereof, and that the failure to timely perform any of the obligations hereunder will constitute a breach of, and a default under, this Agreement by the party so failing to perform.
9. Assignment: It is expressly agreed and understood by the parties hereto, CONTRACTOR will not have the right to assign, transfer, hypothecate, or sell any of its rights under this Agreement except upon the prior express written consent of CITY.
10. Discrimination Prohibited: In performing the Services required herein, CONTRACTOR will not discriminate against any person on the basis of race, color, religion, sex, national origin, ancestry, age, or disability.
11. Statutory Certifications: In performing the scope of services required hereunder, CONTRACTOR will comply with all applicable laws, ordinances, and codes of Federal, State, and local governments including safety precautions and restrictions set forth by the label of each product used. CONTRACTOR hereby certifies that it is not owned or operated by the Government of China, as defined in Idaho Code Section 67-2359, and that during the Term of this Agreement it will not be owned or operated by the Government of China. CONTRACTOR hereby certifies that it is not currently engaged in, and during the Term of this Agreement will not engage in, a boycott of goods and services from Israel or territories under its control as defined in Idaho Code Section 67-2346. CONTRACTOR hereby certifies that it is not currently engaged in, and will not for the Term of this Agreement, boycott any individual or company because that individual or company: a) engages in or supports the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, minerals, hydroelectric power, nuclear energy or agriculture or b) engages in or supports the manufacture, distribution, sale or use of firearms (as firearm is defined in Idaho Code section 18-3302(2)(d)) as the forgoing terms in this sentence are defined in Idaho Code Section 67-2347A. CONTRACTOR certifies that it is not, and will not for during the Term of the Agreement, become an abortion provider or an affiliate of an abortion provider, as those terms are defined in Idaho Code 18-8701.

12. Changes: CITY may, from time to time, request changes in the Scope of Services to be performed hereunder. Such changes, including any increase or decrease in the amount of CONTRACTOR compensation, which are mutually agreed upon by and between CITY and CONTRACTOR, will be incorporated in written amendments to this Agreement.
  
13. Termination: Either party may terminate this Agreement at any time for any reason or no reason by giving at least thirty (30) days' notice in writing to the other party. Upon forty-five (45) days written notice CITY may terminate all or portion of this Agreement for breach of the terms of this Agreement if CONTRACTOR fails to: cure such default and comply with contract terms and conditions; or provide the CITY, upon request, with adequate assurances of future performance with adequacy said assurances to be determined by the City in its sole discretion.
  
14. Construction and Severability: If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.
  
15. Entire Agreement: This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.
  
16. Applicable Law: This Agreement will be governed by and construed and enforced in accordance with the laws of the State of Idaho, and the ordinances of CITY.
  
17. Non-Appropriation Clause: This Agreement is subject to and conditioned upon annual appropriation by the city council and will not become effective or binding until approved by CITY.

**END OF AGREEMENT**

**CITY OF NAMPA**

**CONTRACTOR**

\_\_\_\_\_  
**DEBBIE KLING, MAYOR**                      **DATE**

\_\_\_\_\_  
**SIGNATURE**                                      **DATE**

**ATTEST:**

\_\_\_\_\_  
**PRINT NAME**                                      **TITLE**

\_\_\_\_\_  
**CHARLENE TIM, CITY CLERK**                      **DATE**

## APPENDIX A

## APPENDIX B