

CITY of NOVI CITY COUNCIL

**Agenda Item 3
November 13, 2012**

SUBJECT: Approval to award the second of three one-year extensions of the unit price contract with Asplundh Tree Expert Company for Forestry Services in the estimated amount of \$155,000.

SUBMITTING DEPARTMENT: Department of Public Services – Field Operations Division *MS*

CITY MANAGER APPROVAL: *[Signature]*

EXPENDITURE REQUIRED	Estimated \$155,000
AMOUNT BUDGETED	\$160,000 (Various Funding Sources)
APPROPRIATION REQUIRED	\$0
LINE ITEM NUMBER	202-202.00-866.000 (Major Rd. – Routine Maintenance) 203-203.00-866.000 (Local Rd. – Routine Maintenance) 101-442.20-939.000 (Park Maintenance) 101-442.20-941.200 (Cemetery Maintenance) 209-000.00-939.260 (Tree Fund Expenditures)

BACKGROUND INFORMATION: On October 11, 2010 the Novi City Council authorized a Forestry Services Contract with Asplundh Tree Expert Company for an estimated annual price of \$183,479. The contract term was for one year, with forestry services being performed as requested (tree removal, stump removal, block pruning, general service requests, storm damage removal, and open drain/debris removal). The expenditures required to perform these services in 2011/2012 totaled approximately \$155,000.

Asplundh Tree Expert Company has satisfactorily completed forestry services for the City of Novi over the past two years. The contractor has been responsive, and has met the general requirements and specifications of the contract. Asplundh Tree Expert Company has indicated a willingness to extend the contract prices for forestry services for another year, as indicated on the attached renewal letter. This one-year contract extension is the second of three extensions available.

RECOMMENDED ACTION: Approval to award the second of three one-year extensions of the unit price contract with Asplundh Tree Expert Company for Forestry Services in the estimated amount of \$155,000.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Wrobel				

ASPLUNDH

ASPLUNDH TREE EXPERT CO.

708 BLAIR MILL ROAD, WILLOW GROVE, PA 19090 • PHONE: (215) 784-4200

CHRISTOPHER B. ASPLUNDH, JR.
EXECUTIVE VICE PRESIDENT
PHONE: (215) 784-4224
FAX: (215) 784-1444
CHRISJR@ASPLUNDH.COM

October 30, 2012

Mr. Matt Wiktorowski
Field Operations Senior Manager
City of Novi
26300 Delwal Drive
Novi, MI 48375

Re: Contract for Forestry Services

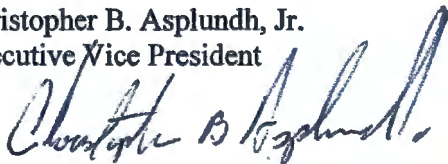
Dear Mr. Wiktorowski:

Asplundh Tree Expert Co. agrees to extend our current Forestry Services contract for an additional one year period, from November 8, 2012 to November 8, 2013, at the same price and under the same terms and conditions as our current contract.

Please do not hesitate to contact me should you have any questions or require further information.

Sincerely,

Christopher B. Asplundh, Jr.
Executive Vice President



cc: Pete Fengler
Ray Schneider
Clyde Davis

CONTRACT FOR FORESTRY SERVICES

THIS CONTRACT FOR SERVICES AND MATERIALS ("Contract"), dated November 8, 2010 is by and between the City of Novi, a Michigan municipal corporation, whose address is 45175 W. Ten Mile Road, Novi Michigan, 48375 (hereinafter referred to as "Client"), and Asplundh Tree Expert Company whose address is 708 Blair Mill Road, Willow Grove Pennsylvania, 19090-1784 (hereinafter referred to as "Contractor").

THE CLIENT AND CONTRACTOR AGREE AS FOLLOWS:

Article I. Statement and Performance of Work.

For payment by the Client as provided under this Contract, Contractor shall provide the materials and perform the services described on and in Schedule A (the "Work"), which is attached hereto and made a part of this Contract by this reference, in a competent, accurate, efficient, timely, good, professional, thorough, complete and responsible manner, and in compliance with the terms and conditions set forth below.

Article II. Term of Agreement.

Performance of this Contract shall commence on NOVEMBER 8, 2010 and end on NOVEMBER 8, 2011. Upon mutual consent of the Client and the Contractor, the contract may be renewed three (3) additional years in one (1) year increments at the same prices, terms, and conditions of the original contract.

Article III. Contract Price and Payment.

Subject to the terms and conditions of this Contract, the Client agrees to pay Contractor an amount for services and materials as specifically set forth in the completed Proposal attached which is part of the attached Schedule A. Such payments are in exchange for and consideration of the timely and satisfactory performance and completion of the work required under and pursuant to this Contract. Itemized billings shall be submitted and shall be paid only upon satisfactory completion of the work itemized in the billing.

All costs and expenses incurred by Contractor under this Contract are deemed to be included in the amounts set forth in Schedule A, unless specifically identified in Schedule A as reimbursable expenses and such expenses have been approved by the Client or its designee. Contractor will obtain written approval of the Client prior to proceeding with any work that is not stated on Schedule A; otherwise, the Client will not be billed for such extra/additional work.

Payments shall be made upon verification of invoices received by the Client. All payments to Contractor shall be submitted by mail at Contractor's address first listed above, unless Contractor provides written notice of a change in the address to which such payments are to be sent.

Article IV: Termination.

- A. 1. For cause: In the event that either party shall breach the terms and conditions of this Contract, the aggrieved party may notify the other party, in writing via certified mail, of such breach and demand that the same be remedied within ten (10) days. If the defaulting party fails to remedy the breach as demanded, the aggrieved party shall then have the right to

terminate by giving the defaulting party thirty (30) days written notice. In addition, if at any time a voluntary petition in bankruptcy shall be filed against either party and shall not be dismissed within thirty (30) days, or if either party shall take advantage of any insolvency law, or if a receiver or trustee of any of a party's property shall be appointed and such appointments shall not be vacated within thirty (30) days, the other party shall have the right, in addition to any other rights of whatsoever nature that it may have at law or in equity, to terminate by giving thirty (30) days notice in writing of such termination.

2. For convenience: The Client may terminate the agreement, in whole or in part, without showing cause upon giving thirty (30) days written notice to the Contractor. The Client shall pay all reasonable costs incurred by the Client up to the date of notice of termination. The Contractor will not be reimbursed for any anticipatory profits that have not been earned up to the date of notice of termination.

- B. In the event this Contract is terminated before completion, the Client shall not be responsible to make any further payments for work performed after the effective date of such termination, and shall pay Contractor for such materials as have been delivered and for such work as has been completed and is eligible for payment under the terms of this Contract through the date of such termination. In all events, the Client shall only be responsible to make the payments described in the preceding sentence if, at the Client's request, Contractor continues to fully perform its duties and obligations in full compliance with the terms of this Contract through the effective date of the termination.

Article V: Independent Contractor/Vendor Relationship.

- A. In the performance of this Contract, the relationship of Contractor to the Client shall be that of an independent contractor and/or vendor and not that of an employee or agent of Client. Contractor is and shall perform under this Contract as an independent contractor and/or vendor, and no liability or responsibility with respect to benefits of any kind, including without limitation, medical benefits, worker's compensation, pension rights, or other rights or liabilities arising out of or related to a contract for hire or employer/employee relationship shall arise or accrue to either party as a result of the performance of this Contract.

Contractor, as an independent contractor and/or vendor, is not authorized to enter into or sign any agreements on behalf of the Client or to make any representations to third parties that are binding upon the Client.

- B. Contractor represents that it will dedicate sufficient resources and provide all necessary personnel required to perform the work described in Schedule A in accordance with the terms and conditions of this Contract. Except as may be specifically stated and agreed to in Schedule A, Contractor shall perform all of the work under this Contract and no other person or entity shall be assigned or sub-contracted to perform the work, or any part thereof, unless approved by the Client in advance.

Article VI: Liability and Insurance.

- A. Contractor agrees to indemnify and hold harmless the Client, its elected and appointed officials and employees, from and against any and all claims, demands, suits, losses and settlements, including actual attorney fees incurred and all costs connected therewith, for any damages which may be asserted, claimed or recovered against the Client by reason of (i)

personal injury, death and/or property damages which arises out of or is in any way connected or associated with the actions or inactions of Contractor in performing or failing to perform the work; or (ii) civil damages which arise out of any dispute between Contractor and its subcontractors, affiliates, employees or other private third parties in connection with this Contract. Contractor specifically agrees that it is Contractor's responsibility, and not the responsibility of the Client, to safeguard the property and materials used in performing this Contract. Contractor agrees to hold the City harmless from any loss of or damage to such property and materials used in connection with Contractor's performance of this Contract.

- B. Contractor shall provide evidence of adequate insurance coverage in the types and amounts set forth on Schedule B, which is attached hereto and incorporated herein by this reference. Such insurance shall be maintained at the specified level of coverage throughout the term of this Contract, including any extension of such term, and will cover all work, acts and omissions by and on behalf of Contractor in connection with this Contract, with the Client as named additional insureds, but with such coverage being primary and non-contributory as described in the attached Schedule B.

Article VII: Information.

It is expressly acknowledged and agreed that all reports, opinions, compilations, research work, studies, data, materials, artifacts, samples, documents, plans, drawings, specifications, correspondence, ledgers, permits, manuals, applications, contracts, accountings, schedules, maps, logs, invoices, billings, photographs, videotapes and all other materials generated by and/or coming into the possession of Contractor during the term of this Contract, and any extension thereof, ~~that in any way relate to the performance of work by Contractor under this Contract or~~ that are otherwise related or relevant to the work, belong exclusively to the Client and shall be promptly delivered to the Client upon the termination of this Contract or, at any time, upon the Client's request.

Article IX: General Provisions.

- A. Entire Agreement. This instrument, together with the attached Schedules, contains the entire Contract between the Client and Consultant. No verbal agreement, conversation, or representation by or between any officer, agent, or employee of the parties hereto, either before or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained.
- B. Compliance with Laws. This Contract and all of Consultant's work and practices shall be subject to all applicable state, federal and local laws, ordinances, rules or regulations, including without limitation, those which apply because Client is a public governmental agency or body. Consultant represents that it is in compliance with all such laws and eligible and qualified to enter into this Contract.
- C. Governing Law. This Contract shall be governed by the laws of the State of Michigan.
- D. Assignment. Consultant shall not assign this Contract or any part thereof without the written consent of the Client. This Contract shall be binding on the parties, their successors, assigns and legal representatives.

- E. Discrimination: The Consultant shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, condition or privileges of employment on a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status pursuant to the Elliot Larsen Civil Rights Act, 1976, P.A. 453. The Consultant and the Client shall also comply with the provisions of the Michigan Handicappers Civil Rights Act, 1976, P.A. 220 and the Federal Rehabilitation Act of 1973, P.A. 93-112, 87 Stat. 394, which require that no employee or client or otherwise qualified handicapped individual shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance. No person shall, on the grounds of race, creed, color, sex, age, national origin, height, weight, handicap, or marital status be excluded from participation in, be denied the proceeds of, or be subjected to discrimination in the performance of this contract.
- F. Dispute Resolution/Arbitration. The parties agree that any disputes regarding a claimed violation of this agreement shall first be submitted in writing to the other party in an attempt to settle the matter before pursuing other legal actions or notices provided for in this agreement. Such written communication shall clearly state the problem or concern, allow sufficient time for a written response from the other party, and culminate in a face-to-face meeting to determine if a remedial action is possible. In no event shall this process take more than thirty (30) days, unless a specific extended period of time is agreed to by both parties in writing as being necessary. The aforementioned initial written communications between the parties also shall indicate whether the party is willing to submit the dispute to binding arbitration, non-binding mediation or other form of alternate dispute resolution, and share equally the costs for same. ~~Upon the parties agreeing to any such method of dispute resolution and a timetable for doing so, pursuit of other legal actions shall be deferred until the process has been completed.~~ In any binding arbitration, the arbitrator shall provide a written statement of the reasons and basis for an award or decision, a judgment of the Oakland County Circuit Court may be entered based on the arbitration award or decision, and each party shall be responsible for their own costs and attorney fees.
- G. Third Parties. It is the intention of the parties hereto that this Agreement is not made for the benefit of any private third party. It is acknowledged that Client may receive a portion of the funding for the payments under this Contract from one or more private sources, and it is understood by Consultant that it is hired by Client to work exclusively for Client and Consultant agrees that no private party or parties will be allowed to hold sway or influence, in any way, over Contractor's performance of the work.
- H. Notices. Written notices under this Contract shall be given to the parties at their addresses contained in this Contract by personal or registered mail delivery to the attention of the following persons:
- Client: City Manager Clay J. Pearson and City Clerk Maryanne Cornelius
Contractor: Sr. Vice President Christopher B. Asplundh, Jr.
- I. Changes. Any changes in the provisions of this Contract must be in writing and signed by the Client and Contractor.

- J. Waivers. No waiver of any term or condition of this Contract shall be binding and effective unless in writing and signed by all parties, with any such waiver being limited to that circumstance only and not applicable to subsequent actions or events.
- K. Jurisdiction and Venue of Contract. This Contract shall be considered for all purposes, including the establishment of jurisdiction and venue in any court action between the parties, as having been entered into and consummated in the City of Novi, Oakland County, Michigan.
- L. Conflict. In the event of any conflict or inconsistency between the above provisions of this Contract and either or both of the attached Schedules, the provisions in the above text shall govern.

IN WITNESS WHEREOF, the Client and the Contractor have executed this Contract in Oakland County, Michigan, as of the date first listed above.

WITNESS:

City of Novi ("Client"):

Marilyn S. Troutman
Marilyn S. Troutman

By: David B. Landry
David B. Landry
Mayor

Deborah S. Aubry
Deborah S. Aubry

By: Maryanne Cornelius
Maryanne Cornelius
City Clerk

WITNESS:

**Contractor: Asplundh Tree Expert
Company**

Joseph P. Dwyer
Joseph P. Dwyer
Secretary-Treasurer

By: Christopher B. Asplundh, Jr.
Christopher B. Asplundh, Jr.
Sr. Vice President

Asplundh



CITY OF NOVI
FORESTRY SERVICES RFP
PROPOSAL FORM

We the undersigned as proposer, propose to furnish to the City of Novi, according to the specifications, terms, conditions and instructions attached hereto and made a part thereof..

Work Item	Estimated Quantity	Description	Price Per Hour
Work Item A Tree Removal	200 Man Hours	Contractor to provide all labor and equipment necessary for removal and disposal of trees. This item does not include the additional equipment needed to remove logs greater than 16 inches in diameter and stumps. Typical Crew Size: <u> 3 </u>	Regular Time: \$ <u> 105.32 </u> / Crew-Hour Overtime: \$ <u> 139.30 </u> / Crew-Hour Holiday Time: \$ <u> 173.27 </u> / Crew-Hour
Work Item B Stump Removal	300 Man Hours	Contractor to provide all labor, equipment and materials to perform stump removal/grinding, including site restoration. Typical Crew Size: <u> 2 </u>	Regular Time: \$ <u> 76.25 </u> / Crew-Hour Overtime: \$ <u> 97.39 </u> / Crew-Hour Holiday Time: \$ <u> 118.53 </u> / Crew-Hour
Work Item C Block Pruning	2,000 Man Hours	Contractor to provide all labor, equipment and materials for pruning of trees in rights-of-way. Block pruning will be done on a square mile/section basis throughout the City. Typical Crew Size: <u> 2 </u>	Regular Time: \$ <u> 87.00 </u> / Crew-Hour Overtime: \$ <u> 113.78 </u> / Crew-Hour Holiday Time: \$ <u> 140.55 </u> / Crew-Hour

<p><u>Work Item D</u> General Service Request</p>	<p>2,000 Man Hours</p>	<p>Contractor to provide all labor, equipment and materials for individual tree service requests from City representatives.</p> <p>Typical Crew Size: <u> 3 </u></p>	<p>Regular Time: \$ <u> 105.32 </u> / Crew-Hour</p> <p>Overtime: \$ <u> 139.30 </u> / Crew-Hour</p> <p>Holiday Time: \$ <u> 173.27 </u> / Crew-Hour</p>
<p><u>Work Item E</u> Storm Damage Removal</p>	<p>100 Man Hours</p>	<p>Contractor to provide all labor, equipment and materials to make an area affected by storm damage safe. This only includes work performed outside of regular working hours (overtime rate). Crews must be on the site of storm damage within two (2) hours of receipt of a City representative's request.</p> <p>Typical Crew Size: <u> 3 </u></p>	<p>Overtime: \$ <u> 139.30 </u> / Crew-Hour</p> <p>Holiday Time: \$ <u> 173.27 </u> / Crew-Hour</p>
<p><u>Work Item F</u> Open Drain Tree Removal and Debris Removal</p>	<p>100 Hours</p>	<p>Contractor to provide all labor, equipment and materials to remove fallen or dangerous trees and woody debris from water courses, detention basins, rear yard drains, and other similar locations.</p> <p>Typical Crew Size: <u> 3 </u></p>	<p>Regular Time: \$ <u> 94.93 </u> / Crew-Hour</p> <p>Overtime: \$ <u> 128.91 </u> / Crew-Hour</p> <p>Holiday Time: \$ <u> 162.88 </u> / Crew-Hour</p>

ESTIMATED QUANTITIES

Quantities stated are estimated, not guaranteed and are for award purposes only.



CITY OF NOVI
FORESTRY SERVICES

PROPOSED HOURLY RATES – CONTINGENCY SERVICES

ITEM	RATES		
	Regular Rate	Overtime Rate	Holiday Rate
Labor – Certified Arborist	\$ <u>34.85</u> /Hour	\$ <u>48.79</u> /Hour	\$ <u>62.73</u> /Hour
Labor – Tree Man	\$ <u>32.09</u> /Hour	\$ <u>44.93</u> /Hour	\$ <u>57.76</u> /Hour
Labor – Stump Grinder Operator	\$ <u>32.09</u> /Hour	\$ <u>44.93</u> /Hour	\$ <u>57.76</u> /Hour
Labor – Ground Man	\$ <u>18.00</u> /Hour	\$ <u>25.20</u> /Hour	\$ <u>32.40</u> /Hour
Logging Truck with Operator	\$ <u>78.95</u> /Hour	\$ <u>92.89</u> /Hour	\$ <u>106.83</u> /Hour
Front End Loader with Operator	\$ <u>78.95</u> /Hour	\$ <u>92.89</u> /Hour	\$ <u>106.83</u> /Hour
Crane with Operator	\$ <u>cost + 10%</u> /Hour	\$ <u>cost + 10%</u> /Hour	\$ <u>cost + 10%</u> /Hour
Aerial Tower	\$ <u>13.50</u> /Hour		
Chipper	\$ <u>5.10</u> /Hour		
chip Dump Truck	\$ <u>9.00</u> /Hour		
Other:	\$ _____ /Hour	\$ _____ /Hour	\$ _____ /Hour
Other:	\$ _____ /Hour	\$ _____ /Hour	\$ _____ /Hour

This organization, Asplundh Tree Expert Co., shall perform Forestry Services and accept all terms and conditions of the Contract.

Company Name Asplundh Tree Expert Co.

Address 708 Blair Mill Road

City, State, Zip Willow Grove, PA 19090-1784

Telephone 215-784-4384 Fax 215-784-1308

Authorized Representative Christopher B. Asplundh, Jr., Sr. Vice President

Authorized Representative's Signature *Christopher B. Asplundh, Jr.*

Date 8/30/10

CONTACT INFORMATION:

Contact Name: Clyde Davis

24 Hr Phone Number: 313-350-2041

Cell Number: 313-350-2041

Hours of Operations: 24 hr./7 days/wk (M-F)

Pager Number: None

Email Address: Cdavis17@Asplundh.com