



CITY OF MANITOWOC  
WISCONSIN, USA  
www.manitowoc.org



January 30, 2019

19-0177

CONSENT

TO: Mayor and Common Council  
FROM: Board of Public Works  
SUBJECT: AGMT-19-01 Contract with Chris Lewis Tree Surgery

Dear Mayor and Common Council:

At the January 23, 2019 Board of Public Works meeting, the Board met to approve entering into a contract with Chris Lewis Tree Surgery to remove trees and stumps at various locations, AGMT-19-01, for a contract price of \$10,374.62.

"Moved by Alderman Lee Kummer, seconded by Finance Director/Treasurer Steve Corbeille, and unanimously carried to enter into the contract. Ayes, 6. Nays, none."

Very Truly Yours,

DEBORAH NEUSER  
Secretary Board of Public Works

**Deborah Neuser, CMC, City Clerk**  
CITY HALL · 900 Quay Street · Manitowoc, WI 54220-4543  
Phone (920) 686-6950 · Fax (920) 686-6959 · dneuser@manitowoc.org

CONTRACT

This contract is made and entered into this 23 day of Jan., 2019, by and between Chris Lewis Tree Surgery (hereinafter "Contractor"), located at P.O. Box 1564, Manitowoc, WI 54221-1564 and the City of Manitowoc, Wisconsin, a Wisconsin municipal corporation (hereinafter "City"), located at 900 Quay Street, Manitowoc, Wisconsin 54220.

RECITALS

**WHEREAS**, Chris Lewis Tree Surgery located at P.O. Box 1564, Manitowoc, WI 54241 intends to cut and remove 9 trees at various locations within the 2019 City Sidewalk Replacement District and 13 stump removals as outlined in "Exhibit A", Chris Lewis Tree Surgery Proposal and in "Exhibit B" City of Manitowoc's Special Provisions and Conditions.

**WHEREAS**, Chris Lewis Tree Surgery has the ability to perform the required tree cutting and stump removal work as outlined in "Exhibits A and B".

**NOW, THEREFORE**, in consideration of the mutual covenants and representations of the parties hereinafter set forth, the undersigned parties hereby agree as follows:

1. Recitals. The above recitals are deemed to be true and correct.
2. Scope of Work. The Contractor agrees to perform the following work and/or furnish the following labor and materials in accordance with the terms of this contract:

**All work shall be performed in accordance with the City of Manitowoc's Standard Specifications for Public Works Construction.**

**See listing of tasks for this project. (Attached is "Exhibit A and B", and it is incorporated into this Contract by reference).**

3. Contract Price. The City agrees to pay to the Contractor for the performance of this contract the sum of \$10,347.62.
4. Schedule. Contractor agrees to commence work under this Contract upon its execution and complete performance of this contract in accordance with the City of Manitowoc's Standard Specifications, which are made part of this Contract and are incorporated by reference. The contract completion date shall be May 18, 2019
5. Payment Schedule. Requests for payment shall be made to the Director of Public Infrastructure. The Director of Public Infrastructure shall make a recommendation on the payment request and submit the same to the City's Board of Public Works when applicable. Contractor shall be entitled to payment within 30 days following approval by the Director of Public Infrastructure.
6. Assignment and Subcontracting. Contractor shall not be permitted to sign or subcontract any of the work hereunder without the prior written consent of the City.

7. **Insurance and Bonding.** Prior to commencing work hereunder, Contractor shall provide City, for approval by the City Attorney, a Certificate of Insurance showing proof of General Liability Insurance in amounts not less \$1,000,000.00 per person per occurrence, \$2,000,000.00 in the aggregate, property damage limits of not less than \$500,000.00 per occurrence, and shall carry the statutory amounts for worker's compensation insurance. **Contractor shall include with the Certificate of Insurance two endorsements, one endorsement naming the City of Manitowoc as an additional insured, and a second endorsement giving City thirty (30) days prior notice of non-renewal, modification or cancellation.**
8. **Applicable Statutes.** Any provisions of the Wisconsin Statutes, Federal Law or local ordinances applicable to the work performed hereunder are deemed to be incorporated by reference and made a part of this contract.
9. **Contract Notice.** Per Wisconsin State Statues 62.15, a Class I Notice had been executed and published for this work on January 21, 2019.
10. **Other Indebtedness to City.** It is understood and agreed by the parties hereto that whenever a contractor is for any reason indebted to the City of Manitowoc, the contractor consents that the City of Manitowoc through its officials shall and may, deduct and retain, any such balance out of the money or monies which may be due or become due to the contractor under this contract.
11. **Indemnify.** Contractor shall defend, indemnify and hold harmless the City of Manitowoc, its officials, officers, employees, representatives and agents against any and all liability, claims, costs, demands, losses, damages, expenses and attorney fees of any kind on account of any injury, damage, or death to any person or property that may arise directly caused by or resulting from the work performed under this Contract where the injury, damage, or death is caused by negligence or willful misconduct on the part of the Contractor, subcontractor, officers, employees, or agents.
12. **Default.** In the event of default or breach in the performance of any of the obligations, covenants, representations or duties under the terms of this Contract by either party, the non-defaulting party shall forward written notice to the defaulting party outlining such default. The defaulting party shall cure such default within thirty (30) days of receiving written notice from non-defaulting party, except that the cure period may be extended to a reasonable time to cure any default that cannot reasonably be cured with the thirty (30) day period, provided that the defaulting party has commenced to cure within the thirty (30) day period and diligently pursues a cure at all times thereafter until the default is cured. The defaulting party shall be responsible for the payment to the non-defaulting party of any outstanding fees, charges or expenses that were incurred by the non-defaulting party on behalf of the defaulting party.
13. **Permits.** None Required.
14. **Termination.** Either party may terminate this Contact with ten (10) days written notice to the other party.

15. **Notice and Demands.** A notice, demand or other communication under this Contract by any party to the other party shall be sufficiently given or delivered and deemed delivered as of the date such notice is delivered to the party intended, if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally and addressed to or personally delivered to:

**CITY:** City Clerk  
900 Quay Street  
Manitowoc, WI 54220

**CONTRACTOR:** Chris Lewis Tree Surgery  
P.O. Box 1564  
Manitowoc, WI 54221-1564

Notice and demand given shall be effective only if and when received by the party intended and acknowledged by receipt. The above addresses may be changed at any time by any party by giving written notice in the manner provided above.

16. **Assignment.** This Contract is not assignable without prior written consent of City.
17. **Severability.** If any provision of this Contract is deemed by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected thereby, and such remainder would then continue to conform to the requirements of applicable laws.
18. **Amendments.** This Contract can only be amended or modified in writing and signed by the parties involved.
19. **Integration.** This Contract represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to matters covered hereunder.
20. **Survival of Provisions.** All indemnification and hold harmless obligations shall survive the expiration or termination of this Contract.
21. **Choice of Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Wisconsin. All actions or proceedings relating directly or indirectly, to this Contract, whether sounding in contract or tort, shall be litigated only in the circuit court located in Manitowoc County, Wisconsin. All parties to this Contract hereby subject themselves to the jurisdiction of the circuit court for Manitowoc County, Wisconsin.
22. **Heading.** The section titles have been inserted in this Contract primarily for convenience, and do not define, limit or construe the contents of such paragraphs. If headings conflict with the text, the text shall control.
23. **Remedies Cumulative.** All rights and remedies hereunder are cumulative, and not exclusive, and shall be in addition to all other rights and remedies provided by applicable law. Failure to exercise or delay in exercising any right or remedy hereunder shall not operate as a waiver thereof, nor excuse future performance. No waiver discharge or renunciation of any claim or right arising out of a breach of these terms and conditions shall be effective unless in writing signed by the party so waiving. Any waiver of any

breach shall be a waiver of that breach only and not of any other breach, whether prior to subsequent thereto.

24. Construction. All parties have contributed to the drafting of this Contract. In the event of a controversy, dispute or contest over the meaning, interpretation, validity of enforcement of this document or any of its terms or conditions, there shall be no inferences, presumption or conclusion drawn whatsoever against any party whatsoever by virtue of that party having drafted the document or any portion thereof.

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"EXHIBIT A"

12/12/2018

By: SAH

PROPOSAL

FOR

2019 TREE AND STUMP REMOVAL

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CITY OF MANITOWOC

ITEM NO.	ITEM DESCRIPTION	ESTIMATED # OF REMOVALS	UNITS	BID QUANTITY	UNIT PRICE	TOTAL
1.	Remove Trees 15"-30" Diameter	5	ID	99	14.14	1400.00 1399.86
2.	Remove Trees Greater Than 30" Diameter	4	ID	153	32.35	4950.00 4949.55
3.	Stump Removal 15"-30" Diameter	8	ID	182	7.41	1350.00 1348.62
4.	Stump Removal Greater Than 30" Diameter	5	ID	193	7.51	1450.00 1449.43
5.	Lawn Restoration (3" topsoil, seed & e-mat)		SY	104	11.54	1,200.00 1200.16
TOTAL FOR PROPOSAL						\$ 10,350.00 \$ 10,347.62

The undersigned contractor agrees to all terms and conditions of the preceding specifications for the tree and stump removal project and shall furnish all insurance documents as stipulated.

Company Name Chris Lewis Tree Surgery

Authorized Signature Christian B. Lewis

Date: 1-3-19

## SPECIAL PROVISIONS AND CONDITIONS

### **INTENT AND SCOPE**

This project consists of tree removal, removing stumps and followed by lawn restoration at locations in the City Sidewalk Replacement District.

All work shall be performed according to the plans and specifications, and to the satisfaction of the City Forester and Director of Public Infrastructure or their representative(s).

The City of Manitowoc reserves the right to add or delete trees from this project.

The contractor shall examine the site locations and inform themselves of all the conditions and obstacles that may be encountered when performing the work. Some of the stump locations listed have been previously cut down previously and are aged stumps.

**All work shall be performed in accordance with the City of Manitowoc's Standard Specifications for Public Works Construction and can be found on the City's website at [www.manitowoc.org/Departments/Engineering/Standard Specifications](http://www.manitowoc.org/Departments/Engineering/Standard Specifications).**

### **CERTIFICATIONS**

The Contractor shall be certified to remove trees and branches where utility and communication lines run through or in close vicinity of a tree being removed.

All work shall be performed in accordance with OSHA standards and other applicable regulations.

### **STARTING AND COMPLETION DATES**

No work shall start prior to the full execution of this Contract and/or prior to receiving the "Notice to Proceed" from the City. It is anticipated the Contractor could start early March.

**All work shall be completed on or before May 18, 2019.**

Failure to meet the Completion Date listed above may result in the assessment of Liquidated Damages.

### **LIQUIDATED DAMAGES**

**For every calendar day of delay in the completion of the Work beyond the time specified, unless extended by written agreement, there shall be deducted from the amount due under this Contract as fixed, agreed and liquidated damages, the sum of One-Hundred Dollars (\$100).**

This sum shall be considered and treated not as a penalty but as fixed, agreed and liquidated damages due the Owner from the Contractor by reason of inconvenience to the public and other items which have caused an expenditure of public funds resulting from the failure to complete the work within the time specified in the contract.



## **TRAFFIC CONTROL**

The Contractor shall be responsible for traffic control, including furnishing, installing, and maintaining all barricades, signs, cones, flags, etc. required to protect the safety of the traveling public, in accordance with the Federal Highway Administration Manual on Uniform Traffic Control Devices (MUTCD) and its supplements. It is anticipated the **Work shall be done under traffic. No obstruction to vehicular or pedestrian traffic shall remain after the end of the daily work period.**

If the work cannot be done safely under traffic, the Contractor may request a street closure with permission granted by the Director of Public Infrastructure prior to work commencing at a specific location.

The cost of barricading, signing, cones, flagging, street closure, etc. (traffic control) shall be considered incidental to the project and no compensation will be allowed.

## **PRE-CONSTRUCTION CONFERENCE**

In accordance with Section 202 of the City's Standard Specifications for Public Works Construction, a pre-construction conference shall be held with the Contractor and the Engineer prior to starting construction. The Contractor shall be prepared to discuss the construction schedule in detail, including access to abutting properties, especially the businesses, traffic control and detours.

## **TREE REMOVALS**

All work shall be completed as per Section 700 of the City of Manitowoc's Standard Specifications for Public Works Construction.

The trees to be removed are of various diameters and located in the terrace areas of the City's Public Right-Of-Way.

The tree's diameter at breast height (DBH) measurement will be made at 4.5 feet above grade.

The Contractor shall be permitted to utilize the sidewalk area as necessary. Any damage to sidewalks, curbing and street surface shall be repaired by the Contractor at his expense. Any trees or plantings on public or private property that are damaged shall be repaired or replaced at the Contractor's expense.

## **STUMP REMOVALS**

All work shall be completed as per Section 700 of the City of Manitowoc's Standard Specifications for Public Works Construction.

The Contractor shall be responsible for contacting Digger's Hotline prior to any stump removals.

The stumps to be removed are of various diameters and located in the terrace areas of the City's Public Right-Of-Way. Diameter of the stumps were measured by the City. The Contractor shall request the Forester or Engineer to mark the stumps with a Pink "X" just prior to the work commencing. Any stump marked in a similar manner and is not on the list provided should be brought to the attention of the City Forester or the City Engineering Department.

Stump removal can be performed by either excavating or grinding the tree stump and buttress roots to a

point 18" below grade. Additionally, the contractor shall remove all surface and adjacent subsurface roots as may be necessary to eliminate mounds in the terrace area adjacent to the stump. The City assumes that removal limits will be 5 feet each direction of the stump and from the sidewalk edge to the street curbing. **The City Forester will mark/paint out limits as to where the work shall be performed.** The terrace area shall match the existing contour and grade. Stump removal will also include the disposal of all wood chips or ground material produced in the excavating or grinding process.

The Contractor will be permitted to utilize the sidewalk area as necessary. Any damage to sidewalks, curbing and street surface shall be repaired by the Contractor at his expense. Any trees or plantings on public or private property that are damaged shall be repaired or replaced at the Contractor's expense.

The Contractor shall be responsible for furnishing and installing a suitable ground material to fill the hole that is left after the stump and chipped wood is removed. The material shall consist of a rich loam, humus bearing soil suitable for growing trees. The material shall be filled and compacted in place so it is 3" below the final topsoil grade elevation which shall match the existing ground elevation/grade. The Contractor shall submit a sample of the material to the Forester for approval. **No sand or gravel material shall be allowed.**

### **LAWN RESTORATION**

The Contractor shall restore all disturbed lawn areas with 3 inches of Pulverized Topsoil, Fertilizer, Seed (WDOT Type 40) and Erosion Mat (Class 1, Urban, Type A) in accordance with **Section 700 of the "City of Manitowoc Standard Specifications for Public Works Construction"** and as directed by the Forester or Engineer.

**No topsoil shall be placed until an inspection of the removed stump has taken place by either the City Forester or a representative from the City.**

The City assumes that restoration limits will be 5 feet each direction of the stump and from the sidewalk edge to the street curbing or 12'x 6' on average. The City Forester will mark/paint out limits as to where the work shall be performed.

Erosion Mat shall be secured by using plastic or wood stakes. No metal stakes shall be allowed.

### **NOTIFICATION OF DAILY WORK**

The Contractor shall be responsible for notifying the City Forester between 7:30 a.m. and 8:30 a.m. daily to report the location where the crew(s) will be working. The Contractor shall call between 7:30 a.m. and 4:30 p.m. to report the next day's schedule. **The City Forester is Al Rehme and can be contacted at (920) 323-1859.** If the contractor can't reach the City Forester, the City Engineering Department will be the backup contact at (920) 686-6910.

### **WORK HOURS AND CONDITIONS**

Hours of work shall be at the discretion of the Contractor. However, no work shall start before 7:30 a.m. and be completed by 4:30 p.m. each day. No work shall be performed on Sundays and holidays.

The Contractor shall plan his operation so snowy/winter weather does not hamper the tree removal operation and affect the City's snow plowing or removal operation on a daily basis.

**TREE LOCATIONS**

Within the contract documents and bid proposal will be a list indicating the tree location, size and type of the tree. The City Forester and Engineer have marked the trees with a **Pink Dot** located on the street side of the tree. Any tree dotted in a similar manner and is not on the list provided should be brought to the attention of the City Forester or the City Engineering Department.

**AFFECTED PROPERTIES**

Any questions from abutting property owners regarding the removals shall be directed to the City Forester at (920) 323-1859 or the City Engineering Department at (920) 686-6910.

If the Contractor makes arrangements with the adjacent property owner to cut and leave the wood, the wood shall be placed on the property owner's side of the sidewalk. The wood shall not cause any vision concerns with pedestrians or vehicles using City's Right- of-Way. If the adjacent property owner requests the wood, the City will bill the owner \$25.00 and the Contractor will need to notify the Forester of wood being left on site.

No debris or logs shall be given to property owners that may have an indication the Emerald Ash Borer is present. The Contractor shall deliver the cut wood to the City's Gravel Pit located at 3130 Hecker Road. The City Forester will give the location at the pit as to where the wood will dumped.

**CUT WOOD**

If the abutting property owners do not request the wood from the trees being cut, the contractor can deliver to the following list of private drop off location pre-arranged by the City Forester. The Contractor shall not deliver to anyone besides the pre-arranged drop off locations. The Contractor shall be responsible for coordinating the loading, hauling, unloading and stockpiling all of the wood at the pre-arranged drop off locations. Any branches smaller than 5 inches in diameter shall become the property of the Contractor to do as he wishes. There is a County site located on Basswood Road that does accept tree removal material.

**Drop off locations on the Northside of the City**

Ron & Cindy Torstenson  
3803 County Road Q  
920-901-3815 or 920-901-9610  
Will take up to 15 Loads

Phipps Construction  
2245 Logwood Lane  
920-901-6630  
Will take up to 4 loads

Any remaining wood shall be delivered to City property arranged by the City Forester.

**CLEAN-UP AND WORKMANSHIP**

Clean up shall be on a daily basis. No debris or logs shall remain on site at the end of the work day. Streets, lawns and sidewalks shall be cleaned up in a neat and orderly manner. Workmanship shall be to the highest caliber and the workers insure the least amount of disturbance to the site and the general public.

## **CONSTRUCTION NOTES**

### **CITY SIDEWALK REPLACEMENT DISTRICT**

This area is located in the southeast part of the City which is bounded from S 10<sup>th</sup> Street to S 14<sup>th</sup> Street and Hamilton Street to Dewey Street. There are nine trees in this district that will need to be removed by **May 18, 2019**.

#### **TREE LOCATIONS IN THIS DISTRICT:**

S. 11<sup>th</sup> & Columbus Street at northeast corner - 39" DBH Box Elder.

1333 S 11<sup>th</sup> Street - 25" DBH Sugar Maple.

S. 11<sup>th</sup> & Green Street -18" DBH Mountain Ash.

1235 S. 12<sup>th</sup> Street - 36" DBH Maple.

1227 S 12<sup>th</sup> Street - 24" DBH Sugar Maple.

1232 S 13<sup>th</sup> Street – 45" DBH Sugar Maple.

1318 Grand Avenue – 17" DBH Sugar Maple.

1218 Grand Avenue – 15" DBH Maple

1118 Grand Avenue – 33" DBH Maple

Total of 252 Inch-Diameter

#### **STUMP LOCATIONS IN THIS DISTRICT**

##### **Stump removals where tree is to be cut down:**

Diameter measurements were based on the original diameter of the tree measured at DBH.

S. 11<sup>th</sup> & Columbus Street at northeast corner - 39" DBH Box Elder.

1333 S 11<sup>th</sup> Street - 25" DBH Sugar Maple.

S. 11<sup>th</sup> & Green Street -18" DBH Mountain Ash.

1235 S. 12<sup>th</sup> Street - 36" DBH Maple.

1227 S 12<sup>th</sup> Street - 24" DBH Sugar Maple.

1232 S 13<sup>th</sup> Street – 45" DBH Sugar Maple.

1318 Grand Avenue – 17" DBH Sugar Maple.

1218 Grand Avenue – 15" DBH Maple

1118 Grand Avenue – 33" DBH Maple

##### **Stump removals where tree has previously been cut:**

Diameter measurements were based at current surface elevation.

1329 S.12<sup>th</sup> Street - 27" diameter average.

1124 Philippen Street –on 12<sup>th</sup> Street side – 26" and 30" diameter.

1305 Madison Street - 40" diameter average.

Total of 375 Inch-Diameter.