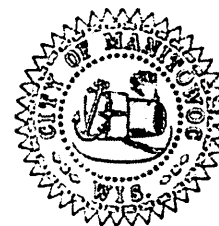




CITY OF MANITOWOC

WISCONSIN, USA
www.manitowoc.org



February 3, 2021

TO: Mayor and Common Council
FROM: Board of Public Works
SUBJECT: AGMT-21-01 Contract with LeMahieu Tree Service

Dear Mayor and Common Council:

At the January 20, 2021 Board of Public Works meeting, the Board met to approve entering into a contract with LaMahieu Tree Service for 2021 Tree Removal and Stump Grinding at various locations within the 2021 City Sidewalk Replacement District, AGMT-21-01, for a contract price of \$9,148.54

"Moved by City Attorney Kathleen McDaniel, seconded by Alderperson John Brunner, unanimously carried to enter into the agreement. Ayes, 7. Nays, none."

Very Truly Yours,

MACKENZIE REED-KADOW
Secretary Board of Public Works

CONTRACT

This contract is made and entered into this 22nd day of January, 2021, by and between LeMahieu Tree Service (hereinafter "Contractor"), located at N2620 County Road GW, Oostburg, WI 53070 and the City of Manitowoc, Wisconsin, a Wisconsin municipal corporation (hereinafter "City"), located at 900 Quay Street, Manitowoc, Wisconsin 54220.

RECITALS

WHEREAS, LeMahieu Tree Service located at N2620 County Road GW, Oostburg, WI 53070, intends to cut and remove 6 trees at various locations within the 2021 City Sidewalk Replacement District and 6 stump removals as outlined in "Exhibit A", LeMahieu Tree Service Proposal and in "Exhibit B" City of Manitowoc's Special Provisions and Conditions.

WHEREAS, LeMahieu Tree Service 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 \$9,148.54.
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 April 16, 2021.
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 Statutes 62.15, a Class I Notice had been executed and published for this work on January 18, 2021.
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 Contract 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: LeMahieu Tree Service
N2620 County Road GW
Oostburg, WI 53070

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.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Contract as of the day and year first above written.

SOLE PROPRIETORSHIP OR PARTNERSHIP

CORPORATION

Name of Proprietor or Partnership

Name of Corporation

Sole Proprietor or Partner (Seal)

By: Michael J. Zyglis (Seal)
President

Partner (Seal)

Attest:

Partner (Seal)

CORPORATE SEAL

CITY OF MANITOWOC

By: Justin M. Nickels
Justin M. Nickels, Mayor

Attest: Mackenzie Reed-Kadow
Mackenzie Reed-Kadow, City Clerk

STATE OF WISCONSIN)
) ss.
MANITOWOC COUNTY)

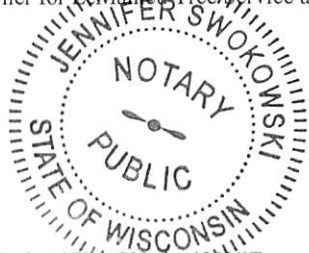
Personally came before me, this 20 day of January, 2021, the above named Justin M. Nickels and Mackenzie Reed-Kadow, known to me to be the Mayor and City Clerk of the City of Manitowoc and acknowledge they executed the foregoing instrument.



Jennifer Swokowski
Jennifer Swokowski
Notary Public Manitowoc County, WI
My commission (expires)(is) 11-26-24

STATE OF WISCONSIN)
) ss.
SHEBOYGAN COUNTY)

Personally came before me, this 19 day of January, 2021, the above named Mike LeMahieu, Owner for LeMahieu Tree Service and acknowledge they executed the foregoing instrument.



Jennifer Swokowski
Jennifer Swokowski
Notary Public Sheboygan County, WI
My commission (expires)(is) 11-26-24

12/9/2021

By: S.A.H.

PROPOSAL

FOR

2021 TREE AND STUMP REMOVAL

CITY OF MANITOWOC

ITEM NO.	ITEM DESCRIPTION	ESTIMATED # OF REMOVALS	UNITS	BID QUANTITY	UNIT PRICE PER INCH DIA.	TOTAL
1.	Remove Trees 20"-30" Diameter	2	ID	58	32.75	\$ 1900.00
2.	Remove Trees Greater Than 30" Diameter	4	ID	139	33.45	\$ 4650.00
3.	Stump Removal 20"-30" Diameter	2	ID	58	9.48	\$ 550.00
4.	Stump Removal Greater Than 30" Diameter	4	ID	139	10.07	\$ 1400.00
5.	Lawn Restroation (3" topsoil, seed & E-mat		SY	48	13.54	\$ 650.00
TOTAL FOR PROPOSAL						\$9,150.00

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 LeMahieu Tree Service

mikelemaheu5@gmail.com
920-980-5047

Authorized Signature Michael J. ZMaha

Date: 1-5-2021

RECEIVED

JAN 07 2021

CITY OF MANITOWOC
ENGINEERING

SPECIAL PROVISIONS AND CONDITIONS

INTENT AND SCOPE

This project consists of removing trees and stumps of various species at the locations listed within this document or as directed by the City Forester and Director of Public Infrastructure or their representative(s).

All work shall be performed according to the plans and specifications, and to the satisfaction of the City. 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.

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.

QUALIFICATIONS AND 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.

INSURANCE REQUIREMENTS

The Contractor shall furnish sufficient liability insurance as required by the City of Manitowoc Standard Specifications which is included by reference and can be found on the City’s webpage at www.manitowoc.org or can be viewed at the City Engineering Office located at City Hall, 900 Quay Street, Manitowoc, WI 54220. The Contractor will also be required to furnish the City of Manitowoc with 2 additional endorsements, one for listing the City of Manitowoc as an additional insured and the second one for a 30-day notice of policy changes or cancellations.

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.

All work shall be completed on or before **April 16, 2021**.

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

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.

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 or stump removal operation and affect the City's snow plowing or removal operation on a daily basis.

TREE LOCATIONS

The project is generally located in the north central part of the City. The following list is the location and size of the tree proposed in this project. The Engineer has 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.

Tree Removals:

1516 New York Avenue – 38” diameter tree on N. 16th Street.
1513 Wisconsin Avenue - 28” diameter tree.
1019 N. 14th Street - 35” diameter tree.
1030 N. 14th Street - 31” diameter tree. **This tree is an EAB tree.**
1001 N. 15th Street - 30” diameter tree on Wisconsin Avenue.
1524 Marshall Street - 35” diameter tree on S. 16th Street. **Sidewalk Complaint.**
Total of 197 Inch-Diameter.

Stump Removals:

Includes all the tree removals listed above plus the additional stumps listed below:
Total of 197 Inch-Diameter.

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 be dumped.

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 will accept branch wood that has only been **chipped**. The County site will also accept Emerald Ash Borer wood chips.

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.