

ORDINANCE NO. 07-24 AC CMS

AN ORDINANCE ACCEPTING THE BID OF EDWARD'S TREE SERVICE, INC., OF AMHERST, OHIO, FOR FORESTRY SERVICES FOR THE CITY OF OBERLIN, OHIO, AND DECLARING AN EMERGENCY

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That the bid of Edward's Tree Service, Inc., of Amherst, Ohio, for forestry services for the City of Oberlin, Ohio, for 2007 tree work, being the lowest and best bid submitted, is hereby accepted, and the City Manager is hereby authorized and directed to enter into a contract accordingly, for the per item prices set forth in the attached exhibit A, which is incorporated herein by reference, for an amount not to exceed \$70,000.

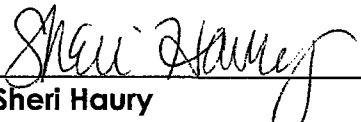
SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operation of a municipal department, to wit:

"to accept a forestry bid as soon as possible in order to ensure emergency tree clearing and removal services and to provide for the usual daily operation of a municipal department", and shall take effect immediately upon passage.

PASSED: 1st Reading – February 20, 2007 (E)
2nd Reading –
3rd Reading –

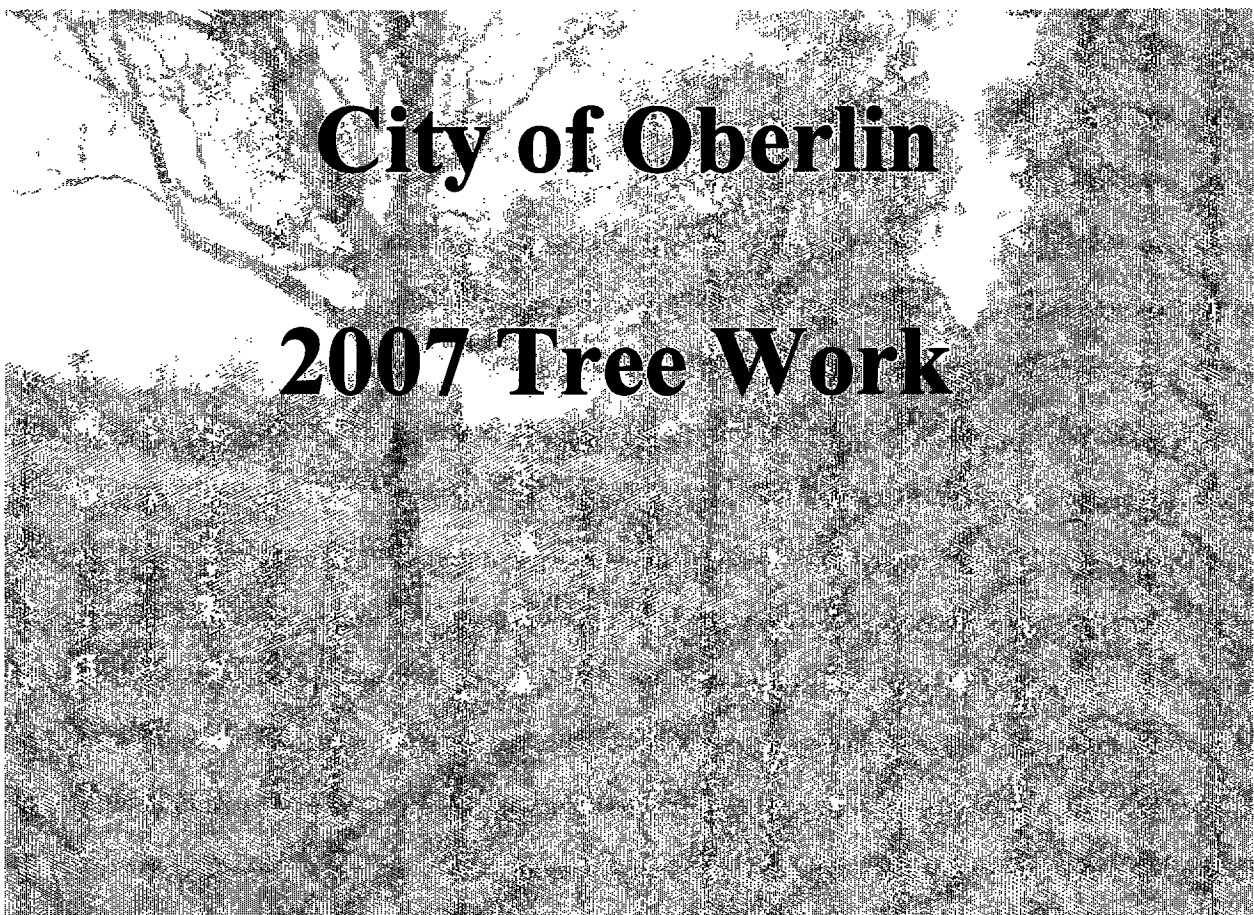

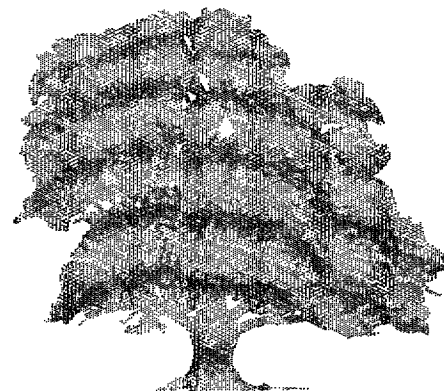
ATTEST:


Sheri Haury
INTERIM CLERK OF COUNCIL


Daniel Gardner
PRESIDENT OF COUNCIL

POSTED: February 21, 2007

EFFECTIVE DATE: February 21, 2007



City of Oberlin

2007 Tree Work

Bid Due: February 1, 2007

Prepared by:

**Oberlin Municipal Light and Power
289 South Professor Street
Oberlin, Ohio 44074**


INVITATION TO BID

Sealed bids for tree service in the City of Oberlin will be received at the Office of the City Manager, 85 South Main Street, Oberlin, Ohio 44074, until 10:00 a.m. on Thursday, February 1, 2007 at which time and place said bids will be publicly opened and read aloud.

Specifications and bidding documents may be obtained from the office of the Oberlin Municipal Light and Power Building, 289 South Professor Street, Oberlin, Ohio. All bids shall be signed and submitted on the forms bound in the contract documents. Bids shall be submitted in a sealed envelope marked "Bid for Tree Service". Each bid must be accompanied by a Bid Guaranty which shall be either a certified check payable to the City of Oberlin, or a bid bond satisfactory to the City, in the sum of ten percent (10%) of the bid price.

All bidders must comply with the provisions of Ordinance No. 951 AC CMS (Equal Employment Opportunity Reports) and with the rules and regulations promulgated thereunder.

The City of Oberlin reserves the right to accept the lowest and/or best bid, to reject any or all bids, to waive any informalities in the bids received, and to purchase those services which, in the sole judgement of the City, will best suit the City's needs.



Robert DiSpirito, City Manager
City of Oberlin, Ohio

Advertise

Oberlin News Tribune

- January 09, 2007
- January 16, 2007

INSTRUCTIONS TO BIDDERS

1. Submission of Bids

Sealed bids for 2007 Tree Work Service will be received at the Office of the City Manager in the Municipal Building, 85 South Main Street, Oberlin, Ohio 44074, until 10:00 a.m., Thursday, February 1, 2007 at which time they will be publicly opened and read aloud.

In order to receive consideration, bids shall be submitted in the following manner:

- a) Bid proposals must be received prior to the time of bid opening. No proposals received after said time of bid opening will be considered, and the proposals will be returned unopened to any bidders failing to submit bids prior to the time of bid opening.
- b) Bid proposals shall be submitted in a sealed envelope marked "BID FOR TREE WORK". If forwarded by mail, the envelope shall be sent inside another envelope also marked "BID FOR TREE WORK" and addressed to the Office of the City Manager.
- c) All bids shall be signed and submitted on the blanks which are bound in the bidding documents. All blanks shall be completed in full.
- d) All bid proposals shall be typewritten or filled in with pen and ink, and shall be signed with pen and ink. The proposal must be signed with the firm name and by an officer or employee having the authority to bind the company or firm by his/her signature.

2. Bidding Documents

Complete sets of Bidding Documents must be used in preparing Bids; the City assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

It is the responsibility of each Bidder before submitting a Bid, to (a) examine the Bid Documents thoroughly, (b) consider federal, state and local laws and Regulations that may affect cost, progress, performance or furnishing of the Work, (c) study and carefully correlate Bidder's observations with the Bid Documents, and (d) notify the OMLPS Director, 289 South Professor Street, Oberlin, Ohio 44074 of all conflicts, errors or discrepancies in the Bid Documents.

3. Bid Guaranty/Performance Bond

Each bid shall be accompanied by a Bid Guaranty in the form of a certified check or a bid bond payable to the City of Oberlin, in the amount of five thousand

dollars (\$5,000). Bid bonds will be returned to unsuccessful bidders within thirty days of bid opening. Bid bonds of successful bidders will be returned upon execution of a contract with the City and its performance secured.

The successful bidder shall furnish a performance and payment bond in an amount equal to the contract amount as security for the faithful performance and payment of all contractor's obligations under the Contract Documents.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Ohio.

4. Prices To Include

The price bid for all items of work shall include all labor, materials, tools, equipment, etc., necessary to carry out tree work in accordance with specifications detailed herein.

5. Variation from Specifications

Any items which the bidder wishes the City to consider in evaluation of these bids shall be included in the bid package. Items submitted separately will not be considered by the City.

Items included with the bid and representations made therein shall be considered to be binding upon the bidder.

6. Taxes

The City of Oberlin is exempt from any sales or use taxes imposed by the State of Ohio and/or the United States Government. All bids shall reflect the savings that the bidder will realize by obtaining tax exempt status. Exemption certificates will be certified upon request by any prospective bidder.

7. Disclosure of Delinquent Personal Property Taxes

This contract is subject to the requirements of Section 5719.042 of the Ohio Revised Code. The successful bidder, after being notified of the award of the contract and prior to the time the contract is entered into, shall submit a statement to the City Auditor of the City of Oberlin, Ohio, affirmed under oath, disclosing whether or not the bidder, at the time the bid was submitted, was charged with any delinquent personal property taxes, and a copy of the statement shall be incorporated into the contract.

8. Equal Employment Opportunity

The bidder shall comply with the Oberlin Equal Employment Opportunity Program as provided for in Ordinance No. 951 AC CMS and with the rules and regulations promulgated thereunder.

The Bidder shall provide to the City of Oberlin an assurance of compliance with the requirements of the program provisions by completing the Assurance of Compliance form and attaching it to the bid proposal. The Bidder shall also complete the five page Equal Employment Opportunity (EEO) Report and attach it to the Bid Proposal. The Bidder's Equal Employment Opportunity Statement of Policy shall also be attached to the Bid Proposal.

If awarded the purchase contract, the Bidder shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, or national origin.

Refusal by the bidder to comply with any portion of this program as herein stated and described will subject the offending party to any or all of the following penalties:

- a) Withholding of all future payments under the involved public contract to the contractor in violation until it is determined that the contractor or subcontractor is in compliance with the provisions of the contract.
- b) Refusal of all future bids for any public contract with the City of Oberlin or any of its departments or divisions until such time as the contractor or subcontractor demonstrates that he has established and shall carry out the policies of the program as herein outlined.
- c) Cancellation of the public contract and declaration of forfeiture of the Performance Bond.
- d) In cases in which there is substantial or material violation or the threat of substantial or material violation of the compliance procedure as may be provided for by contract, appropriate proceedings may be brought to enforce these provisions, including the enjoining, within applicable law, of contractors, subcontractors, or other organizations, individuals or groups who prevent directly, indirectly, or seek to prevent directly or indirectly, compliance with the policy, as herein outlined.

The Equal Employment Opportunity Program is administered by Oberlin Contract Compliance Officer Marshall Whitehead. Questions regarding the day to day operations of the program should be directed to Sharon Pearson, Assistant to Administration at (440) 775-7217.

10. Acceptance of Bids

The City of Oberlin, Ohio reserves the right to reject any and all bids; to waive minor irregularities in the bid and to award the contract or contracts which the City deems will best serve the City.

The City reserves the right to reject the Bid of any Bidder if City believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by City.

Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

In evaluating Bids, City will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid form or prior to the Notice of Award.

City may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions. City also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.

City may conduct such investigations as City deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to City's satisfaction within the prescribed time.

If the Contract is to be awarded, it will be awarded to the lowest and/or best Bidder whose evaluation by City indicates to City that the award will be in the best interests of the Project.

11. Qualifications of Bidders

To demonstrate qualifications to perform the Work, each Bidder must be prepared to submit within five days of City's request written evidence, such as financial data, previous experience, present commitments, list of contractor's equipment and other such data as may be called for below (or in the Supplementary Instructions). Each Bid must contain evidence of Bidder's qualification to do business in the State of Ohio or covenant to obtain such qualification prior to award of the Contract.

In determining the award of Contract, consideration will be given to:

- a) The lowest and best bid.
- b) The Bidder's record of experience in projects of this type.

No bid will be accepted from, nor Contract awarded to, anyone who is in arrears to the City upon Debt or Contract, or who is a defaulter on surety or otherwise upon any obligation to said City, whose work heretofore has proven unsatisfactory or dilatory.

12. Withdrawal of Bid

Any bid may be withdrawn prior to the scheduled time of the bid opening, but only by submitting a request to withdraw the bid in writing and signed by the individual submitting the bid. No bidder may withdraw a bid for a period of sixty (60) days from the date of bid opening.

13. Conflict of Interest by the City

No elected official, staff member, or employee of the City shall become directly or indirectly interested personally in this contract or in any part thereof.

14. Requirements of the Successful Bidder

- a) Pre-award Conference: The successful bidder(s), if called upon to do so by the City Manager, shall attend a pre-award conference to explain any variations from the Specifications or conditions herein, and to explain or provide additional documentation for the Equal Employment Opportunity.
- b) Demonstration: The successful bidders may be called upon to demonstrate to the City its ability to perform under the contract.
- c) Notice of Award and Agreement: The successful bidder(s) shall be required to acknowledge the Notice of Award and to execute the Agreement on forms included herein, within ten (10) calendar days from the date of the Notice of Award.

15. Interpretations and Addenda.

All questions about the meaning or intent of the Contract Documents are to be directed to the OMLPS Director, 289 South Professor Street, Oberlin, Ohio 44074. Interpretations or clarifications considered necessary by OMLPS Director in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by OMLPS Director as having received the Bidding Documents. Questions received less than five days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

Addenda may also be issued to modify the Bidding Documents as deemed advisable by City.

16. Subcontracts

Bidders who proposed subcontracts must provide the following information to the City for each subcontractor.

- a. Completed Equal Employment Opportunity Reports, Delinquent Personal Property Tax Affidavit, and Qualifications Statements.
- b. A list of references who may be contacted regarding ability to perform projects of a similar nature.

The City reserves the right to review the information submitted and must approve in writing all subcontractors.

17. Signing of Agreement

When City gives a Notice of Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within the time stipulated in the "Notice of Award" thereafter Contractor shall sign and deliver the required number of counterparts of the Agreement and attached documents to City with the required Bonds. Within twenty days thereafter City shall deliver one fully signed counterpart to Contractor. Each counterpart is to be accompanied by a complete set of the Drawings with appropriate identification.

GENERAL CONDITIONS

1. Guarantee and Warranty

The Contractor shall guarantee and warrant his work. All faulty work shall be repaired by the contractor at no expense to the City.

2. Inspection

Work done shall be subject to the inspection and approval of the City. The Contractor agrees to furnish all information that is required by the City.

3. Payments

The contractor shall prepare and present to the City a Payment Request .

Payment requests shall be addressed to:

Cindy Reisinger, Assistant to the Director
Oberlin Municipal Light and Power System
289 South Professor Street
Oberlin, OH 44074

Said Payment Request shall be in such format and shall include supporting information as may be required by the City. Payment Requests may include request for payment of labor, materials and equipment properly incorporated in the Project. Each such Payment Request shall be signed by the Contractor and shall constitute the Contractor's representation that the quantity of work has reached the level for which payment is requested, that the work has been properly installed or performed in strict compliance with this Contract, and that the Contractor knows of no reason why payment should not be made as requested. Thereafter, the Line Division Superintendent shall review the Payment Request and may also review the work at the Project site or elsewhere to determine whether the quantity and quality of the work is as represented in the Payment Request and is as required by this Contract. The OMLPS Director shall approve in writing the amount which, in the opinion of the OMLPS Director, is properly owing to the Contractor.

The Director's approval of the Contractor's Payment Requests shall not preclude the City from the exercise of any of its rights. The submission by the Contractor of a Payment Request also constitutes an affirmative representation and warranty that all work for which the City has previously paid is free and clear of any lien, claim, or other encumbrance of any person whatsoever. As a condition precedent to payment, the Contractor shall, if required by the City, also furnish to the City properly executed waivers of lien, in a form acceptable to the City, from all subcontractors, material men, suppliers or others having lien rights, wherein said subcontractors, material men, suppliers or others having lien rights, shall acknowledge receipt of all sums due pursuant to all prior Payment Requests and waive and relinquish any liens, lien rights or other claims relating to the Project site. Furthermore, the Contractor warrants and represents that, upon payment of the Payment Request submitted, title to all work included in such payment shall

be vested in the City.

The unit price, as bid, shall be full compensation for all work performed according to these specifications.

If within thirty (30) days from the date payment to the Contractor is due, the City, without cause or basis hereunder, fails to pay the Contractor any amounts then due and payable to the Contractor, the Contractor shall have the right to cease work until receipt of proper payment after first providing ten (10) days' written notice of its intent to cease work to the City.

The City shall have the right to refuse to make payment and, if necessary, may demand the return of a portion or all of the amount previously paid to the Contractor due to:

- (A) The quality of a portion, or all, of the Contractor's work not being in accordance with the requirements of this Contract;
- (B) The quantity of the Contractor's work not being as represented in the Contractor's Payment Request, or otherwise;
- (C) The Contractor's rate of progress being such that, in the City's opinion, substantial or final completion, or both, may be inexcusably delayed;
- (D) The Contractor's failure to use Contract funds, previously paid the Contractor by the City, to pay Contractor's Project-related obligations including, but not limited to, subcontractors, laborers and material and equipment suppliers;
- (E) Claims made, or likely to be made, against the City or its property;
- (F) Loss caused by the Contractor;
- (G) The Contractor's failure or refusal to perform any of its obligations to the City.

In the event that the City makes written demand upon the Contractor for amounts previously paid by the City as contemplated in this Subparagraph 3, the Contractor shall promptly comply with such demand.

In the event the City becomes informed that the Contractor has not paid a subcontractor, material man, laborer, or supplier as provided herein, the City shall have the right, but not the duty, to issue future checks and payment to the Contractor of amounts otherwise due hereunder naming the Contractor and any such subcontractor, material man, laborer, or supplier as joint payees. Such joint check procedure, if employed by the City, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the City to repeat the procedure in the future.

Neither payment to the Contractor, utilization of the Project for any purpose by the City, nor any other act or omission by the City shall be interpreted or

construed as an acceptance of any work of the Contractor not strictly in compliance with this Contract.

4. Bonds and Insurance

4.1 *Performance and Other Bonds:*

Contractor shall furnish performance and payment bonds in an amount equal to One Hundred Percent (100%) of the contract award amount as security for the faithful performance and payment of all Contractor's obligations under Contract Documents. These Bonds shall remain in effect during the period of the contract and until receipt by the City of all required documents following completion thereof including , but not limited to, all required payrolls, subcontractor documentation, and Waiver of Lien. Contractor shall also furnish such other Bonds as are required by the Supplementary Conditions. All Bonds shall be in the forms prescribed by Law or Regulation or by the Contract Documents and be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of the authority to act.

If the surety of any Bond furnished by Contractor is declared a bankrupt or becomes insolvent or its rights to do business is terminated in the State of Ohio or it ceases to meet requirements of paragraph 5.1 Contractor shall within five days thereafter substitute another Bond and Surety, both of which must be acceptable to City.

4.2. *Bid Bonds*

Bid security shall be in the amount of five thousand dollars (\$5,000).

All bonds shall meet the requirements of O.R.C. Section 153.571, and as specified in these Contract Documents.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Ohio.

The Bid security of the Successful Bidder will be retained until such Bidder has executed the Agreement and furnished the required contract security, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish the required contract security within ten days after the Notice of Award, City may annul the Notice of Award and the Bid security of that Bidder will be forfeited. The Bid security of other Bidders whom City believes to have a reasonable chance of receiving the award may be retained by City until the earlier of the seventh day after the Effective Date of the Agreement or the sixty-first day after the Bid opening, whereupon Bid security furnished by such

Bidders will be returned. Bid security with Bids which are not competitive will be returned within thirty days after the Bid opening.

5. Insurance

5.1 *Contractor's Liability Insurance:*

Contractor shall purchase and maintain such comprehensive general liability and other insurance as is appropriate for the Work being performed and furnished and will provide protection from claims set forth below which may arise out of or result from Contractor's performance and furnishing of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed or furnished by Contractor, by any Subcontractor, by anyone directly or indirectly employed by any of them to perform or furnish any of the Work, or by anyone for whose acts any of them may be liable:

Claims under worker's or workmen's compensation, disability benefits and other similar employee benefit acts;

Claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

Claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

Claims for damages insured by personal injury liability coverage which are sustained (a) by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or (b) by any other person for any other reason;

Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom;

Claims arising out of operation of Laws and Regulations for damages because of bodily injury or death of any person or for damage to property; and

Claims for damages because of bodily injury or death of any person or property damage arising out of the City's ownership, maintenance or use of any motor vehicle.

The insurance required by this Section shall include the specific coverages and be written with limits of liability not less than One Million Dollars (\$1,000,000.00). The comprehensive general liability insurance shall include completed operations insurance. All of the policies of insurance so required to be purchased and maintained (or the certificates or other evidence thereof) shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal

refused until at least thirty days' prior written notice has been given to City by certified mail. All such insurance shall remain in effect during the term of the contract. In addition, Contract shall maintain such completed operations insurance for at least two years after final payment and furnish City with evidence of continuation of such insurance at final payment and one year thereafter.

5.2 Contractual Liability Insurance:

The comprehensive general liability insurance required will include contractual liability insurance applicable to Contractor's obligations.

5.3 City's Liability Insurance:

City shall be responsible for purchasing and maintaining City's own liability insurance and, at City's option, may purchase and maintain such insurance as will protect City against claims which may arise from operations under the Contract Documents.

City shall not be responsible for purchasing and maintaining any property insurance to protect the interests of Contractor, Subcontractors or others in the Work to the extent of any deductible amounts that are provided in the Supplementary Conditions. The risk of loss within the deductible amount, will be borne by Contractor, Subcontractor or others suffering any such loss and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

5.4 Waiver of Rights:

City and Contractor waive all rights against each other for all losses and damages caused by any of the perils covered by the policies of insurance provided in response to requirements herein and any other property insurance applicable to the Work, and also waive all such rights against the Subcontractors, and all other parties named as insured in such policies for losses and damages so caused. Each subcontract between Contractor and a Subcontractor will contain similar waiver provisions by the Subcontractor in favor of City, Contractor, and all other parties named as insured. None of the above waivers shall extend to the rights that any of the insured parties may have to the proceeds of insurance held by City as trustee or otherwise payable under any policy so issued.

City and Contractor intend that any policies provided in response to requirements herein shall protect all of the parties insured and provide primary coverage for all losses and damages caused by the perils covered thereby. Accordingly, all such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any of the parties named as insured or additional insured, and if the insurers require separate waiver forms to be signed by any Subcontractor, Contractor will obtain the same.

5.5 *Receipt and Application of Proceeds:*

Any insured loss under the policies of insurance required herein will be adjusted with City and made payable to City as trustee for the insured, as their interests may appear, subject to the requirements of any applicable mortgage clause. City shall deposit in a separate account any money so received, and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.

City as trustee shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within fifteen days after the occurrence of loss to City's exercise of this power. If such objection be made, City as trustee shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If required in writing by any party in interest, City as trustee shall, upon the occurrence of an insured loss, give bond for the proper performance of such duties.

5.6 *Acceptance of Insurance:*

If City has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by Contractor on the basis of its not complying with the Contract Documents, City shall notify Contractor in writing thereof within ten days of the date of delivery of such certificates to City. If Contractor has any objection to the coverage afforded by or other provisions of the policies of insurance required to be purchased and maintained by City on the basis of their not complying with the Contract Documents, Contractor shall notify City in writing thereof within ten days of the date of delivery of such certificates to Contractor. City and Contractor shall each provide to the other such additional information in respect of insurance provided by each as the other may reasonably request. Failure by City or Contractor to give any such notice of objection within the time provided shall constitute acceptance of such insurance purchased by the other as complying with the Contract Documents.

6. Coordination of Work

The Contractor shall comply with Section 153.64 of the Ohio Revised Code (H.B. 538). The Contractor shall notify the OHIO Utilities Protection Service (OUPS) (1-800-362-2764) for all member utilities and any non-member utilities directly, at least two (2) working days prior to commencing construction. The Contractor shall be responsible for any damage to properly identified and located utilities and shall repair or pay for such repairs at no additional cost to the project. The utility City shall determine the extent and amount of repairs required to correct such damages.

7. Health and Safety

The Contractor shall, at all times, so conduct his work as to assure the safety and convenience of the general public. The attention of the bidder is directed to the provisions of 5517.03, O.R.C.

The Contractor shall provide and maintain safeguards, safety devices and protective equipment and take any other needed actions as may be necessary to protect the public and property in connection with the work. The contractor shall conduct the work in accordance with applicable OSHA requirements.

8. Award of Contract

City reserves the right to reject any and all Bids, to waive any and all informalities not involving price, time or changes in the Work and to negotiate contract terms with the Successful Bidder, and the right to disregard all nonconforming, non-responsive, unbalanced or conditional Bids. Also, City reserves the right to reject the Bid of any Bidder if City believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by City. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

In evaluating Bids, City will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid form or prior to the Notice of Award.

City may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions. City also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.

City may conduct such investigations as City deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to City's satisfaction within the prescribed time.

If the Contract is to be awarded, it will be awarded to the lowest Bidder whose evaluation by City indicates to City that the award will be in the best interests of the Project.

If the Contract is to be awarded, City will give the Successful Bidder a Notice of Award within sixty days after the day of the Bid opening.

9. Estimated Quantities

The Contractor agrees that the estimated quantities are only for the purpose of comparing, on a uniform basis, the bids offered for the work under this Contract, and he further agrees that he is satisfied with and will at no time dispute the said estimated quantities as a means of comparing the bids as aforesaid; that he will make no claim for anticipated profits or loss of profits because of a difference between the quantities of the various classes of work actually furnished and the said estimated quantities; and he agrees that the City shall not be held responsible if, in the construction of the work, any of the said estimated quantities should be found to vary from the quantities shown, and that the OMLPS Director or designee may, without alteration or modification of this Contract, increase, decrease, or omit the amount of any class or portion of the work as may be deemed necessary.

10. Time of Completion and Liquidated Damages

It is anticipated that a "Notice to Proceed" will be issued on or before Friday, March 2, 2007.

When directed by the City, the Contractor shall commence work in accordance with the specification and shall diligently continue its performance to and until final completion of the Project.

11. Cease and Desist Order

In the event the Contractor fails or refuses to perform the work as required herein, the City may instruct the Contractor to cease and desist from performing further work in whole or in part. Upon receipt of such instruction, the Contractor shall immediately cease and desist as instructed by the City and shall not proceed further until the cause for the City's instructions has been corrected, no longer exists, or the City instructs that the work may resume. In the event the City issues such instructions to cease and desist, and in the further event that the Contractor fails and refuses within seven (7) days of receipt of same to provide adequate assurance to the City that the cause of such instructions will be eliminated or corrected, then the City shall have the right, but not the obligation, to carry out the work with its own forces, or with the forces of another contractor, and the Contractor shall be fully responsible and liable for the costs of performing such work by the City. The rights set forth herein are in addition to, and without prejudice to, any other rights or remedies the City may have against the Contractor.

12. Duties, Obligations and Responsibilities of the Contractor

If the Contractor performs work knowing or believing it involves an error, inconsistency or omission in the Contract without first providing written notice to the OMLPS Director or designee and City, the Contractor shall be responsible for such work and pay the cost of correcting same.

All work shall strictly conform to the requirements of this Contract.

The work shall be strictly supervised, the Contractor bearing full responsibility for any and all acts or omissions of those engaged in the work on behalf of the Contractor.

The Contractor hereby warrants that all labor furnished under this Contract shall be competent to perform the tasks undertaken, that the product of such labor shall yield only first-class results, that all materials and equipment provided shall be new and of high quality, that the completed work will be complete, of high quality, without defects, and that all work strictly complies with the requirements of this Contract. Any work not strictly complying with the requirements of this Subparagraph shall constitute a breach of the Contractor's warranty.

The Contractor shall obtain and pay for all required permits, fees and licenses customarily obtained by the Contractor. The Contractor shall comply with all legal requirements applicable to the work;

The Contractor shall employ and maintain at the Project site only competent supervisory personnel. The Contractor shall give written notice to the City of key supervisory personnel assigned by the Contractor to this Project.

OMLPS Director or designee may require the Contractor, within fifteen (15) days prior to commencing the work, to provide a Contractor's schedule for completing the work. Such schedule shall be in a form acceptable to the OMLPS Director or designee. The Contractor's schedule shall be updated no less frequently than monthly (unless the parties otherwise agree in writing) and shall be updated to reflect conditions encountered from time to time and shall apply to the total Project. Each such revision shall be furnished to the OMLPS Director or designee. Strict compliance with the requirements of this Subparagraph shall be a condition precedent to payment to the Contractor, and failure by the Contractor to strictly comply with said requirements shall constitute a material breach of Contract.

The Contractor shall maintain the Project site in a reasonably clean condition during performance of the work. Upon final completion, the Contractor shall thoroughly clean the Project site of all debris, trash and excess materials or equipment;

13. Claims by the Contractor

Claims by the Contractor against the City are subject to the following terms and conditions:

- (A) All Contractor claims against the City shall be initiated by a written claim submitted to the OMLPS Director or designee. Such claim shall be received by the OMLPS Director or designee no later than seven (7) calendar days after the event, or the first appearance of the circumstances, causing the claim, and same shall set forth in detail all known facts and circumstances supporting the claim;
- (B) The Contractor and the City shall continue their performance hereunder regardless of the existence of any claims submitted by the Contractor;

- (C) In the event the Contractor discovers previously concealed and unknown site conditions which are materially at variance from those typically and ordinarily encountered in the general geographical location of the Project, the Contract Price shall be modified, either upward or downward, upon the written claim made by either party within seven (7) calendar days after the first appearance to such party of the circumstances. As a condition precedent to the City having any liability to the Contractor due to concealed and unknown conditions, the Contractor must give the OMLPS Director or designee written notice of, and an opportunity to observe, such condition prior to disturbing it. The failure by the Contractor to give the written notice and make the claim as provided by this Subparagraph shall constitute a waiver by the Contractor of any rights arising out of or relating to such concealed and unknown condition;
- (D) In the event the Contractor seeks to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the City therefor, the Contractor shall strictly comply with the requirements of Section 16 herein and such claim shall be made by the Contractor before proceeding to execute any additional or changed work. Failure of the condition precedent to occur shall constitute a waiver by the Contractor of any claim for additional compensation;
- (E) In connection with any claim by the Contractor against the City for compensation in excess of the Contract Price, any liability of the City for the Contractor's cost shall be strictly limited to direct cost incurred by the Contractor and shall in no event include indirect cost or consequential damages of the Contractor. The City shall not be liable to the Contractor for claims of third-parties including subcontractors, unless and until liability of the Contractor has been established therefor in a court of competent jurisdiction;
- (F) In the event the Contractor should be delayed in performing any task which at the time of the delay is then critical, or which during the delay becomes critical, as the sole result of any act or omission by the City or someone acting in the City's behalf, or by City-authorized Change Orders, unusually bad weather not reasonably anticipated, fire or other Acts of God, the date for achieving Substantial Completion, or, as applicable, final completion, shall be appropriately adjusted by the City upon the written claim of the Contractor to the OMLPS Director or designee. A task is critical within the meaning of this Subparagraph if, and only if, said task is on the critical path of the Project schedule so that a delay in performing such task will delay the ultimate completion of the Project. Any claim for an extension of time by the Contractor shall strictly comply with the requirements of Subparagraph 15(A) above. If the Contractor fails to make such claim as required in this Subparagraph 15(F), any claim for an extension of time shall be waived.

14. Change Orders

One or more changes to the work within the general scope of this Contract, may be ordered by Change Order. The Contractor shall proceed with any such

changes, and same shall be accomplished in strict accordance with the following terms and conditions.

Change Order shall mean a written order to the Contractor executed by the City after execution of this Contract, directing a change in the work and may include a change in the Contract Price or the time for the Contractor's performance, or any combination thereof;

Any change in the Contract Price resulting from a Change Order shall be determined as follows:

- (A) By mutual agreement between the City and the Contractor as evidenced by:
 - 1) the change in the Contract Price being set forth in the Change Order,
 - 2) such change in the Contract Price, together with any conditions or requirements relating thereto, being initialed by both parties and
 - 3) the Contractor's execution of the Change Order; or,
- (B) If no mutual agreement occurs between the City and the Contractor, the change in the Contract Price, if any, shall be derived by determining the reasonable actual costs incurred or savings achieved, resulting from revisions in the work. Such reasonable actual costs or savings shall include a component for direct job site overhead and profit but shall not include home-office overhead or other indirect costs or components.

Any such costs or savings shall be documented in the format, and with such content and detail as the City or the Engineer requires. The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the work, this Contract as thus amended, the Contract Price and the time for performance by the Contractor. The Contractor, by executing the Change Order, waives and forever releases any claim against the City for additional time or compensation for matters relating to or arising out of or resulting from the work included within or affected by the executed Change Order;

The Contractor shall notify and obtain the consent and approval of the Contractor's surety with reference to all Change Orders if such notice, consent or approval are required by the City, the Engineer, the Contractor's surety or by law. The Contractor's execution of the Change Order shall constitute the Contractor's warranty to the City that the surety has been notified of, and consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

15. Discovering and Correcting Defective or Incomplete Work

In the event that the Contractor covers, conceals or obscures its work in violation of this Contract or in violation of a directive from the OMLPS Director or designee, such work shall be uncovered and displayed for the OMLPS Director's or designee's inspection upon request, and shall be reworked at no cost in time or money to the City.

If any of the work is covered, concealed or obscured in a manner not covered by the above it shall, if directed by the OMLPS Director or designee be uncovered and displayed for the OMLPS Director's or designee's inspection. If the uncovered work conforms strictly with this Contract, the costs incurred by the Contractor to uncover and subsequently, replace such work shall be borne by the City. Otherwise, such costs shall be borne by the Contractor.

The Contractor shall, at no cost in time or money to the City, correct work rejected by the OMLPS Director or designee as defective or failing to conform to this Contract. Additionally, the Contractor shall reimburse the City for all testing, inspections and other expenses incurred as a result thereof.

In addition to its warranty obligations set forth elsewhere herein, the Contractor shall be specifically obligated to correct any and all defective or nonconforming work for a period of twelve (12) months following final completion upon written direction from the City.

The City may, but shall in no event be required to, choose to accept defective or nonconforming work. In such event, the Contract Price shall be reduced by the greater of the reasonable costs of removing and correcting the defective or nonconforming work, and the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a manner as to include defective or nonconforming work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the City for the acceptance of defective or nonconforming work, the Contractor shall, upon written demand from the City, pay the City such remaining compensation for accepting defective or nonconforming work.

**EQUAL
EMPLOYMENT
OPPORTUNITY
COMPLIANCE PACKAGE**

CONTRACTOR'S EEO COMPLIANCE PACKAGE CHECKLIST

NAME OF PROJECT:

END OPENING DATE:

✓	PAGE TITLE	INSTRUCTIONS
	Policies and Practices	Please mark each item appropriately. If you mark C please state the reason on separate sheet with the item number.
	Employment Data	This sheet must be filled out completely with the correct numbers. If you have filled this sheet out before and there is a difference in the numbers, then please indicate the reason.
	Bidder Information	This must be completed properly and signed by the legal authorized EEO personnel.
	E.E.O. Policy	If you have submitted an EEO policy in the last 5 years to the City of Oberlin, this is not necessary. Otherwise, please submit one with this package. The EEO policy should be posted in an area that all employees can see.

CITY OF OBERLIN
85 SOUTH MAIN STREET
OBERLIN, OHIO 44074
(440) 775-7217

EQUAL EMPLOYMENT OPPORTUNITY REPORT

INSTRUCTIONS

EQUAL EMPLOYMENT OPPORTUNITY REPORT REQUIREMENT: This form is designed to provide an evaluation of your policies and practices relating to the extension of equal employment opportunity to all persons without regard to race, religion, color, sex or national origin.

BIDDER PERFORMANCE: Completion of this Bidder Employment Practices Report is one of the steps which demonstrates compliance with the City's Equal Employment Opportunity Program. Responsibility for demonstrating compliance with this program by the contractor and his subcontractors rests with the contractor or subcontractor. Such demonstration is a prerequisite for continued eligibility for bidding on City of Oberlin contracts.

POLICIES AND PRACTICES

The bidder will indicate his willingness or unwillingness to comply with requirements of the Equal Employment Opportunity Program of the City of Oberlin by encircling the applicable letter to the left of each item below. The letters are to be interpreted as follows:

A - This is now a practice of the company.

B - The company will adopt this policy.

C - The company cannot or will not adopt this policy. (If C is circled, state reason. Use separate sheet if additional space is needed.)

It is understood that the company's willingness to participate in the Equal Employment Opportunity Program will be evaluated by the Office of the City Manager. This evaluation will directly influence our decision on the qualifications of each bidder and is an integral part of your bid.

CIRCLE ONE	ITEMS	STATE REASON IF (C) IS CIRCLED
<div style="border: 1px solid black; padding: 5px; text-align: center;">A B C</div>	1	The company will adopt a policy of non-discrimination on the basis of race, sex, religion, color, or national origin with regard to recruitment, hiring, training, upgrading, promotion and discipline of employees or applicants for employment.
<div style="border: 1px solid black; padding: 5px; text-align: center;">A B C</div>	2	<div>The company will assign responsibility to officials to develop procedures which will assure that this policy is understood and carried out by managerial, administrative and supervisory personnel.</div> <div><u>Alan Shauck</u> <u>Sales Manager + EEO Officer</u> Official's Name Title</div>

<p>(A) (B) (C)</p>	<p>3</p>	<p>The company will state its non-discriminatory policy in writing, post it conspicuously and communicate it to the following:</p> <ul style="list-style-type: none"> a. all employees and recruitment sources b. all subcontractors c. all relevant employee organizations, including labor unions d. The City of Oberlin
<p>(A) (B) (C)</p>	<p>4</p>	<p>The company will use recruitment sources such as employment agencies, unions and schools which have a policy of referring applicants on a nondiscriminatory basis.</p>
<p>(A) (B) (C)</p>	<p>5</p>	<p>The company will sponsor or finance educational or training programs for the benefit of employees or prospective employees without regard to race, religion, color, sex or national origin.</p>
<p>(A) (B) (C)</p>	<p>6</p>	<p>Company recruiters will seek a recruitment base in order that a representative cross-section of applications might be obtained; and will refrain from a hiring policy which limits job applicants to persons recommended by company personnel.</p>
<p>(A) (B) (C)</p>	<p>7</p>	<p>The company will take steps to integrate any positions, departments or plant locations which have no minority persons or are almost completely staffed with one particular ethnic or racial group.</p>
<p>(A) (B) (C)</p>	<p>8</p>	<p>In order to achieve an integrated workforce, the company will employ minority workers, including African Americans, in all departments, positions and trades and implement an affirmative action program satisfactory to the Office of the City Manager, City of Oberlin. This affirmative action plan must be submitted to the City of Oberlin.</p>
<p>(A) (B) (C)</p>	<p>9</p>	<p>The company will review its qualifications for each job to determine whether such standards eliminate unemployed persons who could, if hired, perform the duties of the job adequately. The following qualifications should be reviewed:</p> <ul style="list-style-type: none"> a. education b. experience c. tests d. arrest record
<p>(A) (B) (C)</p>	<p>10</p>	<p>Residence in a particular geographical area will not be a qualifying or disqualifying criterion for employment with the company.</p>
<p>(A) (B) (C)</p>	<p>11</p>	<p>The company will provide that all bargaining agreements with employee organization including labor unions, have non-discrimination clauses requiring equal employment opportunity.</p>

EMPLOYMENT DATA

Please note that this data may be obtained by visual survey or post-employment records. Neither visual surveys nor post-employment records are prohibited by any Federal, State or local law. All specified data is required to be filled in by law.

JOB CATEGORIES*	SUM TOTAL	TOTAL MALE	TOTAL FEMALE	AMERICAN MINORITY MALES				AMERICAN MINORITY FEMALES			
				BLACK	SPANISH	NATIVE AMERICAN	ASIAN	BLACK	SPANISH	NATIVE AMERICAN	ASIAN
Officials Managers Supervisors		1				1					
Professionals											
Technicians											
Sales Workers		1				1					
Office & Clerical			2						1	1	
Skilled Craftsmen		5				5					
Semi-skilled Operatives		11				11					
Unskilled Laborers											
Service Workers											
Apprentices											
GRAND TOTALS		18	2			18			1	1	

*Job Categories Descriptions are located on pages 5 & 6.

NOTE: Explain major changes in employment, changes in composition of reporting units, and other pertinent data which differs from that given in last report.

DESCRIPTION OF OCCUPATIONAL CATEGORIES

Officials. Managers and Supervisors - Occupations requiring administrative personnel who set broad policies, exercise overall responsibility for executing of these policies, and direct individual departments or special phases of a firm's operations. Includes: officials; executives, middle management, plant managers, department managers, and superintendents, salaried foremen who are members of management, purchasing agents and buyers, and kindred workers.

Professionals - Occupations requiring either college graduation or experience of such kind and amount as to provide a comparable background. Includes: accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dieticians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, personnel and labor relations workers, physical scientists, physicians, social scientists, teachers and kindred workers.

Technicians - Occupations requiring a combination of basic scientific knowledge and manual skills which can be obtained through about two years of post high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: draftsmen, engineering aides, junior engineers, mathematical aides, nurses, photographers, radio operators, scientific assistants, surveyors, technical illustrators, technicians (medical, dental, electronic, physical sciences) and kindred workers.

Sales workers - Occupations engaging wholly or primarily in direct selling. Includes: advertising agents and salesmen, insurance agents and brokers, real estate agents and brokers, stock and bond salesmen, demonstrators, salesmen and sales clerks and kindred workers.

Office and Clerical - Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly non-manual though some manual work not directly involved with altering or transporting the products is included. Includes: bookkeepers cashiers, collectors (bills and accounts), messengers and office boys, office machine operators, shipping and receiving clerks, stenographers, typists, secretaries, telegraph and telephone operators and kindred workers.

Craftsmen (skilled) - Manual works of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgement and usually receive an extensive period of training. Includes: the building trades hourly paid men and lead men who are not members of management, mechanics and repairmen, skilled machine occupations, compositors and typesetters electricians engravers job setters (metal), motion picture projectionists, pattern and model makers, stationary engineers, tailors and seamstresses, and kindred workers.

Operatives (semi-skilled) - Workers who operate machine or processing equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training.

Laborers (unskilled) - Workers in manual occupation which generally require no special training. Perform elementary duties that may be learned in a few days and require the application of little or no independent judgement. Includes: garage laborers car washers and

greasers gardeners (except farm) grounds keepers, longshoremen and stevedores lumbermen, craftsmen and wood choppers, laborers performing lifting, digging, mixing, loading and pulling operations and kindred workers.

Service Workers - Workers in both protective and non-protective service occupations. Includes: attendants (hospital and other institutions, professional and personal service), barbers, charwomen and cleaners, cooks (except household), counter and fountain workers, elevator operators, firemen and fire protection, guards, watchmen and doorkeepers, stewards janitors, police and detectives, porters, waiters, and waitresses and kindred workers.

Apprentices - Persons employed in a program including work training and related instruction to learn a trade or craft which is traditionally considered an apprenticeship, regardless of whether the program is registered with a Federal or State agency.

BIDDER INFORMATION (Please complete below):

Company Name:					
Address:		City:		State:	
Zip Code:		Phone:		Fax:	
Legally Authorized EEO Personnel (Signature):					
Please Print Name:					Date:

The above certifies that he/she is legally authorized by the bidder to make the statements and representations contained in this report; that he/she has read all of the foregoing statements and representations and that they are true and correct to the best of his/her knowledge and belief. The undersigned understands that if any of the statements and representations are made knowing them to be false or there is a failure to implement any of the stated intentions or objectives, set forth herein, without prior notice to the Office of the City manager the bidder will be subject to the loss of all future awards.

Ordinance No. 951 AC CMS of the City of Oberlin and the rules and regulations pursuant thereto provide for contract compliance inspection of personnel policies and practices related to any contract with the City including contracts for work, labor, services, supplies, equipment, materials, leases, concession agreements and permits.

SPECIFICATIONS

S1. Work Locations and Work Orders

S1-1 Tree Removal and Pruning

Work may involve any public or privately owned tree within the City of Oberlin. The contractor shall work only on trees that are identified on work orders issued by Oberlin Municipal Light and Power and/or Oberlin Public Works Dept.

Work orders will be issued periodically and work shall commence in accordance with the work order **within five (5) working days** unless otherwise agreed to by the City.

When performing work for the Oberlin Municipal Light and Power System portion of this contract, the contractor shall notify the **Distribution Supt.** every day that the contractor is performing work and shall provide the location of the work scheduled for that day.

When performing work for the Oberlin Public Works Dept. portion of this contract, the contractor shall notify the **Chief Cemetery Caretaker** every day that the contractor is performing work and shall provide the location for the work scheduled for that day.

S1-2 Scheduled Line Clearance

The contractor shall perform line clearance of utility electric lines in accordance with the specifications, on all trees located in the public right-of-way and utility easements within the line clearance target area. The line clearance target area shall be an area that defines approximately 1/2 (one half) of the service territory as set forth by OMLPS. Therefore, the line clearance cycle is 2 (two) years. Each contract year OMLPS shall provide the contractor with a map of the line clearance target area. The contractor shall refer to the Line Clearance Target Map located in **Appendix A**, to determine the target area. The target area is identified by designated color. The contractor shall be responsible to provide line clearance of all OMLPS operating voltages above 600 volts, in accordance with the clearance specifications set forth in section S4-2. OMLPS retains the right to prioritize the contractor's work within the target area as required.

It shall be the responsibility of the contractor to provide prior notification to residents of scheduled line clearance work. The notification time periods shall be no less than one week, and no greater than six weeks. The City shall supply the contractor with notification door hanger cards for this purpose.

S1-3 *Unscheduled Line Clearance*

The intent of work performed under this section is to allow for tree removal and utility line clearance of those areas outside the target area, that could not be assigned as part of the Scheduled Line Clearance section. Work under this section shall be performed according to the hourly wage schedule listed in the Bid Form Section. The crew hour rate with equipment, is defined as:

2-person crew with combination aerial/chipper box truck, chipper unit, power/hand tools, and safety equipment.

Work under this section shall be per hour for the crew and equipment. Work shall be paid at the hourly crew rate as stated in the **Bid Form** section for *Unscheduled Line Clearance*.

S1-4 *Right-Of-Way Vegetation Maintenance*

The OMLPS right-of-way vegetation maintenance objective shall be; to clear selected pole right-of-ways and easements from unwanted vegetation, leaving natural grass and wildflower corridors from which to maintain power lines using specialized trucks and equipment.

1. Right-of-way/easement maintenance treatment width shall be as set forth by OMLPS, and in no instance exceed a 30 foot overall width.
2. Where necessary, the contractor shall use appropriate mechanical means to clear the right-of-way of major unwanted vegetation, including trees, saplings, shrubs, vines, tall grasses and weeds to 4 inches total height. Large cuttings shall be removed from the site and properly disposed of.
3. Apply a Basal Stump Treatment using Tordon brand, or equal, pre-approved herbicide. Stumps shall be individually spot treated using a spray wand device.
4. Contractor shall demonstrate evidence of any required licenses and permits to dispense herbicides.
5. Contractor shall re-treat areas as needed to obtain satisfactory vegetation control. Re-treatment shall be at no additional cost.
6. Prior to the commencement of work the contractor shall request a meeting with an OMLPS representative. The purpose of the meeting shall be: (1) to properly identify areas of maintenance; (2) to review all contract requirements with respect to the work to be performed; (3) to review the contractor's plan for performing vegetation maintenance.
7. Contractor shall not apply herbicide less than 24 hours prior to forecasted rain.
8. Contractor shall not apply herbicide during windy conditions.
9. Contractor shall not apply herbicide in quantities or patterns that could be expected to leach onto adjacent properties, or egress into any permanent or temporary waterways.

S2. Work Period

Normal work hours shall be Monday through Saturday. Work shall commence no earlier than 7:00 a.m. and shall end no later than one (1) hour before dark.

S3. Worker Qualifications\Supervision

The work encompassed by this contract is potentially dangerous. All work shall be performed by properly trained personnel. All personnel involved in work near and around electric utility lines shall have proper ISA training and shall meet the standards set forth according to ANSI 1910.269 and ANSI Z133.1. Work shall be performed under the supervision of a **ISA Certified Arborist**.

S4. Scope of Work

S4-1 Pruning

Large established trees are pruned to maintain a fourteen (14) foot clearance over streets and structures; eight (8) foot clearance over sidewalks and pedestrian public thoroughfares; and as required to maintain an unobstructed view of street lighting, traffic lights, traffic signs and other installations. Smaller trees are pruned to establish as much clearance and unobstructed view as possible while maintaining the character of the tree. Pruning will conform to the latest revision of standards of the ANSI 300. For purposes of this contract, **Class II, Medium Pruning**, shall be the overall standard of performance.

S4-2 Electrical Line Clearance

Trees shall be trimmed to maintain the following clearances:

OPERATING VOLTS	CONDUCTOR SIDE CLEAR.	CONDUCTOR TOP CLEAR.	CONDUCTOR LOWER CLEAR.
0 to 750	3 FT	3FT	3FT
4KV to 15KV	4-8 FT	6-12 FT	6-12 FT
69KV	10 FT	7-15 FT	10-15 FT

Electrical line clearance requires working around energized and lines. Contractor shall be required to provide line clearance on all trees within the designated target area, referenced on the map in Appendix A.

S4-3 Tree Removal.

The Contractor shall be responsible for removal of trees as designated by the City. Work under this section shall include removal of the tree stump, as set forth under Section S4-4.

S4-4 Stump Removal

Stumps shall be removed by grinding to a depth not less than 8" below existing grade. Stump cavities will be filled with topsoil meeting ODOT 653 specifications and seeded and mulched per ODOT 659.

S4-5 Emergency Storm Work

When the contractor receives a request from an appropriate City official to perform work under this section, the contractors' foreman or representative shall make the determination for personnel and equipment required, based on the information provided by the City official requesting service. The contractor shall be responsible to perform immediate follow up assessment to determine the amount of crew personnel and equipment required to complete the work. **The crew hour rate with equipment, is defined as:**

3 person crew with (1) two-ton aerial lift truck with dump bed, (1) chipper trailer with minimum 12 inch throat, power/hand tools, mobile 2-way radio equipment, and safety equipment.

At it's option, the City may require the Contractor to provide a crane in order to expedite the removal of large tree units. **The crew hour rate with equipment is defined as:**

1 crane with operator with a minimum lift capacity of 42-ton and a minimum working radius of 80 feet.

Crews and equipment shall be available on-site and for emergency work within 90 minutes of being notified 24 hours a day, 7 days a week. Work under this section shall be per hour for the crew and equipment. Work shall be paid at the hourly crew rate as stated in the **Bid Form** section for *Emergency Storm Work*.

S4-6 Storm Clean-Up

Storm clean-up shall include the removal and clean up of downed limbs, trees, and brush from trees, from public or private property, as directed by the City. **The crew hour rate with equipment is defined as:**

3 person crew with (1) chipper trailer with a minimum 12 inch throat, (1) two ton dump bed, power/hand tools, mobile 2-way radio equipment, and safety equipment.

Work under this section shall be per hour for the crew and equipment. Work shall be paid at the hourly crew rate as stated in the **Bid Form** section for *Storm Clean-Up*.

S5. Standards of Work

S5-1 Qualified Personnel

All persons pruning trees near electric utility lines shall be **qualified** with training that includes pruning techniques, and an understanding of safety and line clearing requirements as set forth by OSHA and ANSI Z 133.1-2000. All trimming shall be done in accordance with established arbor cultural principals and in such a way as to provide consideration for both tree symmetry and required power line clearance.

S5-2 Pruning and Line Clearance

ANSI A300 (Part I) - 2001 Pruning Standards shall be used for all pruning and line clearance covered by this contract. All branches or limbs shall be cut as close as possible to their branch collar. When only a section of a limb is to be removed, the diameter of the section to be removed shall be at least 1/3 of the largest diameter of the limb.

S5-3 Tree Climbing

Climbing irons, spikes, or spurs shall never be used on any tree unless approved by OMLPS Director or designee, or unless the tree is being removed.

S5-4 Contractor Tree Damage

Any tree damage caused by the contractor shall be repaired at no additional expense to the City. Trees damaged beyond repair shall be removed and replaced at the contractors' expense.

S5-5 Equipment Height Limitation

The use of bucket trucks does not excuse the contractor from climbing trees to reach portions inaccessible to buckets.

S5-6 Roadway Access and Closings

Local traffic as well as ingress and egress to all properties shall be maintained at all times unless a street closing has been approved by the City. Requests for street closings shall be made to the City not less than 24 hours prior to the closing. The contractor shall be responsible for delivering notice of the closing to the affected properties.

S5-7 Traffic Control and Work Zone Safety

Contractor shall be responsible, at contractor's expense for all traffic control, lights, signs, and barricades and must meet the specifications of O.D.O.T. Section 614. The presence of barricades, lights or other traffic control devices, provided and maintained by any party other than the Contractor, shall not relieve the Contractor of this responsibility.

S5-8 Disposal and Cleanup

The contractor shall be responsible for the removal and disposal of all wood products resulting from their work including all brush, limbs, tree trunks and stump grindings. Complete cleanup of each days works shall be performed. Tree sections shall be dropped or lowered onto **public property** to the extent possible. Work site is to be left clean. Contractor is responsible for repairs and cleanup to public and private property resulting from Contractor's work.

BID FORM

Proposal of Edwards Tree Service of Ohio, LLC, organized and existing
under the laws of the State of Ohio, and doing business as
LLC (insert " corporation," " partnership," or "individual").

The undersigned having carefully examined the Instructions to Bidders, Specifications, and other information in the documents herein, hereby proposes and agrees that, if this proposal is accepted, he/she will provide all necessary materials, labor, and equipment for tree work in accordance with the specifications and this bid.

ITEM 1 TREE PRUNING

ITEM	UNIT PRICE
PRUNING 0-9.9 DBH	55.00
PRUNING 10-19.9 DBH	123.00
PRUNING 20-24.9 DBH	166.00
PRUNING 25-29.9 DBH	236.00
PRUNING 30+ DBH	324.00

ITEM 2 TREE REMOVAL-WITH STUMP

ITEM	UNIT PRICE
TREE REMOVAL 0-9.9 DBH	85.50
TREE REMOVAL 10-19.9 DBH	295.00
TREE REMOVAL 20 -24.9 DBH	514.00
TREE REMOVAL 25-29.9 DBH	654.00
TREE REMOVAL 30 PLUS DBH	1,095.00

Note: DBH is defined as diameter, in inches of trees at a point 4.5 feet above the ground.

ITEM 3 LINE CLEARANCE

ITEM	TOTAL
LINE CLEARANCE	N/A

ITEM 4 UNSCHEDULED LINE CLEARANCE

ITEM	CREWHOUR RATE WITH EQUIPMENT
RATE	138.00

ITEM 5 EMERGENCY STORM WORK

ITEM	CREWHOUR RATE WITH EQUIPMENT
RATE	195.00

ITEM 6 STORM CLEANUP WORK

ITEM	CREWHOUR RATE WITH EQUIPMENT
RATE	150.00

ITEM 7 CRANE WITH OPERATOR

ITEM	CREWHOUR RATE WITH EQUIPMENT
RATE	95.00

Name of Bidder: Edwards Tree Service of OH, LLC

By: [Signature]
(Signature)

Title: Sales Manager

Address: 49090 Cooper Foster Park Rd.

(SEAL - if bid is
by a Corporation)

Amherst, OH 44001

Telephone: (440) 988-4470

Date: 1/30/07

ATTEST:

[Signature]
(Signature)

Lisa Rios
(Name)

Administrative Assistant
(Title)

DELINQUENT PERSONAL PROPERTY TAX AFFIDAVIT

State of OH

County of Lorain

Bid Identification **2007 TREE WORK**

Contractor Edwards Tree Service of Ohio, LLC Alan Shauck
being first duly sworn, deposes and says he is

representative
(sole City, partner, president, secretary, etc.)
of Edwards Tree Service of Ohio, LLC, the party making the
forgoing bid; hereby affirms under oath, pursuant to Section 5119.042 of the Ohio Revised
Code that, at the time the Bid was submitted the company **(was)** **(was not)** charged with
delinquent personal property taxes of the General Tax List of Personal Property for
Lorain County, Ohio.

If such charge for delinquent personal property taxes exists on the General Tax List of
Personal Property for Lorain County, Ohio, the amount of such due and unpaid
delinquent taxes, including due and unpaid penalties shall be set forth below.

A copy of this statement shall be transmitted by the Fiscal Officer to the County Treasurer
within thirty (30) days of the date it is submitted.

Delinquent Personal Property Tax \$ -0-

Penalties \$ -0-

Interest \$ -0-

Signed: [Signature]

Alan Shauck, Sales Manager
Name and Title

Subscribed and sworn to before me this 30th day of January, 2007.

Seal of Notary

[Signature]
Notary Public

LISA RIOS
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 5-31-10

BID FORM

Proposal of Edwards Tree Service of Ohio, LLC, organized and existing under the laws of the State of Ohio, and doing business as LLC (insert " corporation," " partnership," or "individual").

The undersigned having carefully examined the Instructions to Bidders, Specifications, and other information in the documents herein, hereby proposes and agrees that, if this proposal is accepted, he/she will provide all necessary materials, labor, and equipment for tree work in accordance with the specifications and this bid.

ITEM 1 TREE PRUNING

ITEM	UNIT PRICE
PRUNING 0-9.9 DBH	55.00
PRUNING 10-19.9 DBH	123.00
PRUNING 20-24.9 DBH	166.00
PRUNING 25-29.9 DBH	236.00
PRUNING 30+ DBH	324.00

ITEM 2 TREE REMOVAL-WITH STUMP

ITEM	UNIT PRICE
TREE REMOVAL 0-9.9 DBH	85.50
TREE REMOVAL 10-19.9 DBH	295.00
TREE REMOVAL 20 -24.9 DBH	514.00
TREE REMOVAL 25-29.9 DBH	654.00
TREE REMOVAL 30 PLUS DBH	1,095.00

Note: DBH is defined as diameter, in inches of trees at a point 4.5 feet above the ground.

ITEM 3 LINE CLEARANCE

ITEM	TOTAL
LINE CLEARANCE	N/A

ITEM 4 UNSCHEDULED LINE CLEARANCE

ITEM	CREWHOUR RATE WITH EQUIPMENT
RATE	138.00

ITEM 5 EMERGENCY STORM WORK

ITEM	CREWHOUR RATE WITH EQUIPMENT
RATE	195.00

ITEM 6 STORM CLEANUP WORK

ITEM	CREWHOUR RATE WITH EQUIPMENT
RATE	150.00

ITEM 7 CRANE WITH OPERATOR

ITEM	CREWHOUR RATE WITH EQUIPMENT
RATE	95.00

Name of Bidder: Edwards Tree Service of OH, LLC

By: [Signature]
(Signature)

Title: Sales Manager

Address: 49090 Cooper Foster Park Rd.

(SEAL - if bid is
by a Corporation)

Amherst, OH 44001

Telephone: (440) 988-4470

Date: 1/30/07

ATTEST:

[Signature]
(Signature)

Lisa Riis
(Name)

Administrative Assistant
(Title)

DELINQUENT PERSONAL PROPERTY TAX AFFIDAVIT

State of OH

County of Lorain

Bid Identification **2007 TREE WORK**

Contractor Edwards Tree Service of Ohio, LLC Alan Shauck
being first duly sworn, deposes and says he is

representative
(sole City, partner, president, secretary, etc.)
of Edwards Tree Service of Ohio, LLC, the party making the
forgoing bid; hereby affirms under oath, pursuant to Section 5119.042 of the Ohio Revised
Code that, at the time the Bid was submitted the company **(was)** **(was not)** charged with
delinquent personal property taxes of the General Tax List of Personal Property for
Lorain County, Ohio.

If such charge for delinquent personal property taxes exists on the General Tax List of
Personal Property for Lorain County, Ohio, the amount of such due and unpaid
delinquent taxes, including due and unpaid penalties shall be set forth below.

A copy of this statement shall be transmitted by the Fiscal Officer to the County Treasurer
within thirty (30) days of the date it is submitted.

Delinquent Personal Property Tax \$ -0-

Penalties \$ -0-

Interest \$ -0-

Signed: [Signature]

Alan Shauck, Sales Manager
Name and Title

Subscribed and sworn to before me this 30th day of January, 2007.

Seal of Notary

[Signature]
Notary Public

LISA RIOS
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 5-31-10

NOTICE OF AWARD

To: Edward's Tree Service of Ohio, LLC

49090 Cooper Foster Road

Amherst, OH 44001

The City of Oberlin, Ohio, having considered the Bid submitted by you for **2007 TREE WORK** in response to the Advertisement for Bids dated 1/9/07 and 1/16/07 and in an amount not to exceed \$70,000.00 does hereby notify you that your


Bid has been accepted by City Ordinance No. 07-24 AC CMS.

The following variations from the Specifications and Bid Instructions have been allowed:

None

You are required to execute the Agreement within ten (10) calendar days from the date of this Notice to you. If you fail to execute said Agreement within ten (10) calendar of the date of this Notice, the City of Oberlin will be entitled to consider all your rights arising out of the City's acceptance of your Bid as abandoned and as a forfeiture of your Bid Bond. The City of Oberlin will also be entitled to such other rights as may be granted by law.

City of Oberlin, Ohio

By: 

Title: Interim City Manager Date: February 26, 2007

Acceptance of Notice of Award

Receipt of the above Notice of Award is hereby acknowledged by

Edward's Tree of Ohio, this 21 day of March, 2007.

By: 

Title: Sales Manager

AGREEMENT

This Agreement, made this 28th day of February, 2007, by and between the City of Oberlin, Ohio, hereinafter called the "City", acting herein through its City Manager, and Edward's Tree Service of Ohio, LLC, doing business as

(a corporation) (~~a partnership~~) (~~an individual~~) in the City of Amherst,

County of Lorain, and State of Ohio, hereinafter called the "Contractor."

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The Contractor will furnish equipment in accordance with the terms of the Contract Documents.
2. The following variations from the Contract Documents and or options have been agreed to:

None

3. The term "Contract Documents" means and includes the following:

- a) Advertisement for Bids
- b) Instruction to Bidders
- c) General Conditions
- c) EEO and MBE Documentation
- d) Bid including all attachments thereto.
- e) Bid Bond
- f) Delinquent Personal Property Tax Affidavit
- g) Notice of Award
- h) Agreement (with Legal & Fiscal Officers' Certificates)
- i) Specifications
- j) Addenda:
No. _____, dated _____, 2007.
No. _____, dated _____, 2007.
No. _____, dated _____, 2007.

4. The City will pay to the Contractor in the manner and at such times as set forth in the Contract Documents, such amounts as required by this Agreement.

AGREEMENT (pg 2)

5. City's engagement of the Contractor is based upon the Contractor's representations to the City that the Contractor:
 - has reviewed all documents pertinent to its portion or scope of the work and has found them in all respects to be complete, accurate, adequate, consistent, coordinated and sufficient;
 - is an organization experienced in and qualified, willing and able to provide equipment of the nature and type necessary to perform its portion or scope of the Work
 - is authorized and licensed to do business in Ohio;
 - has the expertise and ability to meet the City's objectives and requirements.
6. The Contractor shall furnish services and labor which expeditiously and economically and properly complete its particular scope of the Work in the manner most consistent with the City's interests and objectives; in accordance with the Contract Documents, and in accordance with the highest standards currently practiced by persons and entities performing comparable labor and services on projects of similar size and complexity.
7. The Contractor expressly warrants and guarantees to the City that all goods, products, materials, equipment, and systems incorporated in its particular scope of the Work conform to applicable Specifications, descriptions instructions, Drawings, data and samples; be new (unless otherwise specified or permitted and without apparent damage; be of quality equal to or higher than that required by the Bid Documents; be merchantable ; and free from defects
8. The Contractor expressly warrants and guarantees to the City that all labor and services required for its particular scope of Work shall comply with the Bid Documents; be performed in a workmanlike manner; and be free from defects.
9. All warranties and guarantees set forth above shall be in addition to all other warranties, express, implied or statutory, and shall survive payment for, acceptance or inspection of, or failure to inspect the Work.
10. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
11. With respect to the intent and interpretation of this Contract, the City and the Contractor agree as follows:
 - (A) This Contract, together with the Contractor's and Surety's performance and payment bonds for the Project, if any, constitute the entire and exclusive agreements between the parties with reference to the Project, and said Contract supersedes any and all prior discussions, communications, representations, understandings, negotiations, or agreements.

AGREEMENT (pg 3)

(B) Anything that may be required, implied or inferred by the documents which make up this Contract, or any one or more of them, shall be provided by the Contractor for the Contract Price;

(C) Nothing contained in this Contract shall create, nor be interpreted to create, privity or any other relationship whatsoever between the City and any person except the Contractor;

(D) When a word, term, or phrase is used in this Contract, it shall be interpreted or construed first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage;

(E) The words "include", "includes", or "including", as used in this Contract, shall be deemed to be followed by the phrase, "without limitation";

(F) The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract;

(G) The Contractor shall have a continuing duty to read, examine, review, compare and contrast each of the documents which make up this Contract, shop drawings, and other submittal and shall give written notice to the City of any conflict, ambiguity, error or omission which the Contractor may find with respect to these documents before proceeding with the affected work. The express or implied approval by the City of any shop drawings or other submittal shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such approval be evidence of the Contractor's compliance with this Contract. The City has requested the Distribution Superintendent to only prepare documents for the Project, including the plans and specifications for the Project, which are accurate, adequate, consistent, coordinated and sufficient for construction. **HOWEVER, THE City MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING SUCH DOCUMENTS.** The Contractor again hereby acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representations or warranties by the City concerning such documents, as no such representations or warranties have been or are hereby made;

(H) In the event of any conflict, discrepancy, or inconsistency among any of the documents which make up this Contract, the following shall control:

- (1) As between figures given on plans and scaled measurements, the figures shall govern;
- (2) As between large scale plans and small scale plans, the large scale plans shall govern;

AGREEMENT (pg 4)

- (3) As between plans and specifications, the requirements of the specifications shall govern;
 - (4) As between this document and the plans or specifications, this document shall govern.
12. The Contractor shall perform all of the work required, implied or reasonably inferable from this Contract including, but not limited to, the following:
- (A) Construction of the Project;
 - (B) The furnishing of any required surety bonds and insurance;
 - (C) The provision or furnishing, and prompt payment therefor, of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, fuel, heat, light, cooling, or other utilities, required for construction and all necessary building permits and other permits required for the construction of the Project;
 - (D) The creation and submission to the City of detailed and comprehensive as-built drawings depicting all as-built construction. Said as-built drawings shall be submitted to the City upon final completion of the Project and receipt of same by the City shall be a condition precedent to final payment to the Contractor.
 - (E) Neither payment to the Contractor, utilization of the Project for any purpose by the City, nor any other act or omission by the City shall be interpreted or construed as an acceptance of any work of the Contractor not strictly in compliance with this Contract;
 - (F) Prior to being entitled to receive final payment, and as a condition precedent thereto, the Contractor shall furnish the City, in the form and manner required by City, if any, with a copy to the Engineer:
 - (1) An affidavit that all of the Contractor's obligations to subcontractors, laborers, equipment or material suppliers, or other third parties in connection with the Project, have been paid or otherwise satisfied;
 - (2) If required by the City, separate releases of lien or lien waivers from each subcontractor, lower tier subcontractor, laborer, supplier or other person or entity who has, or might have a claim against the City or the City's property;
 - (3) If applicable, consent(s) of surety to final payment;
 - (4) All product warranties, operating manuals, instruction manuals and other record documents, drawings and things customarily required of the Contractor, or expressly required herein, as a part of or prior to Project closeout;

AGREEMENT (pg 5)

13. Termination by the Contractor

If the City repeatedly fails to perform its material obligations to the Contractor for a period of thirty (30) days after receiving written notice from the Contractor of its intent to terminate hereunder, the contractor may terminate performance under this Contract by written notice to the City. In such event, the Contractor shall be entitled to recover from the City as though the City had terminated the Contractor's performance under this Contract for convenience pursuant to Subparagraph 19(A) hereunder.

14. City's Right to Suspend Contractor's Performance

The City shall have the right at any time to direct the Contractor to suspend its performance, or any designated part thereof, for any reason whatsoever, or without reason, for a cumulative period of up to (10) calendar days. If any such suspension is directed by the City, the Contractor shall immediately comply with same.

In the event the City directs a suspension of performance under this Paragraph, through no fault of the Contractor, the City shall pay the Contractor as full compensation for such suspension the Contractor's reasonable costs, actually incurred and paid, of:

- (A) demobilization and remobilization, including such costs paid to subcontractors;
- (B) preserving and protecting work in place;
- (C) storage of materials or equipment purchased for the Project, including insurance thereon;
- (D) performing in a later, or during a longer, time frame than that contemplated by this Contract.

15. Termination by the City

The City may terminate this Contract in accordance with the following terms and conditions:

- (A) The City may, for any reason whatsoever, terminate performance under this Contract by the Contractor for convenience. The City shall give written notice of such termination to the Contractor specifying when termination becomes effective. The Contractor shall incur no further obligations in connection with the work and the Contractor shall stop work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Contractor to assign the Contractor's right, title and interest under termination orders or subcontracts to the City or its designee. The Contractor shall transfer title and deliver to the City such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has. When terminated for convenience, the Contractor shall be compensated as follows:

AGREEMENT (pg 6)

- (1) The Contractor shall submit a termination claim to the City specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the City. If the Contractor fails to file a termination claim within one (1) year from the effective date of termination, the City shall pay the Contractor, an amount derived in accordance with Subparagraph (3) below;
- (2) The City and the Contractor may agree to the compensation, if any, due to the Contractor hereunder;
- (3) Absent agreement to the amount due to the Contractor, the City shall pay the Contractor the following amounts:
 - (a) Contract prices for labor, materials, equipment and other services accepted under this Contract;
 - (b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for direct jobsite overhead and profit thereon (such profit shall not include anticipated profit or nonsequential damages); provided however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;
 - (c) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph (A) of this Paragraph. These costs shall not include amounts paid in accordance with other provisions hereof.

The total sum to be paid the Contractor under this Subparagraph 19(A) shall not exceed the total Contract Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

- (B) If the Contractor does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Contract, then the City, in addition to any other rights it may have against the Contractor or others, may terminate the performance of the Contractor and assume possession of the Project site and of all materials and equipment at the site and may complete the work. In such case, the Contractor shall not be paid further until the work is complete. After final completion has been achieved, if any portion of the Contract Price, as it may be modified hereunder, remains after the cost to the City of completing the work, including all costs and expenses of every nature incurred, has been deducted by the City, such remainder shall belong to the Contractor. Otherwise, the Contractor shall pay and make whole the City for such cost. This obligation for payment shall survive the termination of

AGREEMENT (pg 7)

the Contract. In the event the employment of the Contractor is terminated by the City for cause pursuant to this Subparagraph B) and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under Subparagraph A) and the provisions of Subparagraph (A) shall apply.

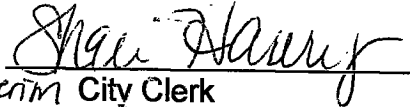
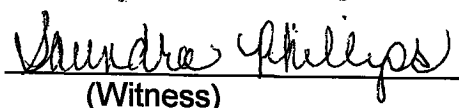
IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in three copies, each of which shall be deemed an original on the date first written above.

City of Oberlin, Ohio

By: 
Gary Boyle, Interim City Manager

(Seal)

ATTEST:


Interim City Clerk

(Witness)

Contractor: Edward's Tree Service of Ohio, LLC.

By: 

Title: Sales Manager

Address: 49090 Cooper Foster Road, Amherst, OH 44001

(Seal)

ATTEST:

Phone: (440) 988-4470


(Secretary, if Corporation)

(Witness)

CITY OF OBERLIN, OHIO

FISCAL OFFICER'S CERTIFICATE

Project Identification: 2007 TREE WORK

I, Sal Talarico, Finance Director hereby certify that I am the qualified and acting fiscal officer of the City of Oberlin, Ohio, and that the amount of money, to wit \$ 70,000.00, required to meet the cost of the attached Agreement between the City of Oberlin and Edward's Tree Service of Ohio, LLC (Contractor) has been lawfully appropriated for the purpose of said Agreement and the money so appropriated is on deposit ^{OR} (in process of  collection) to the credit of the appropriate fund free from any previous encumbrances.

Date

2/26/07

Signature



Name

Salvatore Talarico

Title

Finance Director

CITY OF OBERLIN, OHIO

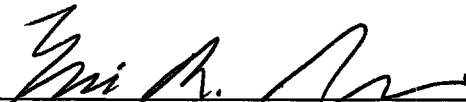
LEGAL OFFICER'S CERTIFICATE

Project Identification: 2007 TREE WORK

The foregoing Agreement between the City of Oberlin, Ohio, (City)
and Edward's Tree Service of Ohio, LLC. (Contractor)
is approved as to form.

2-27-07

Date



Eric Severs, Law Director

NOTICE TO PROCEED

To: Edward's Tree Service of Ohio, LLC.

Date: February 28, 2007

49090 Cooper Foster Road

Project: 2007 TREE WORK

Amherst, OH 44001

You are hereby to commence WORK in accordance with the Agreement dated February 28, 2007, on or before March 1, 2007 and you are to complete the WORK within 365 consecutive calendar days thereafter. The date of completion of all WORK is, therefore, March 1, 2008.

Owner: City of Oberlin, Ohio

By:



Title:

Interim City Manager

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged

by Edward's Tree of Ohio this 1st day of March 2007.

By:



Title:

Sales Manager

EXPERIENCE STATEMENT

The bidder is required to state in detail in the space provided below, what work he has done of a character similar to that included in the proposed Contract, to give references and such other detailed information as will enable the Owner to judge of his responsibility, experience, skill and financial standing. Among other things, this statement shall include the following:

A record of similar work performed and evidence to the effect:

1. That the bidder maintains a permanent place of business.
2. That the bidder has adequate facilities and equipment available for the work under the proposed contract.
3. That the bidder has suitable financial means to meet obligations incidental to the work.
4. That the bidder has appropriate technical experience and possesses sufficient skill and experience.
5. That the bidder maintains a service department qualified to make all repairs to adjustments that may be required on the equipment to be used under the proposed contract.
6. That references listed below with phone numbers can be contacted.

[illegible]

(use additional sheet, if necessary)

