

RESOLUTION NO. 39 - 19

**A RESOLUTION APPROVING AN AGREEMENT WITH NATIONAL TREE CARE
FOR RESIDENTIAL LIMB & BRANCH COLLECTION SERVICES**

WHEREAS, the Village of Chatham (“Village”) is an Illinois Municipal Corporation existing and operating under the Illinois Municipal Code and the laws of the State of Illinois; and

WHEREAS, the Village issued a Request for Proposals for Limb & Branch Collection Services (“RFP”); and

WHEREAS, the RFP required both a price for a one-year contract and a three-year contract; and

WHEREAS, the Village received three proposals and the Village staff is recommending the proposal by National Tree Care best meets the needs of the Village as it offers the lowest first-year price and contains no contingencies; and

WHEREAS, the Village President and Board of Trustees accept the recommendations of the Village staff and find it in the best interests of the Village to enter the proposed agreement, for a three-year term, for residential limb and branch collection services with National Tree Care.

NOW THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Chatham, Sangamon County, Illinois, as follows:

Section 1. Recitals. The foregoing recitals shall be and are hereby incorporated into and made a part of this Resolution as if fully set forth in this Section 1.


Section 2. Agreement with National Tree Care. The Village President and Village Board of Trustees hereby accept and approve the proposal offered by National Tree Care for a three-year contract to provide residential limb and branch collection services, and hereby authorize the Village President to execute the agreement for said services as attached as Exhibit A.

Section 3. Effective Date. This Resolution shall be in full force and effect from and after its passage and approval.

SO RESOLVED this 25th day of June, 2019, at Chatham, Sangamon County, Illinois.

	YES	NO	ABSENT	PRESENT
KRISTEN CHIARO	X			
ANDREW DETMERS	X			
BRETT GERGER	X			
RYAN MANN	X			
MATT MAU	X			
PAUL SCHERSCHEL	X			
DAVE KIMSEY				
TOTAL	6	0	0	

APPROVED by the President of the Village of Chatham, Illinois this 25th day of June, 2019.


 Dave Kimsey, Village President

Attest:

 Amy Dahlkamp, Village Clerk

EXHIBIT A
CONTRACT WITH NATIONAL TREE CARE

**CONTRACT WITH NATIONAL TREE CARE
FOR RESIDENTIAL LIMB & BRANCH COLLECTION SERVICES**

THIS AGREEMENT, dated this 25th day of June, 2019, is between the Village of Chatham, Illinois (hereinafter "VILLAGE") and National Tree Care (hereinafter "CONTRACTOR").

NOW THEREFORE, the parties agree as follows:

Section 1. Recitals. The recitals set forth above are incorporated into this Section 1 as if specifically stated herein.

Section 2. Incorporation of RFP Proposal Terms. This work was subject to the following procurement initiative by the VILLAGE: Limb & Branch Collection Services (hereinafter "Request") Accordingly, the provisions of the Request and the proposal submitted by CONTRACTOR (hereinafter collectively referred to as "Procurement Documents" and attached as Exhibit A), shall be incorporated into this Contract and made a part thereof and shall be considered additional contractual requirements that must be met by CONTRACTOR. In the event of a direct conflict between the provisions of this contract and the incorporated documents, the provisions of this contract shall apply.

Section 3. Description of Services. CONTRACTOR shall provide the services/work identified in the Procurement Documents, including but not limited to the following: (1) collect limb and branches for each residential dwelling twelve (12) times per year with one trip thru the Village each month; (2) furnish all labor and equipment for the collection of said limbs and branches; (3) make proper disposal of said limbs and branches at a site that is licensed, legally authorized and operated to accept said items; and (4) be responsible for and pay all fees associated with the disposal of the collected limbs and branches. CONTRACTOR shall not dispose of said limbs and branches at the Village burn pile, but rather must dispose of said items at another licensed or authorized facility at CONTRACTOR's own cost and expense. Any limbs and branches hauled must be generated within the Village limits.

Section 4. Payment. For the work performed by CONTRACTOR under this Contract, the VILLAGE shall pay CONTRACTOR the sums as set forth in Exhibit B.

Section 5. Default and Termination. Either party shall be in default if it fails to perform all or any part of this Contract. If either party is in default, the other party may terminate this Contract upon giving written notice of such termination to the party in default. Such notice shall be in writing and provided thirty (30) days prior to termination. The non-defaulting party shall be entitled to all remedies, whether in law or equity, including specific performance, upon the default or a violation of this Contract. In addition, the prevailing party shall be entitled to reimbursement of attorney's fees and court costs.

Section 6. Indemnification. To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless VILLAGE, its officers, officials, agents and employees from claims, demands, causes of action and liabilities of every kind and nature whatsoever arising out of or in connection with CONTRACTOR's operations performed under this Contract, except for loss, damage or expense arising from the sole gross negligence or willful misconduct of the VILLAGE or the VILLAGE's agents, servants or independent contractors who are directly responsible to VILLAGE. This indemnification shall extend to claims occurring after this

Contract is terminated as well as while it is in force. The indemnity shall apply regardless of any concurrent negligence, whether active or passive, of the VILLAGE or VILLAGE's officers, officials, agents, employees, or any other persons or entities. The indemnity set forth in this section shall not be limited by insurance requirements or by any other provision of this Contract.

Section 7. General Liability Insurance / Performance Bond. CONTRACTOR shall maintain general liability insurance for bodily injury and property damage arising directly from its negligent acts or omissions, with general limits shall be less than \$1,000,000.00 for each occurrence. Certificates of insurance shall be provided to VILLAGE and VILLAGE shall be named as an additional insured under the policy. Umbrella liability coverage must also be provided in the amount of \$5,000,000 for each occurrence.

The CONTRACTOR shall provide a performance bond within twenty (20) days after this Contract is executed. The performance bond shall be in an amount equal to 100% of the full amount of the contract sum for the first year of the Contract as security for the faithful performance of the contract obligations. Such bond shall be on standard AIA Documents, issued by the American Institute of Architects, shall be issued by a surety satisfactory to the VILLAGE, and shall name the VILLAGE as a primary co-obligee. The performance bond shall become a part of the Contract. If the CONTRACTOR does not supply the required bond within twenty (20) days after execution of the Contract, such shall constitute a default and VILLAGE may cancel the Contract.

Section 8. Representations of Vendor. CONTRACTOR hereby represents it is legally able to perform the work that is subject to this Contract.

Section 9. Assignment. Neither party may assign this Contract, or the proceeds thereof, without written consent of the other party.

Section 10. Compliance with Laws. CONTRACTOR and all work by CONTRACTOR shall at all times comply with all laws, ordinances, statutes and governmental rules, regulations and codes.

Section 11. Compliance with FOIA Requirements. CONTRACTOR further explicitly agrees to furnish all records related to this Contract and any documentation related to VILLAGE required under an Illinois Freedom of Information Act (ILCS 140/1 et. seq.) ("FOIA") request within five (5) business days after VILLAGE issues notice of such request to CONTRACTOR. CONTRACTOR agrees to not apply any costs or charge any fees to the VILLAGE regarding the procurement of records required pursuant to a FOIA request. CONTRACTOR agrees to defend, indemnify, and hold harmless VILLAGE, and agrees to pay all reasonable costs connected therewith (including, but not limited to reasonable attorney's and witness fees, filing fees, and any other expenses) for VILLAGE to defend any and all causes, actions, causes of action, disputes, prosecutions, or conflicts arising from CONTRACTOR actual or alleged violation of the FOIA, or CONTRACTOR failure to furnish all documentation related to a request within five (5) days after VILLAGE issues notice of a request. Furthermore, should CONTRACTOR request that VILLAGE utilize a lawful exemption under FOIA in relation to any FOIA request thereby denying that request, CONTRACTOR agrees to pay all costs connected therewith (such as reasonable attorney's and witness fees, filing fees and any other expenses) to defend the denial of the request. The defense shall include, but not be limited to, challenged or appealed denials of FOIA requests to either the Illinois Attorney General or a court of competent jurisdiction. CONTRACTOR agrees to defend, indemnify, and hold harmless VILLAGE, and agrees to pay all costs connected therewith (such as reasonable attorney's and witness fees, filing fees and any other expenses) to defend any denial of a FOIA request by CONTRACTOR request to utilize a

lawful exemption to VILLAGE.

Section 12. Governing Law. This Agreement shall be governed by and interpreted pursuant to the laws of the State of Illinois.

Section 13. Joint Drafting. The parties expressly agree that this agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing it terms prior to execution. Therefore, this agreement shall be construed neither against nor in favor of either party, but shall construed in a neutral manner.

Section 14. Attorney Fees. In the event that any action is filed in relation to this agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorneys' fees.

Section 15. Paragraph Headings. The titles to the paragraphs of this agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this agreement.

Section 16. Term. The term of this Contract shall be for a term of three years, beginning July 1, 2019 and ending June 30, 2022.

Section 17. Counterparts. This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

VILLAGE OF CHATHAM

By: Patrick M. McCauley
Village Manager

ATTEST:

By: Amy Dahlkamp
Village Clerk

NATIONAL TREE CARE

By: [Signature]

By: _____

EXHIBIT A
PROCUREMENT DOCUMENTS

EXHIBIT B
PAYMENT TERMS

- A. In year one (July 1, 2019 – June 30, 2020), the Village will pay the Contractor \$148,500, which shall be paid in twelve equal monthly installments. Contractor shall submit an invoice for the monthly payments, which shall be due within 30 days after invoice.
- B. In year two (July 1, 2020 – June 30, 2021), the Village will pay the Contractor \$152,212, which shall be paid in twelve equal monthly installments. Contractor shall submit an invoice for the monthly payments, which shall be due within 30 days after invoice.
- C. In year three (July 1, 2021 – June 30, 2022), the Village will pay the Contractor \$156,107, which shall be paid in twelve equal monthly installments. Contractor shall submit an invoice for the monthly payments, which shall be due within 30 days after invoice.

Contractor shall submit an invoice for all payments due, as outlined above, to the Village

PERFORMANCE BOND
Annual – Cancelable Form

Great American Insurance Company
301 E. Fourth Street, 24th Floor, Cincinnati, Ohio 45202-4201

Bond No. 9953915

KNOW ALL BY THESE PRESENTS, That we National Tree Care, as Principal, and Great American Insurance Company, of Ohio, authorized to do business in the State of Illinois, as Surety, are held and firmly bound unto Village of Chatham, as Oblige, in the maximum penal sum of One Hundred Forty Eight Thousand Five Hundred and 00/100 Dollars (\$148,500.00), lawful money of the United States of America, for which payment well and truly to be made we bind ourselves, our heirs, executors and assigns, jointly and severally, firmly by this Surety Bond.

WHEREAS, the Principal has entered, or is about to enter, into a written agreement with the Oblige to perform in accordance with the terms and conditions of the Residential Limb & Branch Collection Services (hereinafter referred to as the Contract), said Contract is hereby referred to and made a part hereof;

NOW, THEREFORE, the condition of this obligation is such that if the above named Principal, its successors and assigns, shall well and truly perform its obligations as set forth in the above mentioned Contract, then this Bond shall be void; otherwise to remain in full force and effect pursuant to its terms. Notwithstanding anything to the contrary in the Contract, the Bond is subject to the following express conditions:

1. Whereas, the Oblige has agreed to accept this Bond, this Bond shall be effective for the term of the above mentioned Contract unless earlier cancelled pursuant to paragraph 2 below. The Bond may be extended, at the sole option of the Surety, by continuation certificate for additional periods from the expiry date hereof. However, neither: (a) the Surety's decision not to issue a continuation certificate, nor (b) the failure or inability of the Principal to file a replacement bond or other security in the event the Surety exercises its right to not renew or cancel this Bond, shall itself constitute a loss to the Oblige recoverable under this Bond or any extension thereof.
2. This Bond may be canceled at any time upon ninety (90) days advance written notice from the Surety to the Oblige.
3. In the event of a default by the Principal in the performance of the Contract during the term of this bond, and after an investigation by the Surety, the Surety shall, with reasonable promptness, cure the default, find an acceptable principal to complete the Contract, or tender the bond penal sum to the Oblige. This does not provide coverage to any indirect loss or costs by the Oblige including, but not limited to legal fees, court costs, expert fees or interest.
4. The above referenced Contract has a term ending June 30, 2022. Regardless of the number of years this Bond is in force or the number of continuation certificates issued, this Bond shall have the final and definite expiration date of June 30, 2022, unless earlier nonrenewed or canceled pursuant to paragraph 1 or 2 above.
5. No claim, action, suit or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless such claim, action, suit or proceeding is brought or instituted upon the Surety within one year from termination or expiration of the bond term.
6. Regardless of the number of years this Bond is in force or the number of continuation certificates issued, the liability of the Surety shall not be cumulative in amounts from period to period and shall in no event exceed the amount set forth above, or as amended by rider.
7. Any notice, demand, certification or request for payment, made under this Bond shall be made in writing to the Surety at the address specified below. Any demand or request for payment must be made prior to the expiry date of this Bond.

Surety Address:

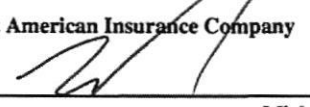
Great American Insurance Company
301 E. Fourth Street, 24th Floor, Cincinnati, Ohio 45202-4201

 Attn: Bond Claims Department

8. If any conflict or inconsistency exists between the Surety's obligations or undertakings as described in this Bond and as described in the underlying Contract, then the terms of this Bond shall prevail.

SIGNED, SEALED AND DATED this 11th day of July, 2019.

National Tree Care
By:  _____, Principal

Great American Insurance Company
By:  _____
Michael J. Herranen , Attorney-in-Fact

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than **THREE**

No. 0 20107

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
THOMAS C. BUCKNER	ALL OF	ALL
MICHAEL J. HERRANEN	PHOENIX, ARIZONA	\$100,000,000
WILLIAM BELPEDIO		

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this **2ND** day of **MARCH**, 2017

Attest

GREAT AMERICAN INSURANCE COMPANY



Thomas C. Buckner
Assistant Secretary

David C. Kitchin
Divisional Senior Vice President

STATE OF OHIO, COUNTY OF HAMILTON - ss:

DAVID C. KITCHIN (877-377-2405)

On this **2ND** day of **MARCH**, 2017, before me personally appeared DAVID C. KITCHIN, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



Susan A. Kohorst
Notary Public, State of Ohio
My Commission Expires 05-18-2020

Susan A. Kohorst

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this **11th** day of **July**, 2019.



Stephen C. Beraha
Assistant Secretary