

**RESOLUTION NO. 2542**

**A RESOLUTION OF THE CITY OF WILSONVILLE APPROVING AN AGREEMENT WITH TWV, INC. (DBA SUSTAINABLE CLEANING SYSTEMS) FOR THE PROJECT KNOWN AS JANITORIAL SERVICES**

WHEREAS, the City requires janitorial services for City facilities located throughout the City; and

WHEREAS, the City is obligated to comply with the “Products of Disabled Individuals Act” to purchase goods and services from a Qualified Rehabilitation Facility; and

WHEREAS, in accordance with OAR 125-055-003, the Department of Administrative Services determines the reasonable and adequate price for QRF products and services; and

WHEREAS, Contractor represents that Contractor is qualified to perform the services described herein on the basis of experience and technical knowledge; and

WHEREAS, Contractor is a Qualified Rehabilitation Facility pursuant to ORS 279.845(2); 279.850(1), and OAR 125-055-0010; and

WHEREAS, the proposed price has been submitted to the Department of Administrative Services and State Procurement Office for approval; and

WHEREAS, Contractor is prepared to provide such services, as the City does hereinafter require, under terms and conditions hereinafter described; and

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The Wilsonville City Council hereby approves and authorizes the City Manager to execute on behalf of the City of Wilsonville the Contract Agreement with TVW, Inc., a qualified Rehabilitation Facility, pursuant to ORS 279.845(2); 279.850(1), and OAR 125-055-0010 for the project known as Janitorial Services, a copy of which is attached as Exhibit 1 and by this reference included herein as if fully set forth.
2. Term of the Contract Agreement is for approximately a two year period ending June 30, 2017.

3. Contract payment is a monthly sum of \$14,061.75 not to exceed an annual cost of \$168,741.00.
4. This Resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 15<sup>th</sup> day of June 2015, and filed with the Wilsonville City Recorder this date.

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Tim Knapp, Mayor

ATTEST:

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Sandra C. King, City Recorder, MMC

SUMMARY OF VOTES:

Mayor Knapp	Yes
Council President Starr	Yes
Councilor Goddard	Yes
Councilor Fitzgerald	Yes
Councilor Stevens	Yes

Attachments:

Janitorial Services Contract

**CITY OF WILSONVILLE  
JANITORIAL SERVICES CONTRACT**

This Janitorial Services Contract (“Contract”) is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2015 (“Effective Date”) by and between the **City of Wilsonville**, a municipal corporation of the State of Oregon (hereinafter referred to as the “City”), and **TVW, Inc.**, doing business as **Sustainable Cleaning Systems**, an Oregon non-profit corporation (hereinafter referred to as “Contractor”).

**RECITALS**

WHEREAS, the City requires services which Contractor is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, Contractor represents that Contractor is qualified to perform the services described herein on the basis of specialized experience and technical expertise and that Contractor is and will at all times remain during the term of this Contract a Qualified Rehabilitation Facility pursuant to ORS 279.854(2), 279.850(1), and OAR 125-055-0010; and

WHEREAS, Contractor is prepared to provide such services, as the City does hereinafter require; and

WHEREAS, this Contract is subject to the Products of Disabled Individuals Act (“PDIA”);

NOW, THEREFORE, in consideration of these mutual promises and the terms and conditions set forth herein, the parties agree as follows:

**AGREEMENT**

**Section 1. Scope of Work**

Contractor will perform the janitorial services more particularly described in the Scope of Work (“Work”), attached hereto as **Exhibit A** and incorporated by reference herein.

**Section 2. Contract Term**

The term of this Contract shall be from the Effective Date, ending June 30, 2017, but may be terminated by the City, upon the giving of thirty (30) days’ written notice, if the City, in its sole determination, finds that the Contractor is not satisfactorily performing this Contract.

**Section 3. Contract Sum and Payment Terms**

3.1. Except as otherwise set forth in this **Section 3**, the City agrees to pay Contractor the monthly sum of FOURTEEN THOUSAND SIXTY-ONE DOLLARS AND SEVENTY-FIVE CENTS (\$14,061.75) for performance of the Work, as more particularly detailed in the Cost

Summary Sheet contained within **Exhibit A**, which also sets forth cleaning frequency (“Contract Sum”). Any compensation in excess of the Contract Sum will require express written agreement between the City and Contractor, as more particularly set forth in **Section 4**. Contractor’s Contract Sum is all inclusive and includes, but is not limited to, all work-related costs, including but not limited to janitorial supplies (except as specifically set forth in **Section 4** as being provided by the City), expenses, salaries or wages, plus fringe benefits and contributions, including payroll taxes, workers compensation insurance, liability insurance, profit, pension benefits, and all other contributions and benefits.

3.2. Contractor will be paid for Work in arrears, on a once monthly basis, for Work completed during the previous month, and within thirty (30) days of receipt of a detailed invoice of Work performed. Each invoice shall include adequate detail to identify the services provided. Upon completion of each month’s janitorial cycle, Contractor shall submit a statement to the City showing the following information: date of services, location of services, and cost of services per location. Contractor will not be paid for any Work beyond the Contract Sum unless such additional Work is preapproved and authorized, in writing, by the City’s Project Manager, as required under **Section 4**. If the City disputes adequate performance of all of the required Work, it will pay only that portion of the invoice not in dispute until the dispute is resolved.

#### **Section 4. Scope of Work and Supplies**

4.1. Contractor will perform the Scope of Work, more particularly described on **Exhibit A**, as such Scope of Work may be reasonably amended from time to time by the City, in accordance with the requirements of this Contract. In order to change the Scope of Work, both the City and the Contractor must complete and sign the Additional Services Request Order (“Additional Work Form”), attached hereto as **Exhibit B** and incorporated by reference herein, before any such additional Work is deemed authorized. No additional Work will be paid for without a completed and signed Additional Work Form. Contractor will furnish all cleaning supplies and labor required thereby. The City will furnish all paper products used for the bathrooms, including toilet paper, paper towels, toilet seat covers, and tissues.

4.2. Contractor will provide the City with a listing of all cleaning agents and chemicals it intends to use on City property, as well as Material Safety Data Sheets for all such products. The City shall have the right to reject the use of any chemical or product. The City strongly encourages the use of earth friendly and non-toxic or less toxic cleaning supplies.

4.3. Contractor must at all times comply with all security criteria set forth in the Scope of Work, both in the performance of the Work and in the selection of employees and supervisors assigned to perform the Work, as more particularly set forth in the Scope of Work.

#### **Section 5. Project Managers**

The City’s Project Manager is Matt Baker. Contractor’s Project Manager is Josh Bearman and his Alternate Project Manager is Allen Bethel. The City is authorized to treat them both as the assigned Project Managers. In the event that either of Contractor's designated Project Managers is changed, Contractor shall give the City prompt written notification of such redesignation.

Contractor's Project Manager shall not be changed without the written consent of the City, which consent shall not be unreasonably withheld. In the event the City receives any communication from Contractor that is not from Contractor's designated Project Manager, the City may request verification by Contractor's Project Manager, which verification must be promptly furnished. Either Project Manager may be reached at any time by calling the following 7-days a week, 24-hours a day, emergency telephone numbers: 503-317-9428 for Josh, and 503-720-5864 for Allen.

Contractor shall be required to maintain an office, which shall be provided with telephones and such personnel as may be necessary to take care of complaints, to receive orders for additional services or to receive any other instruction. Responsible management or supervisory persons shall be accessible at or through the office so as to assure the required performance under the Contract. When the office is closed, a telephone answering service shall be in operation to receive messages.

### **Section 6. Subcontractors and Assignments**

Contractor shall neither subcontract with others for any of the Work prescribed herein nor assign any of Contractor's rights acquired hereunder without obtaining prior written approval from the City. Any attempted assignment of this Contract without the written consent of the City shall be void. Except as otherwise specifically agreed, all costs for services performed by others on behalf of Contractor shall not be subject to additional reimbursement by the City.

### **Section 7. Contractor Is Independent Contractor**

Contractor is an independent contractor for all purposes and shall be entitled to no compensation other than the Contract Sum provided for under **Section 3** of this Contract. Contractor will be solely responsible for determining the manner and means of accomplishing the end result of Contractor's Work. The City does not have the right to control or interfere with the manner or method of accomplishing said Work. The City, however, will have the right to specify and control the results of Contractor's Work so such Work meets the requirements of the Project. Contractor hereby represents that no subcontractors will be used on the Project.

### **Section 8. Contractor Responsibilities**

8.1. Contractor must comply with all applicable Oregon and federal wage and hour laws. Contractor shall make all required workers compensation and medical care payments on time. Contractor shall be fully responsible for payment of all employee withholdings required by law, including but not limited to taxes, including payroll, income, Social Security (FICA), and Medicaid. Contractor shall also be fully responsible for payment of salaries, benefits, taxes, Industrial Accident Fund contributions, and all other charges on account of any employees. Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

8.2. Contractor must maintain a City of Wilsonville or Metro business license at all times while performing this Contract.

8.3. Contractor must maintain its status as a Qualified Rehabilitation Facilities (“QRF”) Contractor at all times during this Contract.

8.4. No person shall be discriminated against by Contractor in the performance of this Contract on the basis of sex, gender, race, color, creed, religion, marital status, age, disability, sexual orientation, gender identity, or national origin. Any violation of this provision shall be grounds for cancellation, termination, or suspension of the Contract, in whole or in part, by the City. Contractor shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to the Contract or to the implementation of the Project. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations, and executive orders to the extent they are applicable to the Contract or the implementation of the Project: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules, and regulations; (b) Titles VI and VII of the Civil Rights Act of 1964, as amended; (c) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (d) the Americans with Disabilities Act of 1990, as amended, and ORS 659A.142; (e) Executive Order 11246, as amended; (f) the Health Insurance Portability and Accountability Act of 1996; (g) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (h) the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended; (i) all regulations and administrative rules established pursuant to the foregoing laws; and (j) all other applicable requirements of federal civil rights and rehabilitation statutes, rules, and regulations.

8.5. Contractor shall make payment promptly, as due, to all parties supplying to such Contractor labor or material for the prosecution of the Work provided for in the Contract. If Contractor fails, neglects, or refuses to make prompt payment of any such claim, the City may, but shall not be obligated to, pay such claim to the subcontractor furnishing the labor, materials, or services and offset the amount of the payment against funds due or to become due to Contractor under this Contract. The City may also recover any such amounts directly from Contractor.

8.6. Contractor shall make payment promptly, as due, to any party furnishing medical, surgical, hospital, or other needed care and attention incident to sickness or injury to the employees of Contractor of all sums which Contractor agreed to pay or collected or deducted from the wages of employees pursuant to any law, contract, or agreement for the purpose of providing payment for such service.

8.7. This contract is a public procurement contract subject to the provisions of ORS 279A and ORS 279B, including but not limited to 279B.020 and 279B.235 pertaining to hours of work and overtime, as applicable to this Janitorial Services Contract. Contractor must carefully review this and other public contracting requirements and fully comply therewith, to the extent applicable.

8.8. Contractor must give notice to employees who work on a public contract, in writing, either at the time of hire or before commencement of Work on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

8.9. The hourly rate of wage to be paid by any Contractor to employed workers or other persons doing or contracting to do all or part of the work contemplated by a public contract shall be not less than the applicable wage required by law.

8.10. Contractor, and all employers working under the Contract, are subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017 unless otherwise exempt under ORS 656.126.

8.11. In the performance of this Contract, Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to those dealing with the prevention of environmental pollution and the preservation of natural resources (and avoidance of natural resource damages) in the performance of the Contract. All cleaning products used in the performance of this Contract shall be used in accordance with safety directions and must be properly disposed of in accordance with all laws. If new or amended statutes, ordinances, or regulations are adopted, or Contractor encounters a condition not referred to in this Contract, not caused by Contractor, and that was not discoverable by reasonable site inspection, which requires compliance with federal, state, or local laws or regulations dealing with the preservation of the environment.

8.12. Contractor shall take all precautions necessary for the safety and prevention of damage to property on or adjacent to the work areas; and for the safety of and prevention of injury to persons, including the City's employees, Contractor's employees, and third persons. Except as otherwise mandated by state law, the performance of Work under this Contract is at Contractor's sole risk.

8.13. Contractor shall be liable for any fine imposed against Contractor, the City or the 'Project' as a result of a violation of any laws or permitting requirements by Contractor or any suppliers.

8.14. In the event of lost keys or access cards, Contractor shall bear the cost to re-key all locks associated with that facility. The City will coordinate re-keying with the City Representative and deduct said charges from the next monthly payment.

8.15. Contractor shall be responsible for all miscellaneous and incidental costs associated with janitorial services for the City of Wilsonville's facilities.

## **Section 9. Indemnity and Insurance**

9.1. Contractor acknowledges responsibility for liability arising out of the performance of this Contract, and shall defend, indemnify, and hold the City harmless from any and all liability, settlements, loss, costs, and expenses in connection with any action, suit, or claim resulting or allegedly resulting from Contractor's negligent acts, omissions, errors, or willful or reckless misconduct pursuant to this Contract, or from Contractor's failure to perform its responsibilities as set forth in this Contract. The review, approval, or acceptance by the City, its Project Manager, or any City employee of documents or other work performed, prepared, or submitted by Contractor shall not be considered a negligent act, error, omission, or willful misconduct on the part of the

City, and none of the foregoing shall relieve Contractor of its responsibility to perform in full conformity with the City's requirements, as set forth in this Contract, and to indemnify the City as provided above and to reimburse the City for any and all costs and damages suffered by the City as a result of Contractor's negligent performance of this Contract, failure of performance hereunder, violation of state or federal laws, or failure to adhere to the standards of performance and care described in **Subsection 9.2**. Contractor shall defend the City (using legal counsel reasonably acceptable to the City) against any claim that alleges negligent acts, omissions, errors, or willful or reckless misconduct by Contractor.

9.2. In the performance of the Work, Contractor agrees to use that degree of care and skill exercised under similar circumstances by reputable members of Contractor's profession, practicing in the Portland metropolitan area. Contractor will re-perform any Work not meeting this standard without additional compensation. Contractor's re-performance of any Work, even if done at the City's request, shall not be considered as a limitation or waiver by the City of any other remedies or claims it may have arising out of Contractor's failure to perform in accordance with the applicable standard of care of this Contract and within the prescribed timeframe.

9.3. Contractor must maintain insurance coverage acceptable to the City in full force and effect throughout the term of this Contract. Such insurance shall cover all risks arising directly or indirectly out of Contractor's activities or work hereunder. The amount of insurance carried is in no way a limitation on Contractor's liability hereunder. The policy or policies of insurance maintained by Contractor shall provide at least the following minimum limits and coverages at all times during performance of this Contract:

9.3.1. Commercial General Liability Insurance. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, comprehensive Commercial General Liability Insurance covering Bodily Injury and Property Damage, written on an "occurrence" form policy. This coverage shall include broad form Contractual Liability insurance for the indemnities provided under this Contract and shall be for the following minimum insurance coverage amounts: The coverage shall be in the amount of **\$2,000,000** for each occurrence and **\$3,000,000** general aggregate and shall include Products-Completed Operations Aggregate in the minimum amount of **\$2,000,000** per occurrence, Fire Damage (any one fire) in the minimum amount of **\$50,000**, and Medical Expense (any one person) in the minimum amount of **\$10,000**. All of the foregoing coverages must be carried and maintained at all times during this Contract.

9.3.2. Professional Errors and Omissions Coverage. Contractor agrees to carry Professional Errors and Omissions Liability insurance on a policy form appropriate to the professionals providing the work hereunder with a limit of no less than **\$1,000,000** per claim. Contractor shall maintain this insurance for damages alleged to be as a result of errors, omissions, or negligent acts of Contractor. Such policy shall have a retroactive date effective before the commencement of any work by Contractor on the Work covered by this Contract, and coverage will remain in force for a period of at least three (3) years thereafter.



9.3.3. Business Automobile Liability Insurance. If Contractor will be using a motor vehicle in the performance of the Work herein, Contractor shall provide the City a certificate indicating that Contractor has business automobile liability coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than **\$2,000,000**.

9.3.4. Workers Compensation Insurance. Contractor and all employers providing work, labor, or materials under this Contract that are subject employers under the Oregon Workers Compensation Law shall comply with ORS 656.017, which requires them to provide workers compensation coverage that satisfies Oregon law for all their subject workers under ORS 656.126. Out-of-state employers must provide Oregon workers compensation coverage for their workers who work at a single location within Oregon for more than thirty (30) days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than **\$500,000** each accident.

9.3.5. Insurance Carrier Rating. Coverages provided by Contractor must be underwritten by an insurance company deemed acceptable by the City with an AM Best Rating of A or better. The City reserves the right to reject all or any insurance carrier(s) with a financial rating that is unacceptable to the City.

9.3.6. Additional Insured & Termination Endorsements. Additional Insured coverage under Contractor's Commercial General Liability, Automobile Liability, and Excess Liability Policy(ies), as applicable, will be provided by endorsement. Additional insured coverage shall be for both on-going operations via ISO Form CG 2010 or its equivalent, and products and completed operations via ISO Form CG 2037 or its equivalent. Coverage shall be Primary and Non-Contributory. Waiver of Subrogation endorsement via ISO form CG 2404 or its equivalent shall be provided. The following is included as additional insured: The City of Wilsonville, its elected and appointed officials, officers, agents, employees, and volunteers. An endorsement shall also be provided requiring the insurance carrier to give the City at least thirty (30) days' written notification of any termination or major modification of the insurance policies required hereunder.

9.3.7. Certificates of Insurance. As evidence of the insurance coverage required by this Contract, Contractor shall furnish a Certificate of Insurance to the City. This Contract shall not be effective until the required certificates and the Additional Insured Endorsements have been received and approved by the City. Contractor agrees that it will not terminate or change its coverage during the term of this Contract without giving the City at least thirty (30) days' prior advance notice and Contractor will obtain an endorsement from its insurance carrier, in favor of the City, requiring the carrier to notify the City of any termination or change in insurance coverage, as provided above.

9.4. The coverage provided by these policies shall be primary, and any other insurance carried by the City is excess. Contractor shall be responsible for any deductible amounts payable

under all policies of insurance. If insurance policies are “Claims Made” policies, Contractor will be required to maintain such policies in full force and effect throughout any warranty period.

## **Section 10. Personnel**

10.1. Contractor is expected to use prudent judgment in the selection of a work force. Proven judgment, integrity, work habits, and skill proficiency are essential employee requirements.

10.2. Contractor shall conduct a security clearance on all personnel. Contractor shall not assign to any facility an employee who has been convicted of any felonies, or misdemeanors that reflect negatively upon the honesty, reliability, general trustworthiness, or prudent judgment of the employee. There will be no exceptions and no substitutions of personnel without prior security clearance checks. The City reserves the right to conduct additional security clearance on any or all janitorial personnel that have access to City facilities.

10.3. Contractor shall have all employees working in City facilities fingerprinted within ten (10) days from the start of the contract. Each employee will also have passed a complete background check, a drug test, and must not have any felony convictions. The City must receive written verification of clearance for any employee with access and entry into the facilities PRIOR to the start of Work.

10.4. Notwithstanding the foregoing, the City shall have the right at any time to refuse access to any City-owned facility, premises, or systems to any employee, subcontractor, or agent of Contractor where the City determines, in its sole discretion, such person or entity poses a risk to the City, or any person, system, or asset associated with the City.

10.5. Contractor will provide the City with immediate notification of terminated employees and is responsible to retrieve terminated employees' keys and electronic key cards.

10.6. Contractor agrees to abide by all federal, state, and local laws, rules, and regulations prohibiting discrimination in employment and controlling workplace safety. Contractor agrees that in performing the Work hereunder, that it will meet all regulations in safety as required by OSHA. Contractor further agrees that it will bring to the attention of the City's Project Manager all conditions on the job site or contained within the specifications that appear to be in violation of the provisions of OSHA. Any violations of applicable laws, rules, and regulations may result in termination of the Contract.

10.7. Contractor's employees shall not be accompanied or assisted by non-employees during work shifts (including their own children).

10.8. Contractor shall provide a roster of employees for the City to review. It shall be an accurate, typed roster of all management and janitorial work force personnel who have any relationship with the Work to be performed at any of the facilities. The roster shall be submitted each month before Work commences, updated by Contractor to reflect any personnel changes. If

there are no personnel changes from month to month, then written notification to the City's Project Manager will suffice.

10.9. In the interest of safety, Contractor's supervisors must be able to communicate in English, both orally and in writing.

10.10. Contractor shall provide visible identification of its employees. Contractor-supplied picture ID badges and company uniforms shall be worn and displayed at all times Contractor's employees are in City facilities. Contractor's employees shall be clean and neat at all times when performing services to City facilities.

## **Section 11. Security Bonds**

Contractor shall ensure that all employees who are working in the City's facilities are bonded and insured. Contractor shall perform a criminal background check on all personnel assigned to work in the facilities and shall not allow any personnel who have been convicted of any felony or crime involving theft or dishonesty to work in the City's facilities. Contractor will be fully responsible for ensuring that all personnel assigned to work on this Contract cause no harm to City personnel or property and, if such harm occurs, shall be fully liable therefor.

## **Section 12. Early Termination; Default**

12.1. This Contract may be terminated for convenience at any time by the City upon the giving of thirty (30) days' written notice. Upon such termination, Contractor will be paid to complete any Work in process and, thereafter, this Contract shall be deemed terminated.

12.2. This Contract may be terminated prior to the expiration of the agreed upon terms by the City if Contractor breaches this Contract and fails to immediately cure the breach within one (1) business day of receipt of written notice of the breach from the City.

12.3. If the City terminates this Contract in whole or in part, due to default or failure of Contractor to perform Work in accordance with the Contract, the City may procure, upon reasonable terms and in a reasonable manner, services similar to those so terminated. In addition to any other remedies the City may have, both at law and in equity, for breach of contract, Contractor shall be liable for all costs and damages incurred by the City as a result of the default by Contractor, including, but not limited to all costs incurred by the City in procuring services from others as needed to complete this Contract. This Contract shall be in full force to the extent not terminated by written notice from the City to Contractor. In the event of a default, the City will provide Contractor with written notice of the default and a period of one (1) business day to cure the default. If Contractor notifies the City that it cannot, in good faith, do so within the one (1) business day cure period provided, then the City may elect, in its sole discretion, to extend the cure period to an agreed upon time period, or the City may elect to terminate this Contract and seek remedies for the default, as provided above.

### **Section 13. Contract Modification; Change Orders**

Any modification of the provisions of this Contract shall not be enforceable or binding unless reduced to writing and signed by both the City and Contractor.

### **Section 14. Access to Records**

The City shall have access, upon request, to such books, documents, receipts, papers, and records of Contractor as are directly pertinent to this Contract for the purpose of making audits, examination, excerpts, and transcripts for a period of four (4) years, unless within that time the City specifically requests an extension. This clause shall survive the expiration, completion, or termination of this Contract.

Contractor shall maintain records to assure conformance with the terms and conditions of this Contract, and to assure adequate performance and accurate expenditures within the Contract period. Contractor agrees to permit the City, the State of Oregon, the federal government, or their duly authorized representatives, to audit all records pertaining to this Contract to assure the accurate expenditure of funds.

### **Section 15. Notices**

Any notice required or permitted under this Contract shall be in writing and shall be given when actually delivered in person or forty-eight (48) hours after having been deposited in the United States mail as certified or registered mail, addressed to the addresses set forth below, or to such other address as one party may indicate by written notice to the other party.

To City:                      City of Wilsonville  
   Attn: Matt Baker  
   29799 SW Town Center Loop East  
   Wilsonville, OR 97070

To Contractor:              TVW, Inc.  
   Attn: Dan Aberg, Executive Director  
   6615 SE Alexander Street  
   Hillsboro, OR 97123

### **Section 16. Miscellaneous Provisions**

16.1. Integration. This Contract, including all exhibits attached hereto, contains the entire and integrated agreement between the parties and supersedes all prior written or oral discussions, representations, or agreements. In case of conflict among these documents, the provisions of this Contract shall control.

16.2. Legal Effect and Assignment. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns. This Contract may be enforced by an action at law or in equity.

16.3. No Assignment. Contractor may not assign this Contract, nor the performance of any obligations hereunder, unless agreed to in advance and in writing by the City.

16.4. Adherence to Law. Contractor shall adhere to all applicable federal, state, and local laws (including the Wilsonville Code and Public Works Standards), including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers compensation, and minimum and prevailing wage requirements. Any certificates, licenses, or permits that Contractor is required by law to obtain or maintain in order to perform the Work described in this Contract shall be obtained and maintained throughout the term of this Contract.

16.5. Governing Law. This Contract shall be construed in accordance with and governed by the laws of the State of Oregon. All contractual provisions required by ORS Chapters 279A and 279B to be included in public agreements are hereby incorporated by reference and shall become a part of this Contract as if fully set forth herein.

16.6. Jurisdiction. Venue for any dispute will be in Clackamas County Circuit Court.

16.7. Legal Action/Attorney Fees. If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Contract or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or body at trial or on any appeal or review, in addition to all other amounts provided by law. If the City is required to seek legal assistance to enforce any term of this Contract, such fees shall include all of the above fees, whether or not a proceeding is initiated. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review.

16.8. Nonwaiver. Failure by either party at any time to require performance by the other party of any of the provisions of this Contract shall in no way affect the party's rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

16.9. Severability. If any provision of this Contract is found to be void or unenforceable to any extent, it is the intent of the parties that the rest of the Contract shall remain in full force and effect, to the greatest extent allowed by law.

16.10. Modification. This Contract may not be modified except by written instrument executed by Contractor and the City.

16.11. Time of the Essence. Time is expressly made of the essence in the performance of this Contract.

16.12. Calculation of Time. Except where the reference is to business days, all periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Oregon,

except that if the last day of any period falls on any Saturday, Sunday, or legal holiday observed by the City, the period shall be extended to include the next day which is not a Saturday, Sunday, or legal holiday. Where the reference is to business days, periods of time referred to herein shall exclude Saturdays, Sundays, and legal holidays observed by the City. Whenever a time period is set forth in days in this Contract, the first day from which the designated period of time begins to run shall not be included.

16.13. Headings. Any titles of the sections of this Contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

16.14. Number, Gender and Captions. In construing this Contract, it is understood that, if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that, generally, all grammatical changes shall be made, assumed, and implied to individuals and/or corporations and partnerships. All captions and paragraph headings used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Contract.

16.15. Good Faith and Reasonableness. The Parties intend that the obligations of good faith and fair dealing apply to this Contract generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Contract. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of where this Contract gives the City “sole discretion” or the City is allowed to make a decision in its “sole judgment.”

16.16. Other Necessary Acts. Each party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out this Contract in order to provide and secure to the other parties the full and complete enjoyment of rights and privileges hereunder.

16.17. Interpretation. As a further condition of this Contract, the City and Contractor acknowledge that this Contract shall be deemed and construed to have been prepared mutually by each party and it shall be expressly agreed that any uncertainty or ambiguity existing therein shall not be construed against any party. In the event that any party shall take an action, whether judicial or otherwise, to enforce or interpret any of the terms of the contract, the prevailing party shall be entitled to recover from the other party all expenses which it may reasonably incur in taking such action, including attorney fees and costs, whether incurred in a court of law or otherwise.

16.18. Entire Agreement. This Contract, all documents attached to this Contract, and all Contract Documents and laws and regulations incorporated by reference herein, represent the entire agreement between the parties.

16.19. Counterparts. This Contract may be executed in one or more counterparts, each of which shall constitute an original Contract but all of which together shall constitute one and the same instrument.

16.20. Authority. Each party signing on behalf of Contractor and the City hereby warrants actual authority to bind their respective party.

The Contractor and the City hereby agree to all provisions of this Contract.

**CONTRACTOR:**

TVW, INC.,  
an Oregon non-profit corporation

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

As Its: \_\_\_\_\_

Employer I.D. No. \_\_\_\_\_

**CITY:**

CITY OF WILSONVILLE,  
an Oregon municipal corporation

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

As Its: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Barbara A. Jacobson, Assistant City Attorney  
City of Wilsonville, Oregon

**ATTESTED TO:**

\_\_\_\_\_  
Sandra C. King, MMC, City Recorder  
City of Wilsonville, Oregon

# EXHIBIT A

## SCOPE OF WORK

### GENERAL

Contractor shall perform all work and furnish all tools, materials, and equipment in order to provide all necessary janitorial services consistent with the accepted practices for other similar services, performed to the City's satisfaction, within the time period prescribed by the City, and pursuant to the direction of the City's Project Manager. Contractor assumes the risk of all conditions foreseen or unforeseen and agrees to continue to perform the work described in this contract without additional compensation. These corrections shall not give rise to a claim for additional compensation or allow substantial variance from the agreed schedule.

The facilities shall be maintained in a neat, clean, orderly, and first-class condition consistent with the *Cleaning Performance Standards* set forth in this **Exhibit A**. Services outlined are to be considered 'minimum requirements' and in no instance are they to limit the level of cleanliness in any facility.

Contractor shall furnish all equipment, materials, and services necessary to perform the janitorial duties consistent with the frequencies specified in the *Building Cleaning Tasks and Schedule* set forth in this **Exhibit A**.

Cleaning shall occur after normal hours of operation, as listed below.

### NATURE AND EXTENT OF SERVICES

There are nine (9) City facilities at various locations throughout the City of Wilsonville where janitorial services are required on a regularly scheduled basis to coincide with days of operation outlined in the facility descriptions below. City facilities operate five (5) to seven (7) days a week, twelve (12) to twenty-four (24) hours per day. With the exception of facilities that operate twenty-four (24) hours per day, janitorial services are to be accomplished during non-working hours at each location. Contractor shall be on call for Hazardous Material (blood and bodily fluids) clean-up on a 24 hour basis. Response time to the affected location must be within one (1) hour of call out.

### FACILITY DESCRIPTIONS

**NOTE: ALL SQUARE FOOTAGES ARE APPROXIMATE; CONTRACTOR SHALL VERIFY DIMENSIONS TO THEIR SATISFACTION PRIOR TO SUBMITTING PROPOSAL.**

1. **City Hall:** 29799 SW Town Center Loop East, Wilsonville - two-story building consisting of approximately 30,000 square feet of carpeted area and hard surface floors. Janitorial services shall be performed five (5) times per week. Normal hours of operation are Monday - Friday, 7:00 am - 11:00 pm.



2. **Community Center:** 7965 SW Wilsonville Road, Wilsonville - one-story building consisting of approximately 8,622 square feet of carpeted area and hard surface floors. Janitorial services shall be performed five (5) times per week. Normal hours of operation are Monday - Friday, 7:00 am - 11:00 pm.

3. **Library:** 8200 SW Wilsonville Road, Wilsonville – one-story building consisting of approximately 29,000 square feet of carpeted area and hard surface floors. Janitorial services shall be performed six (6) times per week. Normal hours of operation are Monday - Saturday, 9:00 am – 9:00 pm.

4. **Public Works / Police:** 30000 SW Town Center Loop East, Wilsonville – two-story building consisting of approximately 8,000 square feet of carpeted area and hard surface floors. Janitorial services shall be performed five (5) times per week. Normal hours of operation are Monday - Friday, 6:00 am - 6:00 pm.

5. **Parks and Recreation:** 29600 SW Park Place, Wilsonville – one-story building consisting of approximately 4,300 square feet of carpeted area and hard surface floors. Janitorial services shall be performed five (5) times per week. Normal hours of operation are Monday – Friday, 7:00 am – 9:00 pm.

6. **Smart/WES Operators Break Building:** 9699 SW Barber Street, Wilsonville - 880 square foot building with hard surface floors. Janitorial services shall be performed five (5) times per week. Normal hours of operation are Monday - Friday, 7:00 am - 7:00 pm.

7. **Tauchman House:** 31240 SW Boones Ferry Road, Wilsonville – 1,020 square feet of hardwood floor and laminate. Janitorial services shall be performed one (1) time per week. Normal hours of operation are Monday – Friday, 7:00 am to 7:00 pm.

8. **Three Bay Modular:** 7934 Memorial Drive, Wilsonville - 120 square foot locker room and shower. Janitorial services shall be performed one (1) time per week. Normal hours of operation are Monday – Friday, 7:00 am to 5:00 pm.

9. **Transit/Fleet:** 28879 Boberg Road, Wilsonville – one-story building consisting of approximately 3,735 square feet of carpeted area and hard surface floors. Janitorial services shall be performed five (5) times per week. Normal hours of operation are Monday – Friday, 7:00 am – 7:00 pm.

## **CONTRACTOR SUPERVISION**

Contractor shall provide an onsite working supervisor for each cleaning crew. The onsite supervisor’s primary task is to ensure that the Cleaning Performance Standards are being attained and preserved in all buildings and that Contractor’s employees understand and carry out what is required to satisfy the requirements of this Scope of Work.

Incompetent, careless, or negligent employees or agents shall be promptly discharged or removed from performing work on the City’s project by Contractor upon written request by the City. Failure to comply with such request is sufficient grounds for termination of the contract.

## **INSPECTION BY CITY'S PROJECT MANAGER**

All required services shall be subject to inspection at any time by the City's Project Manager. Contractor, or Contractor's Project Manager, will accompany the City's Project Manager on said inspection. The City will coordinate the day, location, and time of the inspection.

If any such services are found to be unsatisfactory and/or not in accordance with the Cleaning Performance Standards or Building Cleaning Tasks and Schedule, the City shall notify Contractor, and Contractor shall take immediate steps for corrective action, at no additional cost to the City.

## **CONTRACTOR SUPPLIED ITEMS**

All labor, janitorial tools, equipment, machines, including but not limited to commercial grade carpet vacuum and accessories, and supplies, except those items identified under City Supplied Items, necessary for the performance of daily, weekly, monthly, and quarterly janitorial services shall be furnished by Contractor at no expense or further cost to the City.

The City of Wilsonville requires that current Material Safety Data Sheets (MSDS) be submitted to the City's Project Manager for all chemicals being used on-site in all City facilities. These sheets, and the products, shall be kept up-to-date and properly labeled in the area designated by the City. No product shall be used in facilities until MSDS information has been reviewed and approved by the City's Project Manager.

All cleaning products used by Contractor must be certified by either Green Seal or Eco Logo and are listed on their respective websites: [www.greenseal.org/findaproduct/cleaners](http://www.greenseal.org/findaproduct/cleaners) and [www.ecologo.org/en/certifiedgreenproducts](http://www.ecologo.org/en/certifiedgreenproducts).

## **CITY SUPPLIED ITEMS**

The City will supply all paper products, including paper towels, toilet paper, toilet seat covers, tissues, etc. Contractor will order all such supplies from the City-designated vendor, and the vendor will provide the City with a detailed invoice which the City will pay.

## **JANITORIAL LOGS**

The City will establish a janitorial communication log at each City facility/work site to be cleaned, to be reviewed by janitorial staff daily. The log will be used to note performance issues that the City would like to see corrected. Janitorial staff shall acknowledge, in writing, each entry made by City personnel and how it has been resolved or, if not resolved, that it has been forwarded to Contractor's Project Manager for discussion with the City's Project Manager. The Janitorial Log shall remain in the City's designated area at each facility. Additional comments/notes/requests/instructions may be communicated to Contractor's Project Manager by the City's Project Manager via email, as needed.

## **CLEANING PERFORMANCE STANDARDS**

Contractor shall maintain the Cleaning Performance Standards outlined below for all facilities. The Cleaning Performance Standards represent a high level of cleanliness that defines the

'minimum' level of service. If portions of the Cleaning Performance Standards appear to reduce the service level required by another portion, Contractor shall use the higher standard.

The Building Cleaning Tasks and Schedule (below) identifies routine tasks and their **minimum** required occurrence; if additional tasks or frequencies are necessary to meet these standards, they shall be performed by Contractor.

Interior finishes are to be cleaned and maintained per manufacturers' product specifications.

Equipment and Cleaning Products: The City expects Contractor to be familiar with, and have access to, all equipment necessary and appropriate to perform tasks. All equipment shall be maintained in good working condition and repair, and operate at the original manufacturer's specifications.

Floor Care: Carpeted areas shall be thoroughly vacuumed every scheduled cleaning day, including under desks and tables, and must be free of loose dirt and debris, not spot-vacuumed. Report all spots and stains. This includes all portions of all carpeted areas.

All mats shall be visibly free of loose dirt and debris. Report all spots and stains.

Hard surface floors shall be visibly free of loose dirt, debris, spots, and stains and shall consistently have a clear and shiny appearance. Use of disinfectant products is further required on hard surface floors.

Waste Material: All waste receptacles shall be emptied, cleaned, and lined. Waste material shall be removed daily, and waste material will be placed in an area that has been designated by the City.

Recyclable Material: Recyclable material shall be emptied as needed, and recyclable material will be placed in an area that has been designated by the City.

Dusting: All interior surfaces seven (7) feet height and below, without exception, shall remain free of cobwebs, dirt, and/or accumulation of any kind of dust or debris.

Restrooms, Showers, and Locker Rooms: All restrooms, showers, and locker rooms shall be disinfected, odor-free, and spotless. No stains, mineral deposits, soap scum around drains, or other build-ups are acceptable on any surface.

All furnishings and fixtures shall be clean, bright, and shiny.

Doors, Knobs, Jambs, Walls, Finished Molding, and Elevators below seven (7) feet: Surfaces shall be clean and polished, and free of dirt, smudges, or any other marks.

Furniture: All upholstered furniture and partitions shall be visibly free of loose dirt and debris. Report all spots and stains.

Tabletops shall be disinfected, clean, and spot-free.

Chair and table legs shall be clean and dust-free.

Special Considerations: Contractor to check and acknowledge entries in Janitorial Logs, daily.

Contractor shall advise the City's Project Manager within twenty-four (24) hours of any irregularities noted during servicing (i.e., defective plumbing fixtures, burned-out lights, graffiti that cannot be removed, security issues, etc.).

Any special task, accomplished with non-routine frequency, is documented on a work order form. Contractor will complete the task and return the form to Contractor's supervisor, who will forward it to the City's Project Manager.

All areas assigned to janitorial functions (i.e., janitorial closets, storage rooms, etc.) are to be maintained in a neat and orderly fashion, and Contractor shall adhere to regulatory codes at all times (i.e., areas in front of electrical distribution panels, fire risers, personal or emergency exits, hot water heaters, etc.) shall be clear of all obstructions.

## **QUALITY ASSURANCE**

In addition to the requirement of daily checking of the Janitorial Logs, as provided above, to ensure compliance with the Scope of Work, Contractor shall have its lead worker perform on-site quality inspections a minimum of three times per week. Contractor's lead worker will complete Contractor's written quality assurance form no less than twice per month for each location cleaned, to be turned into Contractor's Project Manager.

Contractor's supervisor shall inspect all locations no less than twice monthly and complete Contractor's written quality assurance form, which shall be made available to the City's Project Manager.

Contractor's Project Manager/Managers or assigned quality assurance person will conduct random written quality inspections no less than three times per year, which shall be made available to the City's Project Manager.

In addition, every three months Contractor's Project Manager and the City's Project Manager shall have a joint walk-through quality inspection meeting. Completion of the Building Cleaning Tasks list and adherence to the Cleaning Performance Standards will be addressed during the quarterly meeting.

<b>BUILDING CLEANING TASKS AND SCHEDULE</b>	<b>DAILY</b>	<b>WEEKLY</b>	<b>MONTHLY</b>	<b>QUARTERLY</b>
<b>GENERAL PRIVATE OFFICES, CONFERENCE ROOMS, LOBBY, PUBLIC CORRIDORS, STAIRWELLS, ELEVATORS, ETC.</b>				
Empty and damp wipe all waste receptacles; replace liners as needed	x			
Transport trash to designated area identified by the City's Project Manager	x			
Transport recycle material to designated area identified by the City's Project Manager	x			
Clean and sanitize drinking fountains	x			
Clean and disinfect all conference room furniture and public counters, including copy/mail room	x			
Clean reception lobby glass, including front doors and other interior re-lights	x			
Vacuum all carpeted areas	x			
Dust mop all hard surface floors, including corners and hard to reach areas	x			
Spot clean all carpet spots and spills using extractor or spotting agent		x		
Damp wipe elevator floor tracks		x		
Dust all furniture, including desks, chairs, base of chairs, tables, filing cabinets, bookcases and shelves		x		
Damp wipe entire desktop {if cleared}		x		
Empty and clean exterior ashtrays and trash receptacles in or near exterior doors ❶		x		
Damp wipe doors, lever handles, frames, light switches, kick plates and railings		x		
Empty and clean four urns at Transit		x		
Damp wipe blackboards and whiteboards in conference rooms only		x		
Damp mop all hard surface floors		x		
Detail vacuum and edge all carpeted areas		x		
Dust and vacuum around and behind office equipment			x	
Vacuum ceiling and wall air grills			x	
Remove dust and cobwebs from ceiling areas			x	
Damp wipe venetian blinds			x	
Detail vacuum and spot clean all upholstered furniture, including partitions			x	
Damp wipe all low reach window sills, baseboards, moldings, and ledges			x	
Dust and remove debris and insects from all ceiling light fixtures				x
<b>RESTROOM/SHOWER</b>				
Clean, disinfect, and polish countertops, cabinetry, lockers, partitions, and fixtures, including toilet bowls, toilet seats, urinals, sinks, and all chrome fittings	x			
Clean and polish glass and mirrors	x			
Empty and damp wipe all containers and disposals; replace liners as needed ❶	x			
Remove spots, stains, and splashes on walls adjacent to sinks, toilets, and urinals	x			
Clean, polish, and refill all dispensers: napkins, soap, towels, toilet seat liners, toilet paper, etc. ❶	x			
Flush toilet bowls and urinals with chemicals ❷	x			
Detail mop with disinfectant cleaner all hard surface floors	x			
Damp wipe doors, frames, light switches, kick plates, and railings		x		

	DAILY	WEEKLY	MONTHLY	QUARTERLY
Vacuum ceiling and wall air grills			x	
Buff and wax all hard surfaces floors to maintain high gloss finish			x	
Damp wipe low reach areas, including baseboards, ledges, and moldings			x	
<b>LUNCH ROOM</b>				
Clean and sanitize tables, counters, appliance exteriors, and chairs	x			
Clean, polish, and refill all dispensers: soap, etc. ❶	x			
Empty and damp wipe all waste receptacles; replace liners as needed	x			
Detail mop with disinfectant cleaner all hard surface floors	x			
Clean, sanitize, and polish all sinks	x			
Damp wipe doors, frames, light switches, kick plates, and railings		x		
Damp wipe low reach areas, including baseboards, ledges, moldings, and pipes			x	
Buff and wax all hard surface floors to maintain high gloss finish			x	
<b>MISCELLANEOUS</b>				
Vacuum entrance mats and all other mats; clean floor under mats as noted in sections above	x			
Check logbook for instructions and cleaning problems	x			
Note in logbook any irregularities {defective lights, plumbing, etc.}	x			
Note in logbook any needed supplies	x			
Maintain neat and orderly janitorial supply closet	x			
Turn off lights and lock all doors and windows	x			
Report any security problems	x			

- ❶ SUPPLIES FURNISHED BY JANITORIAL CONTRACTOR
- ❷ CHEMICALS MUST BE APPROVED BY CITY OF WILSONVILLE

**ADDITIONAL REQUIREMENTS**

- Do not operate or adjust the setting of any of the heating, ventilating, or air conditioning system(s)
- Learn and carefully operate building security systems according to instructions, if necessary
- Order needed supplies through the City’s Project Manager (allow three days for delivery)
- Use designated closets and areas for storage of equipment and supplies; areas shall be kept clean and orderly
- Do not permit visitors, including children, inside buildings at any time
- Repair/replace, at Contractor’s cost, any furnishings or fixtures damaged by Contractor’s employees
- Turn in lost and found articles to Facilities Supervisor within 24 hours
- Interior finishes are to be cleaned and maintained per manufacturers' specifications

**COST SUMMARY SHEET FOR FACILITIES**

<u>FACILITY</u>	<u>CLEANING FREQUENCY</u>	<u>COST PER MONTH</u>	<u>COST PER YEAR</u>
<b>CITY HALL</b> 29799 SW TOWN CENTER LOOP EAST	5x/week1X	4,037.38	48,448.56
<b>COMMUNITY CENTER</b> 7965 SW WILSONVILLE ROAD	5x/week1X	1,555.09	18,661.08
<b>LIBRARY</b> 8200 SW WILSONVILLE ROAD	6x/week1X	4,492.70	53,912.40
<b>PUBLIC WORKS / POLICE</b> 30000 SW TOWN CENTER LOOP EAST	5x/week1X	1,425.34	17,104.08
<b>PARKS &amp; RECREATION</b> 29600 SW PARK PLACE	5x/week1X	749.79	8,997.48
<b>FLEET/TRANSIT</b> 28879 SW BOBERG ROAD	5x/week1X	971.36	11,656.32
<b>SMART/WES (BREAK ROOM BLDG)</b> 9699 SW BARBER STREET	5x/week1X	428.01	5,136.12
<b>TAUCHMAN HOUSE</b> 31240 SW BOONES FERRY ROAD	1x/week1X	233.11	2,797.32
<b>THREE BAY MODULAR</b> 7932 SW MEMORIAL DRIVE	1x/week1X	168.97	2,027.64
<b>TOTAL</b>		<b>\$14,061.75</b>	<b>\$168,741.00</b>

**EXHIBIT B**

**ADDITIONAL SERVICES REQUEST ORDER**

**SPECIAL SERVICE DESCRIPTION:**

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**COST FOR SPECIAL SERVICE:**

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**CONTRACTOR:**

TVW, INC.,  
an Oregon non-profit corporation

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

As Its: \_\_\_\_\_

**CITY:**

CITY OF WILSONVILLE,  
an Oregon municipal corporation

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

As Its: \_\_\_\_\_