

RESOLUTION NO. 2781

A RESOLUTION OF THE CITY OF WILSONVILLE, ACTING IN ITS CAPACITY AS THE LOCAL CONTRACT REVIEW BOARD, APPROVING THE BID PROCESS; ACCEPTING THE PROPOSAL WHICH WILL BEST SERVE THE INTEREST OF THE CITY; AND AWARDING A CONTRACT TO GREEN SWEEP ASPHALT SERVICE, LLC FOR THE PROJECT KNOWN AS STREET SWEEPING SERVICES.

WHEREAS, the City of Wilsonville needs street sweeping services provided by a contractor with particular training, ability, knowledge, and experience; and

WHEREAS, public contracts for such services must comply with Oregon competitive bid laws in accordance with Oregon Revised Statutes, Chapter 279, Public Bids and Contracting; Wilsonville Code 2.3.14, Contracts with the City; and the Attorney General's Model Rules, which the City has adopted as its contracting rules; and the Wilsonville City Council serves as the City's Contract Review Board; and

WHEREAS, the City of Wilsonville went through such a competitive process for street sweeping services; and

WHEREAS, an invitation to bid for Street Sweeping Services was advertised on October 18, 2019 in the Daily Journal of Commerce; and

WHEREAS, one proposal was submitted for consideration on November 15, 2019; and

WHEREAS, the proposal met the requirements established in the Request for Proposals and was scored for acceptance; and

WHEREAS, in the public interest, the City Council, acting as the Local Contract Review Board, has determined that Green Sweep Asphalt Service, LLC is qualified and capable of performing the services as required, under the terms and conditions set forth; and

WHEREAS, the City's FY 2019/2020 budget includes \$153,000.00 appropriated for street sweeping services:

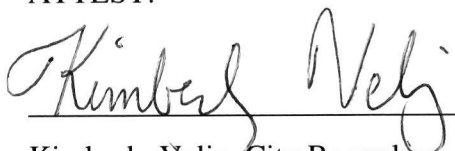
NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The City Council, acting as the Local Contract Review Board, finds and concludes:
 - a. The recitals of findings above are incorporated by reference herein; and
 - b. The proposal by Green Sweep Asphalt Service, LLC of \$380,596.00 is deemed the preferred responsible/responsive bid and is in the best interest of the City.
2. In accordance with the provisions of Oregon Revised Statutes, Chapter 279, Public Bids and Contracting; Wilsonville Code 2.3.14, Contracts with the City; and the Attorney General's Model Rules, which the City has adopted as its contracting rules; the City Council, acting as the Contract Review Board, hereby awards the contract for street sweeping services to Green Sweep Asphalt Service, LLC in an amount of \$153,000.00 and authorizes expenditure of an additional \$227,596.00 as service contingency. The stormwater contingency fund has ample reserves to accommodate the additional expenditure and a subsequent budget amendment will be requested at a later date.
3. The Public Works Director is authorized to approve extra services to this contract as required; provided, however, the total cost does not exceed the approved budget for street sweeping services.
4. This Resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 16th day of December 2019, and filed with the Wilsonville City Recorder this date.


TIM KNAPP, MAYOR

ATTEST:


Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor Knapp	Yes
Council President Akervall	Yes
Councilor Lehan	Yes
Councilor West	Excused
Councilor Linville	Yes

EXHIBIT:

1. Street Sweeping Goods and Services Contract

CITY OF WILSONVILLE GOODS AND SERVICES CONTRACT

This Goods and Services Contract (“Contract”) for the Street Sweeping Services Project (“Project”) is made and entered into on this _____ day of January 2020 (“Effective Date”) by and between the **City of Wilsonville**, a municipal corporation of the State of Oregon (hereinafter referred to as the “City”), and **Green Sweep Asphalt Service, LLC**, an Oregon limited liability company (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

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

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 street sweeping services, as more particularly described in the Scope of Work for the Project, attached hereto as **Exhibit A** and incorporated by reference herein (the “Work”).

Section 2. Term

2.1. The term of this Contract shall be from the Effective Date through and including December 31, 2023, unless earlier terminated in accordance with **Subsection 4.2 and Section 11** below. The City may also extend the Contract as provided in **Subsection 2.2** below. Contractor shall diligently perform the Work according to the requirements identified in the Scope of Work.

2.2. The City has the option to renew this Contract for up to two (2) additional one (1) year periods by written amendment to this Contract.

Section 3. Contract Sum/Project Scope

3.1. Except as otherwise set forth in this **Section 3**, and as provided in **Exhibit B**, the City agrees to pay Contractor a not to exceed annual unit price of THREE HUNDRED EIGHTY THOUSAND FIVE HUNDRED NINETY-SIX DOLLARS (\$380,596) for performance of the

Work (“Contract Sum”) in accordance with **Exhibit B – Fee Compensation** attached hereto and incorporated herein. Any compensation in excess of the Contract Sum will require an express written Additional Services Request Order (**Exhibit C** attached hereto) between the City and Contractor.

3.2. Contractor’s Contract Sum is all inclusive and includes, but is not limited to, all work-related costs, 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, office expenses, travel expenses, mileage, and all other indirect and overhead charges.

3.3. Contractor will be paid for Work upon completion of the Work and within thirty (30) days of receipt of an itemized invoice, unless the City disputes such invoice. In that instance, the undisputed portion of the invoice will be paid by the City within the above timeframe. The City will set forth its reasons for the disputed claim amount and make good faith efforts to resolve the invoice dispute with Contractor as promptly as is reasonably possible.

3.4. Contractor shall complete and return to the City **Exhibit D – Taxpayer Identification Number** prior to or along with the first invoice submitted.

Section 4. City’s Rights and Responsibilities

4.1. The City will designate a Project Manager to facilitate day-to-day communication between Contractor and the City, including timely receipt and processing of invoices, requests for information, and general coordination of City staff to support the Project.

4.2. Award of this Contract is subject to budget appropriation. Funds are approved for Fiscal Year 2019-20. If not completed within this fiscal year, funds may not be appropriated for the next fiscal year. The City also reserves the right to terminate this Contract early, as described in **Section 11**.

Section 5. Project Managers

The City’s Project Manager is Martin Montalvo. Contractor’s Project Manager is Brandon J. Akerill, Sr.

Section 6. Subcontractors and Assignments

Contractor shall not subcontract with others for any of the Services prescribed herein. Contractor shall not assign any of Contractor’s rights acquired hereunder without obtaining prior written approval from the City, which approval may be granted or denied in the City’s sole discretion.

Section 7. Contractor Is Independent Contractor

Except as otherwise mandated by state law, the performance of Work under this Contract is at Contractor’s sole risk. All damages or loss to Work, equipment, or materials incurred during the

performance of the Work shall be at Contractor's sole risk. 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 Work under this Contract.

8.3. 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.

8.4. 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.

8.5. 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.

8.6. With certain exceptions listed below, Contractor shall not require or permit any person to work more than ten (10) hours in any one (1) day, or forty (40) hours in any one (1) week, except in case of necessity, emergency, or where public policy requires it, and in such cases the person shall be paid at least time and a half for:

8.6.1. All overtime in excess of eight (8) hours in any one (1) day or forty (40) hours in any one (1) week when the work week is five (5) consecutive days, Monday through Friday; or

8.6.2. All overtime in excess of ten (10) hours in any one (1) day or forty (40) hours in any one (1) week when the work week is four (4) consecutive days, Monday through Friday; and

8.6.3. All work performed on the days specified in ORS 279B.020(1)(b) for public contracts.

8.7. 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.

8.8. 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.

8.9. 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.

8.10. 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, including but not limited to ORS 279C.525. If new or amended statutes, ordinances, or regulations are adopted, or Contractor encounters a condition not referred to in its bid document, 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, both the City and Contractor shall have all the rights and obligations set forth in ORS 279C.525.

8.11. 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.

Section 9. Indemnity

9.1. Indemnification. 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. As used herein, the term "Contractor" applies to Contractor and its own agents, employees, and suppliers.

9.2. Standard of Care. In the performance of the Work, Contractor agrees to use at least 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.

Section 10. Insurance

10.1. Insurance Requirements. 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 maintained by Contractor shall provide at least the following minimum limits and coverages at all times during performance of this Contract:

10.1.1. 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.

10.1.2. 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**.

10.1.3. Pollution Liability Coverage. Contractor shall carry sudden and accidental and gradual release pollution liability coverage that will cover, among other things, any spillage of paints, fuels, oils, lubricants, de-icing, anti-freeze or other hazardous materials, or disturbance of any hazardous materials, as that term is defined under Oregon law, during the performance of this Contract. Contractor will be fully responsible for the cost of any clean-up of any released materials or disturbance, in accordance with Oregon Department of Environmental Quality (“DEQ”) and Federal Environmental Protection Agency (“EPA”) clean-up requirements. The coverage shall be in the amount of **\$2,000,000** for each occurrence and **\$2,000,000** general aggregate.

10.1.4. 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.

10.1.5. 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.

10.1.6. Additional Insured & Termination Endorsements. Additional Insured coverage under Contractor’s Commercial General Liability, Automobile Liability, Pollution Liability, and Excess Liability Policies, as applicable, will be provided by endorsement. Additional insured coverage shall be for both ongoing 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.

10.1.7. 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.

10.2. Primary Coverage. 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 11. Early Termination; Default

11.1. This Contract may be terminated prior to the expiration of the agreed upon terms:

11.1.1. By mutual written consent of the parties;

11.1.2. By the City, for any reason, and within its sole discretion, effective upon delivery of written notice to Contractor by mail or in person; or

11.1.3. By Contractor, effective upon seven (7) days’ prior written notice, in the event of substantial failure by the City to perform in accordance with the terms through no fault of Contractor, where such default is not cured within the seven (7) day period by the City. Withholding of disputed payment is not a default by the City.

11.2. 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 three (3) days to cure

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

14.4. Adherence to Law. This Contract shall be subject to, and 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.

14.5. Governing Law. This Contract shall be construed in accordance with and governed by the laws of the State of Oregon, regardless of any conflicts of laws. All contractual provisions required by ORS Chapters 279A, 279B, 279C, and related Oregon Administrative Rules 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.

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

14.7. 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.

14.8. 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.

14.9. 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.

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

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

14.12. 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.

14.13. 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.

14.14. 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.

14.15. 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.”

14.16. 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.

14.17. 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.

14.18. 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.

14.19. 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.

14.20. 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:

CITY:

GREEN SWEEP ASPHALT SERVICE, LLC

CITY OF WILSONVILLE

By: _____

By: _____

Print Name: _____

Print Name: _____

As Its: _____

As Its: _____

Employer I.D. No. _____

APPROVED AS TO FORM:

Amanda Guile-Hinman, Asst. City Attorney
City of Wilsonville, Oregon

EXHIBIT A
City of Wilsonville

SCOPE OF WORK

Contractor shall provide street sweeping and/or street flushing and removal of debris for the City of Wilsonville's streets and lots, as outlined below and on the attached City map:

1.0 Basic Services

- Sweeping of all City streets (181 lane miles*, including 43 miles of bicycle lanes, shown in Exhibit E) on the following schedule:
 - Monthly
- Sweeping of Wilsonville Road and Boeckman Road bicycle lanes (total 12 lane miles*, show in Exhibit E) on the following schedule:
 - Twice monthly (once in regular monthly sweep and one additional per month)
- Sweeping of all City parking lots (listed on Exhibit E) on the following schedule:
 - Quarterly (total area of parking lots is approximately 622,831 square feet*)

2.0 Additional Services (as requested by the City)**

- Emergency Response
 - Storm clean-up, which includes sand clean-up after snow and ice events and wind storm events
 - Call out response, which includes accident and/or spill clean-up (must be within 45 minutes of request from City)
- Response to specific citizen requests received and approved by the City of Wilsonville
- Prior to community events
- Special sweeps

* Distances and areas are estimates only. Contractor will be paid for the actual services provided.

** All additional services must be requested through the Additional Services Request Order, attached as **Exhibit C**, and signed by a designated Public Works representative.

GENERAL AND SPECIAL CONDITIONS

General and Special Conditions are additions to, or revisions of, the City's standard contract. In the event of a conflict between the Contract Documents and the General and Special Conditions, the more stringent requirements shall apply.

1. General Requirements

1.1 Invoices

Each invoice shall include adequate detail to identify the services provided. Upon completion of each month's sweeping cycle, the Contractor shall submit a statement to the City showing the following information:

- mileage per street
- curb miles swept
- non-curb miles swept
- miles or feet of special sweeps
- speed of sweeper
- gallons of water used
- cubic yards of debris removed
- Tac-o-graph report showing the speed and miles swept on each sweeper used during the billing period
- Cost associated with the sweeping of the commuter rail station parking lot shall be itemized separately

1.2 Quantities

The City does not bind itself to purchase the full quantities stipulated in this Contract as estimates. The quantities shown on **Exhibit B** are estimates and not exact. They represent past purchasing activity and estimates of future usage. Payment shall be made only for quantities ordered, delivered, and accepted, whether greater or less than the stated amounts.

1.3 Errors

The Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Contract, without undue delay and without additional cost to the City.

1.4 Records

The City shall have access to such books, documents, papers, and records of the Contractor as are directly pertinent to this Contract for the purpose of making audits, examination, excerpts, and transcripts.

The 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. The 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.

1.5 Contractor's Office

The 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 Agreement. When the office is closed, a telephone answering service shall be in operation to receive messages.

1.6 Contractor Contact

The Contractor agrees to designate one (1) primary and one (1) backup person who will be the responsible contact person for the Contractor with respect to implementation of the Agreement and communication of information necessary for the performance of the Agreement. The Contractor shall provide the City with an emergency phone number that shall be answered 365 days/year, 24 hours per day. The City shall have communication to the sweeper by cellular phone through the Contractor.

1.7 Project Safety

The Contractor agrees that, in performing the work contained within this Contract, it will meet all regulations in safety as required by OSHA. The Contractor further agrees that it will bring to the attention of the City all conditions on the job site or contained within the specifications which appear to be in violation of the provisions of OSHA. The Contractor further agrees that it will include within all subcontracts or contracts for purchase of materials, provisions requiring said supplier or subcontractors to meet OSHA standards. All materials, components, and design elements of this Contract will be reviewed, and an affirmative determination made by the Contractor that they meet the requirements of OSHA.

1.8 Incidental Costs and Additional Compensation

The Contractor shall be responsible for all miscellaneous and incidental costs associated with street sweeping and/or street flushing and removal of debris for the City of Wilsonville's streets and lots. The 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 where debris collects on streets caused by excessive rainfall or caused by street sanding during or after snowfall. These corrections shall not give rise to a claim for additional compensation or allow substantial variance from the agreed schedule.

2. Service Requirements

2.1 Scope of Services

The Contractor shall perform all work and furnish all tools, materials, and equipment in order to provide all necessary street sweeping, collection, and disposal 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 Public Works Director or designee.

2.2 Response Times

In the event of an accident, spill, or emergency, as determined by the City, the Contractor agrees to respond to and perform such services 365 days per year, 24 hours per day, within 45 minutes of receiving telephone notice from the City to proceed. All sweepers must be road legal and able to travel at highway speeds (55 MPH) to assure quick response time.

2.3 Contractor's Work Schedule

Street sweeping for business and high traffic main arterials will be done between the hours of 4:00 am to 7:00 pm, and residential streets shall be swept between the hours of 7:00 am and 7:00 pm.

2.4 Sweeping Schedule

The Contractor shall establish and submit for approval a regular schedule of performance that will include sweeping all the streets at a minimum of once per month, in approximately the same order so the adjacent residents will be able to prepare their street for sweeping. If the City deems it necessary, the Contractor may be required to sweep a street or streets more often than once each month. Once established, the Contractor shall adhere to the approved schedule.

Within ten (10) calendar days of the execution of this Contract, Contractor shall submit for the City's approval a monthly sweeping schedule, together with a planned route outlined on maps furnished by the City. Contractor shall observe any legal holiday, as specified in ORS 279B.020, and indicate all schedule modifications if a holiday falls on a regular sweeping day. Should Contractor need to modify the schedule, as submitted, Contractor shall give no less than seven (7) calendar days' written notice of any changes to the Public Works Director or designee.

2.5 Records/Logs

The Contractor shall maintain accurate records of the services performed and of the site utilized for disposal of the street sweeping debris. At a minimum, these records shall show dates and times of transportation and disposal, amount of disposed debris or material, the name and location of the disposal site used, the name of the streets where the services were

performed, and amount of sweeper hours and sweeper speed while cleaning. The Contractor shall provide the City a written report, giving the information required in the preceding sentence, along with the monthly invoice. It is the Contractor's responsibility to provide the City with all required information stated in this section.

2.6 Employees

All Contractor's employees and agents who participate in the performance of the services shall be safe, competent, and skilled in the performance of such services. Contractor shall always require all employees to be courteous to the public, to perform their work as quietly as possible, and to be neat in appearance.

Contractor agrees to provide adequate supervision and number of staff in order to provide the services and ensure the continuity of sweeping operations.

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 of the City. Failure to comply with such request is sufficient grounds for termination of the Contract.

2.7 Contractor's Equipment

The equipment required for performance of the Contract shall be street sweepers (Mechanical or Regenerative Air) and will have a minimum 3.5 cubic yard holding capacity. All equipment shall be maintained in good working condition and repair and operate at the original manufacturer's specifications (compliant with PM-10 efficiency and Rule 1186 certified).

Sweeping equipment shall be equipped with the proper warning lights as applies to slow moving and/or maintenance vehicles and shall meet all vehicle-operating requirements of the State of Oregon, Motor Vehicles Division.

The primary sweeper shall not be more than three (3) years old and the secondary sweeper shall be no more than (5) five years old at the beginning of the Contract. In addition, the secondary sweeper shall not be used more than 10% of the time. During those times both sweepers are cleaning, the 10% does not apply. The acceptability of Contractor's street sweepers for the City's needs shall be subject to the approval or disapproval of the Public Works Director or designee.

Regenerative Air sweepers shall be used for the stormwater management program and Mechanical sweepers (double-gutter brooms) for rock spills, road sand, windstorms, heavy debris, and when necessary to properly clean any public right-of-way.

Contractor must possess a roll-off truck that is not more than ten (10) years old. The roll-off truck shall have a minimum payload capacity of 12.5 tons.

All sweeping vehicles will be numbered and shall have Contractor's name and vehicle number painted in letters of contrasting color at least four inches high on each side and on the back of each vehicle. No advertising shall be permitted other than the name of the Contractor.

Sweeping equipment shall be equipped with a speed-monitoring device. Contractor shall submit with the monthly invoice a Tac-o-graph report showing the speed and miles swept on each sweeper used for this Contract. Failure to comply with these requirements shall be just cause for termination of the Contract.

All vehicles shall be kept in a clean and sanitary condition, have whisper fans for quieter operation, working spray systems for dust control, and high dump sweeper trucks capable of dumping directly to a dumpster, leaving no debris on the ground.

The Contractor shall keep a sufficient supply of spare brooms and parts to ensure continuous operation. Worn brushes and brooms shall be replaced and adjusted to ensure maximum efficiency. The determination of when a brush or broom shall be replaced shall be based on the effectiveness of all the brushes and brooms.

2.8 Cleaning Standard

All streets and intersections shall be swept clean, and no piles of debris shall be left anywhere within any streets or public rights-of-way. Although regular cleaning is normally along gutter or street edge, the entire travel lane, gutter to gutter or pavement edge to pavement edge, will be clean when sweeping has been completed. Water shall be used as required to control dust. The Contractor will be responsible for removing sticks, rocks, or other debris left behind the sweeper. The sweeper shall avoid tracking mud during operation. Correction of these items shall be done at no additional cost to the City.

Extra care shall be taken in the loading and transportation of street sweeping debris and other waste so that none of the collected material is left either on private property or on the street. Cleaning speed will be between 4 and 6 miles per hour. Any waste left on private property or on streets by the Contractor shall immediately be removed upon notice from the Public Works Director or designee.

The Contractor shall be responsible for the cleaning of all debris spilled or tracked on any street, public place, or private property by any of its equipment. If the Contractor fails to clean debris spilled or tracked within the same day notice is given by Public Works, the Public Works Director or designee may cause such streets to be cleaned and charge the costs to the Contractor. The City is authorized to deduct such cost from any payments due to the Contractor.

2.9 Water Use

The City will provide water at hydrants for filling the water spray system on the sweepers, filling flusher trucks for sweeping, and for flushing the City-owned streets and facilities. The

Contractor shall use a Chapman Valve when filling water tanks from hydrants. The Contractor shall maintain a water use record and submit this information as part of the monthly billing invoice.

2.10 Inspections

Inspection of streets swept will be performed on a regular basis, as well as spot checks in response to citizens' complaints. Any deficiencies found will be reported to the Contractor for immediate correction.

2.11 Dust Control, Water, and Air Pollution

During all phases of work, and when directed, the Contractor shall take precautions to abate dust nuisances by cleaning up, sweeping, sprinkling with water, or other means as necessary to accomplish the suppression of dust.

During the term of the contract, the Contractor's operations shall conform to applicable laws and regulations of the Oregon Department of Environmental Quality, and other agencies of the State and Federal Government, as well as local ordinances designed to prevent, control, and abate water and air pollution.

2.12 Debris Removal

The Contractor shall not dump debris on the ground. The Contractor may provide his/her own drop boxes and transport equipment to haul the debris or the Contractor must use the local designated City waste disposal franchise to haul debris. Drop box minimum capacity shall be no less than 11.5 cubic yards.

The Contractor shall make prior arrangements with the Public Works Director or designee for the placement of all drop boxes to be used for the dumping of street sweeping wastes. The Contractor shall provide reflective cones or other highly visible devices to mark drop boxes at their locations. Debris boxes shall be removed daily.

The Contractor is required to have a back-up means of handling material in case of primary equipment failure.

2.13 Utilities

The Contractor shall be obligated to protect all public and private utilities from damage while performing the services. The Contractor shall be responsible for any and all restoration or replacements costs due to damages resulting from the Contractor's activities.

3. Hazardous Substances

The Contractor recognizes that the debris or material collected by its street sweepers may contain dangerous or hazardous materials or wastes. The Contractor agrees to collect, handle, transport, and dispose of the debris or material and perform the services specifically in accordance with all applicable local, state, and federal laws, standards, rules, and regulations now in effect or hereafter amended or enacted. This shall include, without limitations, all regulations by the Oregon Department of Environmental Quality and the United States Environmental Protection Agency.

The Contractor shall be responsible to obtain and pay for any and all permits or licenses required by the City or any other local, state, or federal government authority that are necessary to perform the services, and provide copies of such to the City. The Contractor shall provide a copy of a current Fire Hydrant Water Permit to the City upon execution of the Agreement covering all sweepers engaged in performing the services. The Contractor shall require that all operators of its street sweeping equipment maintain current, valid, appropriate commercial class of Oregon Driver's Licenses.

4. Disposal

The Contractor shall have an operating screen plant using a one (1) inch or finer screen and equipment on impermeable surface with sand-oil separator for the processing of material prior to final disposal. Best management practices shall be followed as closely and in as practical a manner as possible.

Except for leaf, street debris under this Contract will not be used, added, blended, or modified in any way to make a product, or as to risk contaminating a product, that will be given, sold, or make its way for public use. For this reason, recycling centers will generally be considered unacceptable for the processing of debris.

If debris is unscreened, all unscreened sweeping debris will be disposed of at a DEQ approved disposal site or transfer station for solid wastes.

Debris wastes shall be disposed of as dirt fill, after testing to identify any possible contamination, and only after plastics, papers, and other trash and solid wastes have been removed using a one (1) inch or finer screen system. Disposal of solid wastes shall be at a DEQ approved disposal site or transfer station.

Bulk leaf is listed as suitable feed stock for compost. In the months of November and December, loads that are predominately leaf will be allowed to be disposed of at permitted compost-recycling facilities.

Any exemptions to these specifications must receive written approval from the local DEQ and/or permitting authorities and the City.

Within the first 30 days of this Contract, and as requested by the City during the term of the Agreement, the Contractor must provide to the City a detailed description of the following:

- who is managing the process of debris
- how the debris is being handled
- where the debris is being disposed
- description of the equipment used

The waste processing facilities may be subject to inspection as any time during the term of this Contract.

5. Waste Sites

The Contractor shall operate waste storage sites in such a manner as to meet all safety and health requirements of state and local agencies. Site operations or the result of such operations which create a nuisance problem or which result in damage to the public and private properties shall not be permitted.

The Contractor will be responsible for obtaining the necessary permits for dumping at waste sites provided by the Contractor.

The Contractor is responsible for all disposals of sweepings. Only temporary storage is allowed on designated City property and must be removed within 24 hours of completion of work.

The Contractor shall dispose of, at its cost, street sweeping waste to a disposal site approved by and in compliance with the disposal requirements of the Oregon Department of Environmental Quality and any other federal, state, or local agency or department with jurisdiction. The Contractor shall not temporarily store any street sweeping spoils or waste at any site other than a disposal site that has been approved by the Oregon Department of Environmental Quality for that specific purpose. The Contractor shall collect, temporarily store, as needed, remove, and dispose of all accumulated debris in an environmentally sound manner. Removed leaves and woody debris shall be disposed of at a compost recycling facility. Debris includes all materials normally picked up by mechanical or vacuum-type street sweepers, such as, but not limited to, sand, salt, glass, paper, cans, leaves, grass, gravel, and any other materials which may be found on a paved street and which can be swept into a mechanical, vacuum-type, or regenerative air street sweeper.

EXHIBIT B
City of Wilsonville

FEE COMPENSATION

Having carefully examined the Contract titled, Public Works Contract for Street Sweeping Services, as well as the site of the project and conditions affecting the work, Contractor agrees to furnish all the labor, materials, equipment, superintendence, and insurance, as well as other accessories and services, necessary to perform and complete all of the work required by and in strict accordance with this Contract and the implied intent thereof, for the following schedule of unit prices:

Unit Prices

Annual Scheduled Sweeping of Streets: 12 sweeps of 181 lane miles

A. Regenerative Air Sweeper:	
\$ <u>125.00</u> per hour x 1150 (estimated) hours equals	\$ <u>143,750.00</u>

Annual Scheduled Sweeping of Bike Lanes: 12 sweeps of 7.5 lane miles

B. Regenerative Air Sweeper:	
\$ <u>125.00</u> per hour x 55 (estimated) hours equals	\$ <u>6,875.00</u>

Annual Scheduled Sweeping of Parking Lots: 4 sweeps of 622,831 square feet

C. Regenerative Air Sweeper:	
\$ <u>125.00</u> per hour x 40 (estimated) hours equals	\$ <u>5,000.00</u>
D. Detail Work of City Parking Lots:	
\$ <u>125.00</u> per hour x 48 (estimated) hours equals	\$ <u>6,000.00</u>

Miscellaneous Non-Scheduled Requested Sweeping

E. Mechanical Sweeper: Mechanical sweepers are meant for occasional rock spills, road sand, and other heavy debris. If the hours of use for a mechanical sweeper is zero then write N/A under \$ per hour and include an explanation of how this type of work would be completed, along with an estimate of costs.

\$ <u>165.00</u> per hour x 15 (estimated) hours equals	\$ <u>2,475.00</u>
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F. Debris Removal:	
<u>1,440</u> yards of leaf materials	\$ <u>68,400.00</u>
<u>1182</u> ton of nonorganic material	\$ <u>148,096.00</u>
Debris Removal for all sweeping services	\$ <u>216,496.00</u>

Total: \$ 380,596.00 *

* The City and Contractor have agreed that the City may find an alternative means for debris removal, which would result in a reduction in the total amount and would be memorialized in an amendment to this Contract.

EXHIBIT C
City of Wilsonville

ADDITIONAL SERVICES REQUEST ORDER



**ADDITIONAL SERVICES
REQUEST ORDER**

CITY OF WILSONVILLE
Attn: Public Works
29799 SW Town Center Loop East
Wilsonville, OR 97070

DATE: _____

TO [Name]
[Company Name]
[Street Address]
[City, State, Zip]
[Phone]

JOB DESCRIPTION
STREET SWEEPING SERVICES

[SPECIAL SWEEP DESCRIPTION]

Authorized Signature of Public Works Representative (required)

EXHIBIT D
City of Wilsonville

TAX IDENTIFICATION NUMBER

In order for you to receive payment from the City of Wilsonville, you must have either a Tax Identification Number or a Social Security Number. The Internal Revenue Service Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business. Further, the law requires the City to withhold twenty percent (20%) on reportable amounts paid to unincorporated persons who have not supplied the City with their correct Tax Identification Number or Social Security Number.

Please complete the following information request form and return it to the City of Wilsonville prior to or along with the submittal of the first billing invoice.

Please check the appropriate category:

_____ Corporation _____ Partnership _____ Government
_____ Individual/Proprietor _____ other (explain) _____ Consultant

Tax Identification No. _____

-or-

Social Security No. _____

Print Name: _____

Title: _____

Business Name: _____

Business Address: _____

Business Phone: _____

Date

Authorized Signature (required)

