



BID SPECIFICATIONS

CITY OF FOREST HILLS, TENNESSEE

CONTRACT FOR CHIPPER SERVICE,

BRUSH AND LEAF COLLECTION

July 1st, 2022 – June 30th, 2023

Forest Hills City Government

Lanson Hyde III, Mayor
Henry Trost, Vice Mayor
James Gardner, Commissioner
Mark Hill, City Manager

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INVITATION TO BID

The City of Forest Hills will accept sealed bids for chipper service and brush and leaf collection. For Bid Forms and other information, you may review the City of Forest Hills website www.cityofforesthills.com, or call/email Mark Hill, City Manager of the City of Forest Hills, 6300 Hillsboro Pike, Nashville, TN, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at 615-372-8677/mark.hill@cityofforesthills.com.

Sealed Bids must be received in the City of Forest Hills office on or before 10:00 a.m., Thursday May 19th, 2022. All Bidders must be Licensed Contractors and eligible to bid State of Tennessee contracts.

Bidders must also have on staff arborists certified by the International Society of Arboriculture. The City of Forest Hills reserves the right to reject any or all bids.

Requests for clarification of these bidding specifications should be delivered in writing via email to the City Manager. All answers to questions will be forwarded in writing via email to any bidders who indicate they would like to receive amendments and correspondence regarding the bid.

INFORMATION FOR BIDDERS

**RE: CITY OF FOREST HILLS, TENNESSEE
CONTRACT FOR CHIPPER SERVICE, BRUSH & LEAF COLLECTION**

DATE: May 03, 2022

Sealed bids must be received on or before **10:00 a.m. Thursday May 19th, 2022** at the office of the, 6300 Hillsboro Pike, Nashville, TN. One original and three hard copies should be submitted. However, the bidder may choose to submit one original and a copy in PDF format (on jump drive or cd) in lieu of three hard copies.

Bids will be accepted for a one (1) year contract for chipper service and brush and leaf collection, transportation and disposal (the “**Services**”) within the City of Forest Hills with 2 optional 1-year renewals. The bidder to whom the contract is awarded must provide the Services, including:

1. Provide monthly service to all one and two family residences in the City of Forest Hills, by chipping and/or hauling away all trimmings and prunings placed in the right-of-way and removing and hauling away all bagged leaves and clippings (“**Chipper Services**”). Chipper Services will be paid on a flat, monthly rate.
2. Provide additional “as-needed” Chipper Services within the City at the direction of the City Manager (the “**As-Needed Services**”). As-Needed Services will be paid on an hourly basis.
2. Provide emergency right-of-way trimming, tree surgery and road clearing as directed by the City Manager (the “**Emergency Services**”). The City requires a two (2) hour maximum response time. Emergency Services will be paid on an hourly basis.

The City reserves the right to reject any one or all bids received. No bidder may withdraw a submitted bid for a period of sixty (60) days after the date set for the opening of bids.

Each bidder is responsible for inspecting all necessary site conditions and for reading and being thoroughly familiar with the Bidding Specifications and Contract. By signing the bid, the bidder certifies that it has investigated the site conditions for the contracted Services and fully satisfied itself with federal, state and local laws, ordinances, rules and regulations that may in any manner affect the costs, progress or performance of the work. The failure or omission of any bidder to do any of the foregoing shall in no way relieve any bidder from any obligation with respect to its bid. Further, bidder must ensure that any supervisor or foreman, who will oversee the performance of the Services, possesses the background and experience required to manage a job of this magnitude.

All bidders have on staff arborists certified by the International Society of Arboriculture. A Tennessee Contractor's License Number will be required if the bid exceeds \$25,000. Information on the outside of the envelope must include the following:

1. Bidder's Name
2. Address
3. Tennessee Contractor's License Number
4. License Classification Applying to Bid
5. License Expiration Date
6. Name of Project for which Bid is submitted
7. Name and License information for all Subcontractors who will perform work.

Failure of a bidder to comply with the listing requirement voids the bid and the bid may not be opened.

All bidders must submit the following completed documents within the sealed bid:

1. **Schedule 'A' – Contract Bid Form**
2. **Schedule 'B' – Bidder's Qualification Form**
3. **Schedule 'C' – Personnel Qualification Form**
4. **Schedule 'D' – Listing of Equipment**
5. **Schedule 'E' – Schedule of Services**
5. **Schedule 'F' – Certificate of Insurance**

Questions should be referred to Mark Hill at 615-372-8677 or mark.hill@cityofforesthills.com.

CONTRACT SPECIFICATIONS

I. SERVICES TO BE PERFORMED

A. Chipper Service, brush and leaf collection, transportation and disposal –

1. Contractor will chip tree trimmings and small branches placed in City rights-of way by residents. After chipping yard waste, Contractor will transport and dispose of the refuse.
2. Bags of leaves will be collected and will weigh less than fifty (50) pounds.
3. Contractor shall provide at least a two (2) man crew per truck and three (3) men as necessary to provide traffic control along busy streets.
4. Chipper Service shall not include the following:
 - (a) Chipping and disposal of branches in excess of eight (8) inches in diameter or more than eight (8) feet in length.
 - (b) Chipping and disposal of branches that include foreign objects, including metal, plastic and glass, that may pose a safety hazard.
 - (c) Chipping and disposal of branches in areas outside City rights of way. (d) Chipping and disposal of root balls.

- (e) Chipping and disposal of refuse generated by private contractors or private landscaping companies.

B. As Needed Services –

- 1. Contractor will identify the need for additional Chipper Services throughout the City in excess of higher than average volume and advise the City Manager of the same.
- 2. Contractor will provide additional Services on an as-needed basis and as directed by the City Manager.

Such As Needed Services shall include, but not be limited to, the following:

- (a) “Back-tracking” service in which the Contractor returns to streets or lots already served during the month of service (For example, if residents put out brush after the street has been served and the Contractor is asked to return.)
 - (b) Chipping and disposal of root balls or branches in excess of eight (8) inches in diameter or more than eight (8) feet in length.
 - (c) Chipping and disposal of branches along private drives, not City rights of way.
 - (d) Chipping and disposal of branches left by private contractors of landscaping companies.
- 3. As Needed Services shall only be performed at the request of the City Manager.

C. Emergency Tree Service – Contractor will provide tree service and clearing on an emergency basis. Contractor must be able to respond within two (2) hours of notification by (i) the City Manager, (ii) emergency response officials within the Metropolitan Government of Nashville and Davidson County, or (iii) the City’s emergency pager system.

II. METHOD OF BILLING AND COMPENSATION

- A. Standard Chipper Service and Brush and Leaf Collection shall be compensated at a flat, monthly rate.
- B. As Needed Services shall be compensated on an hourly rate.
- C. Emergency Tree Service shall be compensated on an hourly rate.

III. QUANTITY OF WASTE

- A. City residents produce an approximate average of 700 to 800 cubic yards of debris per month to be chipped, collected, transported, and disposed. Approximately Four Hundred (400) residences per month produce debris with an average size of less than two (2) cubic yards of waste per residence.
- B. The City of Forest Hills has a population of 5,000 residents, 60 miles of streets, and approximately 2,000 households.

IV. KEY PROVISIONS TO PERFORMANCE OF SERVICES AND CONTRACT

- A. **Performance.** Chipping and hauling service to be performed as required each week and as additionally directed by the City Manager during regular business hours but not prior to 7:00 AM or past sundown.
- B. **Term.** The term of the contract shall be for one year beginning July 01, 2022. The City shall have an option to renew this contract for two (2) additional one-year periods upon thirty (30) days written notice to contractor.
- C. **Insurance.** The successful bidder shall procure and keep in force public liability and property damage, motor vehicle, worker's compensation insurance as required by the State of Tennessee, and excess liability insurance. Public liability and property damage insurance shall include limits of One Million Dollars (\$1,000,000.00) for all of the bidder's operations. Bidder must procure and keep in force vehicle liability insurance with personal injury limits of Five Hundred Thousand Dollars (\$500,000.00) per person, Five Hundred Thousand Dollars (\$500,000.00) per occurrence and with property damage limits of Two Hundred Fifty Thousand Dollars (\$250,000.00). Umbrella coverage shall include an amount not less than Two Million Dollars (\$2,000,000.00) for each occurrence and Two Million Dollars (\$2,000,000.00) in aggregate.
- D. **Indemnity.** The successful bidder shall indemnify and save harmless the City from claims arising out of performance of the contract.
- E. **Performance Agreement and Letter of Credit.** The successful bidder must enter into a performance agreement and letter of credit in the amount of the contract price.
- F. **Compliance with Law.** The successful bidder must comply with all federal, state, and local laws, ordinances, and regulations in the performance or furtherance of the contract.
- G. **Staffing.** The successful bidder must maintain sufficient staffing at all times during performance of the contract. Qualified supervisors shall supervise the staff at all times. Supervisors shall be available for communications with the City Manager. Staff shall wear proper attire.
- H. **Non-Discrimination.** The successful bidder must agree to comply with all nondiscrimination requirements of federal, state, and local laws.
- I. **Equipment.** The successful bidder must agree to maintain all equipment in good, safe working order and in accordance with all applicable laws, ordinances, and regulations.
- J. **Rights-of-Way.** The successful bidder shall take all steps to prevent unnecessary blockage of City rights-of-way, including providing traffic control as necessary.
- K. **Cancellation.** The City shall have a right to cancel the contract on thirty (30) days written notice for failure of bidder to properly perform the duties herein.

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V. SCHEDULE OF SERVICES

The Contractor shall provide the Services on the following streets. The Contractor will submit an effective and efficient schedule broken down into one or two week periods to ensure each street received monthly service. A map of the City of Forest Hills is attached. To the extent the Contractor is able to amend this schedule' to create greater efficiencies or more predictable service to residents, the Contractor shall communicate such intentions to the City Manager and ensure timely delivery of Services.

Roads for Chipper Service in Forest Hills			
Alcott	Ash Valley	Andover	Kenesaw
Arco	Beauregard	Ashland	Willshire
Balbade	Dresden	Beddington	Oakleigh Hill
Beekman	Granny White Pike	Carl Seyfert	High Estes
Carlton	Fredericksburg	Cherry Blossom	Timberwood Place
Chateau	Laurel Ridge	Clifftee	Woodford Place
Chickering Park	Lynmont	Confederate	Haridng Hill
Crater Hill	Maplemere	Cromwell	Park Ridge
Everett	Mary Helen	Earlington	Estbury
Foxwood	McGrace	Edenbridge	Blackberry
Harding Place	Merrimac	Gardendale	Tynewood
Hemingway	Otter Valley	General Forrest	Vintage
Hillcott	Priest	Havering Chase	St. James Place
Lynnwood	R.E. Lee Court	Hickory Springs	Timberwood Drive
Ridgewood	R.E. Lee Drive	Jefferson Davis	Bridleway Trail
Tyne	Roselawn	Kenwood	Chickering Court
Wayland	Saxon	Kingsbury	Toddington
Yancey	Skymont	Melbourne	Twinmont
Stanford	Chickering Lane	Montcrest	Page Road
Still Hollow	Chickering Road	Norton	Piccadilly Place
Stuart Glen	Goldstone	Otter Creek	Stonehurst
Sunset Hill Terrace	Hillsboro Road	Pinehurst	Taggart Wood
Tara	Litchfield Way	Sherwood	Stonehaven
Timothy	Old Hickory Boulevard		

VI. MAP OF FOREST HILLS (See separate document)

BIDDING SPECIFICATIONS

- I. Sealed bids must be delivered to the Forest Hills City Hall, 6300 Hillsboro Pike, Nashville, Tennessee 37215 on or before 10:00 a.m. on Thursday May 19th, 2022, at which time they will be publicly opened. The envelope containing each bid must be sealed and have written upon the outside the following information
 - A. Bidder's Name
 - B. Address
 - C. Tennessee Contractor's License Number
 - D. License Classification Applying to Bid
 - E. License Expiration Date
 - F. Name of Project for which Bid is submitted
 - G. Name and License information for all Subcontractors who will perform work.

- II. All bidders must submit the following completed documents within the sealed bid:
 - A. Schedule 'A' – Contract Bid Form
 - B. Schedule 'B' – Bidder's Qualification Form
 - C. Schedule 'C' – Personnel Qualification Form
 - D. Schedule 'D' – Listing of Equipment
 - E. Schedule 'E' – Schedule of Services
 - F. Schedule 'F' – Certificate of Insurance

- III. Bids should contain three (3) prices:
 - A. Per month price for Chipper Services over a one (1) year contract
 - B. Hourly rate for As Needed Services
 - C. Hourly rate for Emergency Services

- IV. The successful bidder shall enter into a written contract on or before July 1st, 2022.

SCHEDULE 'A' **CONTRACT BID FORM**

In Compliance with the invitation for bids, dated May 19th, 2022, the undersigned bidder agrees that, if this bid is accepted as hereinafter provided, it will furnish all labor, materials, supplies, tools, plant and equipment necessary to perform all work described below and in the agreement attached to said Invitations for Bids in strict accordance with the terms and provisions of the agreement.

Name of Person, Firm or Corporation

Tennessee Contractor's License Number

Contractor's International Society of Arboriculture License Number

Address, P.O. Box or Street

City, State, Zip Code

Bidder's Phone and Email

Signature (FAILURE TO SIGN HERE WILL RESULT IN REJECTION OF BID)

Name and Title of Person Signing Bid

Date

BID FOR CHIPPER SERVICES

Chipping, collection, transportation and disposal of brush, leaf and clippings:

PER MONTH PRICE, two (1) year contract: \$_____ (numbers)

_____(words)

BID FOR AS NEEDED SERVICES

Chipping, collection, transportation and disposal of brush, leaf and clippings:

PER HOUR PRICE: \$_____ (numbers)

_____(words)

BID FOR EMERGENCY SERVICES

Emergency tree work, trimming and clearing for rights-of-way with two (2) hour response time:

PER HOUR PRICE: \$_____ (numbers)

_____(words)

SCHEDULE 'B'

BIDDER'S QUALIFICATION FORM

Date Submitted: _____

Submitted by: (check one)

Individual Partnership or Joint Venture Corporation

Principal Office Address: _____

Office Representative: _____

Telephone Number: _____

Email Address: _____

If a Corporation, answer

When Incorporated: _____

In What State: _____

Registered Agent: _____

The Bidder submitting this bid warrants that the Bidder has done business in the following comparable or related fields and within the State of Tennessee

Operational Experience of Bidder:

Municipality Served	Period Served	Responsible Contact Name and Phone

SCHEDULE 'D'

LISTING OF EQUIPMENT

All bidders shall include a listing of equipment currently utilized by the Contractor as well as any equipment the Contractor intends to utilize in performance of the Contract, if the bidder is successful.

SCHEDULE “E” Schedule of Services

Using the Forest Hills Map and Listing of Streets (located on pages 9-10) please provide a schedule of services in a table format like in the example below.

Forest Hills Chipper Service Schedule			
Week 1	Week 2	Week 3	Week 4
Hillsboro Pike	Cromwell	Ashland	Chickering Ct
Fredricksburg	Kingsbury	Stonehaven	Chickering Rdg
Vintage Place	Robert E Lee Rd	East Ashland	Chickering Ln
Laurel Hill	Robert E Lee Ct	Stanford	Chickering Rd

SCHEDULE "F"

CERTIFICATE OF INSURANCE

All bidders shall submit an ACORD certificate of insurance with the bid package.

SCHEDULE "G"

VERIFICATION OF IRAN DIVESTMENT ACT

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to §12-12-106

[https://www.tn.gov/assets/entities/generalservices/cpo/attachments/List_of_persons_pursuant_to_Tenn. Code Ann. 12-12-106, Iran Divestment Act-July.pdf](https://www.tn.gov/assets/entities/generalservices/cpo/attachments/List_of_persons_pursuant_to_Tenn._Code_Ann._12-12-106,_Iran_Divestment_Act-July.pdf)

Reviewed and Verified:

Bidder's signature

-- FORM OF CONTRACT ONLY --

**CONTRACT FOR CHIPPER SERVICE AND BRUSH AND LEAF
COLLECTION, TRANSPORTATION AND DISPOSAL**

This Agreement (the “**Agreement**”) is made and entered this 1st day of July, 2022 by and between the City of Forest Hills (the “**City**”) and _____ (the “**Contractor**”).

This Agreement is made with reference to the following facts:

- A. The City desires to provide, as a public service to its residents, (i) chipper service, brush and leaf collection, transportation and disposal, and (the “**Chipper Service**”) (ii) additional Chipper Services on an as-needed basis for extraordinary needs or additional requests for service (the “**As Needed Services**”), and (iii) emergency tree service (the “**Emergency Tree Services**”), (collectively, the “**Services**”).
- B. The Contractor is skilled in the performance of said Services.
- C. The City desires to contract with and hire the Contractor for the provision of said Services.

NOW THEREFORE, the City and Contractor, in consideration of the mutual covenants herein, do hereby enter into this Agreement, and agree as follows:

1. **Services.** The Contractor shall perform the following Services within the City’s jurisdiction:

- a. **Chipper Service –**
 - i. Contractor will chip tree trimmings and small branches placed in City rights-of-way by residents. After chipping yard waste, Contractor will transport and dispose of the refuse.
 - ii. Bags of leaves will be collected and will weigh less than fifty (50) pounds.
 - iii. Contractor shall provide at least a two (2) man crew per truck and three (3) men as necessary to provide traffic control along busy streets.
 - iv. Chipper Service shall not include the following:
 - (1) Chipping and disposal of branches in excess of eight (8) inches in diameter or more than eight (8) feet in length.
 - (2) Chipping and disposal of branches that include foreign objects, including metal, plastic and glass, that pose a safety hazard.

- (3) Chipping and disposal of branches in areas outside City rights of way.
- (4) Chipping and disposal of root balls.
- (5) Chipping and disposal of refuse generated by private contractors or private landscaping companies.

b. **As Needed Services –**

i. Contractor will identify the need for additional Chipper Services throughout the City in excess of higher than average volume and advise the City Manager of the same.

ii. Contractor will provide additional Services on an as-needed basis and as directed by the City Manager. As Needed Services shall only be performed at the request of the City Manager. iii. Such As Needed Services shall include, but not be limited to, the following:

- (1) “Back-tracking” service in which the Contractor returns to streets or lots previously served in the week or month (For example, if residents put out brush after the street has been served and the Contractor is asked to return.)
- (2) Chipping and disposal of root balls or branches in excess of eight (8) inches in diameter or more than eight (8) feet in length.
- (3) Chipping and disposal of branches along private drives or outside City rights-of-way.
- (4) Chipping and disposal of branches left by private contractors of landscaping companies.

c. **Emergency Tree Service** – Contractor will provide tree service and clearing on an emergency basis. Contractor must be able to respond within two (2) hours of notification by (i) the City Manager, (ii) emergency response officials within the Metropolitan Government of Nashville and Davidson County, or (iii) the City’s emergency pager system.

2. **Time of Performance.**

Commencement. Contractor shall not commence performance of Services prior to 7:00 A.M. nor extend past sundown, except as directed by the City Manager.

Monthly Schedule. Contractor shall perform the Services sequentially within the City jurisdiction monthly according to the schedule established in Exhibit “A”, attached hereto and incorporated herein.

Holidays. Holidays upon which work shall not be required are Thanksgiving Day, Christmas Day, New Year’s Day, Independence Day, Memorial Day, and Labor Day. Work schedule shall be moved forward or back one or two days, depending upon what day of the week the holiday occurs, so that every scheduled location receives its regularly scheduled weekly service. Service shall return to the normal work schedule within three days.

3. **Term.**

- a. **Term.** The term of this agreement shall be for one (1) year, commencing on July 1st, 2022 and expiring on June 30th, 2023 (the “**Term**”).
- b. **Option to renew.** The City shall have an option to renew the Agreement for two additional one-year periods upon written notice to Contractor not less than thirty (30) days prior to expiration of the then existing Term. In the event the City exercises its option to renew this Agreement, nothing herein shall prevent the Contractor and City from negotiating a reasonable adjustments in the consideration paid for the Services and scope of Services.

4. **Consideration.** – The City shall make payment to the Contractor on a monthly basis upon submission by the Contractor to the City of an itemized billing for Services rendered. Services shall be billed to the City as follows:

Chipper Services: _____ (\$ _____)
per month.

- a. As Needed Services: _____
(\$ _____) per hour.

Emergency Tree Services: _____
(\$ _____) per hour.

5. **Compliance with Laws** – Contractor agrees that the Services provided pursuant to this Agreement shall be provided in compliance with all laws, ordinances and regulations of the United States, State of Tennessee, Metropolitan Government of Nashville and Davidson County, and the City, now or hereafter in effect during the term of this Agreement.

6. **Indemnity.** Contractor agrees to pay, protect, indemnify, and save the City harmless from and against any and all liabilities, losses, damages, costs, expenses (including all reasonable attorneys’ fees and expenses), causes of action, suits, claims, demands, or judgments of any nature whatsoever arising from (i) any use, trespass or damage to private property occasioned by Contractor’s performance of the Services, (ii) the conduct of the

Contractor or any of its employees, servants, agents or subcontractors in the performance of this Agreement, or (iii) any injury to or death of any person, or any damage to property caused by the operation of any equipment used by Contractor, its employees, servants, agents or subcontractors. In case any action, suit or proceeding is brought against the City by reason of any occurrence herein described, Contractor shall, at its own expense, defend such action, suit or proceeding with counsel acceptable to the City in its sole discretion. The indemnity agreement provided herein shall survive the expiration or sooner termination of this Agreement.

7. Insurance.

a. Contractor shall obtain and keep in effect during the Term hereof, and any extension, at its own expense, policies of insurance protecting itself against all claims, causes of action and other liabilities arising out of, or in any way connected with, its activities pursuant to this Agreement in the following kinds and amounts. The City shall be named as an additional insured on each policy.

i. Public Liability and Property Damage
Insurance as shall protect

the Contractor and any employees, servants, agents or subcontractors from claims for damages that may arise from performance of the Agreement. Public Liability Insurance shall be in an amount not less than One Million Dollars (\$1,000,000.00), including accidental death, and subject to the same limit in the aggregate. Property Damage Insurance shall be in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) for each occurrence and subject to the same limit in the aggregate.

ii. Motor Vehicle Liability Insurance on all
motor vehicles owned,

leased, or otherwise used by the Contractor and all subcontractors in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) for injury, including accidental death to any one person, and subject to the same limit for each in an amount not less than One Million Dollars (\$1,000,000.00) on account of any one occurrence and property damage insurance in an amount not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) for each occurrence, said liability limited to occurrence in connection with the Services.

iii. Worker's Compensation Insurance as required by the State of Tennessee for all of employees engaged in performance of the Services. If Contractor elects to use subcontractors, then Contractor shall require the subcontractor to provide Worker's Compensation Insurance for all of the subcontractor's employees engaged in such work unless such employees are covered by the protection afforded by the Contractor's Worker's Compensation Insurance. In case any class of employees engaged in hazardous work under the Agreement is not protected under Worker's Compensation Statute, the Contractor shall provide adequate insurance coverage for the protection of such employees not otherwise protected.

iv. Excess Liability (Umbrella) in an amount of not less than Two Million Dollars (\$2,000,000.00) for each occurrence and Two Million Dollars (\$2,000,000.00) in aggregate to cover the hazards of bodily injury and/or property damages combined.

b. The Contractor shall not commence work under this Agreement until it has obtained all insurance required under this Section and such insurance has been accepted by the City.

c. All insurance policies shall include a clause which states, in effect, that the policy shall not be canceled, modified, nor allowed to expire until ten (10) days written notice has been received by the City prior to such cancellation, modification, or expiration.

8. **Additional Duties of Contractor:**

a. Contractor shall maintain a valid Tennessee Contractor's Licenses at all times throughout the Term of this Agreement.

b. Contractor shall keep a sufficient number of employed personnel satisfactory to the City for performing the Services.

c. The Contractor shall assign a qualified person or persons to be in charge of its operation in the City and shall assign a permanent, dependable crew. Contractor shall give the name or names of said supervisors to the City with information regarding their experience.

d. The Contractor's employees shall wear a clean uniform or shirt bearing the Contractor's name.

e. Each driver shall, at all times, carry a valid drivers license for the type of vehicle he is driving.

f. The City may require the dismissal of any employee of the Contractor who violates any provision hereof or is wanton, negligent, or discourteous in the performance of his duties.

g. The Contractor shall provide operating and safety training for all personnel. Contractor shall be responsible for ensuring all employees wear adequate safety equipment at all times, including, but not limited to, hard hats, protective eyewear, protective footwear, and reflective gear as necessary.

h. The Contractor shall maintain its equipment in operable condition and suitable capacity and available to the City at all times during the terms of this Agreement.

i. The Contractor shall interfere as little as possible with the public use of roads, walks, and entrances to houses, and shall, at its own expense, make such approved temporary provisions as are required to maintain at least one lane of traffic.

9. **Independent Contractor.** The Contractor is an independent contractor with respect to the City. Nothing contained herein shall create any association, partnership, joint venture, employment or agency relationship between the parties.

10. **Fuel Index**

(a) With respect to the Fuel Index, the following terms shall be defined as follows.

- (i) “Payment Adjustment” shall mean the amount of money to be adjusted between the Contractor and the City.
- (ii) “Base Index” shall mean the fuel index established by the Tennessee Department of Transportation for November 2022. The base index may be found at <http://www.tn.gov/tdot/article/transportation-construction-priceinformation>.
- (iii) “Current Monthly Index” shall mean the fuel index established by the Tennessee Department of Transportation for the current month. The Current Monthly Index may be found at <http://www.tn.gov/tdot/article/transportation-construction-priceinformation>.
- (iv) “Fuel Consumed” shall mean the number of gallons of diesel fuel consumed by Contractor in furtherance of the Agreement during the period of a Fuel Report.
- (v) “Fuel Price” shall mean the average price per gallon of diesel fuel at the time the Agreement commenced, as compiled by the Energy Information Administration of the Department of Energy, of the US Government.

(b) The parties agree that the cost of fuel is factored into and reimbursed as part of the monthly Consideration paid pursuant to Section 4 of the Agreement. Contractor shall however, submit a fuel report not more than monthly (the “**Fuel Report**”) requesting a payment adjustment to compensate for the volatility in pricing. Each Fuel Report shall include a statement by the Contractor certifying the amount of Fuel Consumed during the period covered by the Fuel Report.

(c) The Payment Adjustment shall be calculated formula: **Payment Adjustment = [(Current Monthly Index)/ (Base Index-1)] * [(Fuel Consumed) * (Fuel Price)]**

(d) Upon receipt and verification of the Fuel Report, the City shall calculate the Payment Adjustment and deliver a copy of said computation to the Contractor. If the Payment Adjustment is a positive number, then the City shall reimburse the Contractor for such amount. If the Payment Adjustment is a negative

number, then the Contractor shall credit the City for such amount on its next invoice.

11. **Miscellaneous.**

- (a) **Assignment.** The Contractor shall not assign this Agreement, except upon the express prior written consent of the City.
- (b) **Cancellation.** The City has a right to cancel this Agreement on thirty (30) days written notice for failure of Contractor to properly perform the duties herein. Also, it is agreed that if the Contractor is adjudged bankrupt, either voluntarily or involuntarily, or files a bankruptcy petition, then the City may terminate this Agreement at any time.
- (c) **Non-discrimination.** No person shall be denied employment by the Company for reasons of age, race, sex, creed or religion of national origin.
- (d) **Notice.** All notices, demands and requests required under this Agreement shall be in writing. All such notices, demands and requests shall be deemed to have been properly given if delivered personally or sent by United States Registered or Certified Mail or by nationally recognized guaranteed overnight courier delivery service, postage prepaid, addressed to the City at:

The City of Forest Hills

Attn: Mark Hill

6300 Hillsboro Pike

Nashville, Tennessee 37215

and to the Contractor at:

- (e) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee without regard to its conflict of law principles.
- (f) **Modification.** This Agreement may be modified only by written amendment executed by all parties hereto. *signature page follows*

IN WITNESS WHEREOF, the parties hereto have executed this agreement in duplicate in the State of Tennessee on the day and year first above written.

CITY

THE CITY OF FOREST HILLS

By: _____

Mark Hill / City Manager

CONTRACTOR

By: _____

Its: _____

Exhibit "A"

Weekly Schedule of Services

The Contractor shall provide the Services on the following streets in accord with this schedule. To the extent the Contractor is able to amend this schedule to create greater efficiencies or more predictable service to residents, the Contractor shall communicate such intentions to the City Manager and ensure timely delivery of Services. To be determined by contractor

Exhibit “B”

Form of Performance Agreement