

**OFFICIAL NOTICE
REQUEST FOR PROPOSAL
City of Beloit
Snow Hauling in Downtown Beloit
2022-2023 Snow Season**

The City of Beloit is soliciting proposals for the following work:

Hauling of snow that has been stock piled in the center of downtown streets in Beloit and other city parking lots on demand during the months of November 2022 to mid-April 2023. Snow hauling may occur after a snowfall event of 2 inches or more.

Sealed proposals will be received at the Department of Public Works Operations and Recreation Facility, 2351 Springbrook Court, Beloit, Wisconsin 53511 for furnishing the labor, materials and equipment necessary for snow hauling in the downtown area including both streets and municipal parking lots.

TIME: Sealed proposals will be received until 10:00a.m. August 12, 2022. After the official closing time the proposals will be publicly opened and read aloud.

PRE-PROPOSAL MEETING: Proposer may attend the pre-proposal meeting on August 5, 2022 at 10:30 a.m. at 2351 Springbrook Ct. Beloit, WI.

PROPOSALS: All proposals shall be addressed to William Leader Operations Director and shall be enclosed in a **SEALED ENVELOPE**, marked with the name and address of the proposer and the project title for which the proposal is being submitted. The City of Beloit shall bear no responsibility for costs incurred by respondents in preparation of proposals.

CONTRACT DOCUMENTS: To obtain the proposal documents, please contact William Leader, Operations Director at leaderw@beloitwi.gov. Please submit any questions, in writing to the above email by no later than 10:00 a.m. August 9, 2022. All responses to the submitted questions will be emailed to those who attended the mandatory pre-proposal meeting.

PROPOSAL REJECTION: The City of Beloit reserves the right to reject any and all proposals, waive any informality in submitting a proposal, or to accept the proposal, which best serve the interests of the City of Beloit.

PROPOSAL WITHDRAWAL: No proposal shall be withdrawn for a period of sixty (60) days after the schedule opening of the proposal without the consent of the City of Beloit.

CITY OF БЕЛОIT
Public Works Operations Director
William Leader

**Request for Proposal
City of Beloit, Wisconsin
Snow Hauling for Downtown/Parking Lots
2022-2023 Winter Season**

1.0 SCOPE OF WORK

This contract shall consist of hauling snow loaded by the City of Beloit staff from the downtown for placement at Turtle Creek Park and from certain downtown municipal parking lots. Snow hauling will typically occur approximately 24-48 hours after 2" inches or greater snow fall, on demand. The workload is dependent upon weather, so the successful vendor's workload is not predictable. A Contract for the Purchase of Services for snow hauling downtown and miscellaneous parking lots 2022-2023 is attached.

2.0 GENERAL REQUIREMENTS

- 2.1 Vendor Qualifications. No contract shall be awarded except to responsible vendor capable of performing the work contemplated. Before being considered for the award of the Proposal, vendor shall be required to show evidence of the necessary experience, equipment, ability, and financial resources to perform the work in a satisfactory manner and within the time stipulated.
- 2.2 Applicable Rules. The vendor awarded this contract must abide by all federal, state and local codes and regulations and will be responsible to obtain all required permits. Failure to comply may result in cancellation of contract and possible barring from future submittal of proposals.
- 2.3 References. Vendors are required to supply (3) three references that can attest to the vendor's performance of the same general type of work as described by this invitation to submit a proposal. The City reserves the right to contact each of the references provided to assess the vendor's ability to perform the work described by this Proposal. Please provide at least three (3) references including the name of the company, contact name, address, telephone number and an email address.
- 2.4 TIME. Sealed proposals will be received until 10:00 am August 12, 2022. After the official closing time, the proposals will be publicly opened and read aloud.
- 2.5 Pre-Proposal Meeting. A pre-proposal meeting will be held on August 5, 2022 at 10:00 a.m., at the City Public Works Operations and Parks office at 2351 Springbrook Court, Beloit WI. All interested vendors may attend this meeting. Please submit any questions, in writing to William Leader, Operations Director at leaderw@beloitwi.gov by no later than 10:00 a.m. August 9, 2022. All responses to the submitted questions will be emailed to those who attended the pre-proposal meeting.
- 2.6 Regulations. All work shall be performed in compliance with the Occupational Safety and Health Administration (OSHA) Standards and Regulations.
- 2.7 Damage. The successful vendor shall be responsible for any and all damage caused in whole or in part by the vendor to lots, structures and adjacent private property covered under this contract. Failure to pay for damages will result in cancellation of this contract.
- 2.8 Basis of Award. The contract will be awarded to the lowest responsible and responsive vendor based on the hourly proposal for snow hauling along with prior experience.
- 2.9 Basis of Payment. The successful vendor shall be issued a contract purchase order under which this work shall be paid. All invoices shall be submitted within three (3) business days from end of each hauling operation. No invoices shall be received for payment by the City after April 28th, 2023. All itemized invoices submitted shall include the location of the parking lots if applicable, date of the snow event, driver's name, vehicle # (can be

license plate #), start and end time. All invoices shall be sent to William Leader, Director of Operations at 2351 Springbrook Court, Beloit WI, 53511. Vendors who submit proposal that include a minimum hourly charge will not be considered for this award of contract. The City will only pay for actual time performing this work.

2.10 Contract Period. The contract period shall be from November 1, 2022 until April 21, 2023.

2.11 Site Visits. The contractor is encouraged to visit the sites prior to submitting a proposal.

2.12 Method of Proposing. The contract price shall be an hourly rate for snow hauling operations including any mileage. Minimum hourly charges will not be considered for award of this contract. The City will only pay for actual time spent performing this work.

2.13 Proposal Rejection. The City of Beloit reserves the right to reject any and all proposals, waive any informality in submitting a proposal, or to accept the proposal, which best serve the interests of the City of Beloit. The City of Beloit shall bear no responsibility for costs incurred by respondents in preparation of the proposal.

3.0 SPECIFIC REQUIREMENTS

3.1 Notification of Vendor. Successful vendor should anticipate the City's request for hauling services when snow has accumulated to a depth of (2) inches or more. However, no work shall be scheduled until notification is received from the City. City will use its best efforts to notify the vendor no later than 2 pm, Monday through Friday. Proposers shall provide the City with the name(s) and telephone number(s) of the person(s) to receive such notification on a 24-hour basis.

3.2 Timing of Work. Work shifts occur typically in the early morning hours (midnight-6 a.m.) Monday through Sunday. Overtime shall be considered after an eight (8) hour shift, regardless of start time.

3.3 Standard Equipment on Plowing Equipment. Contractor shall provide minimum of (4) quad axel dump trucks for the hauling operation. All hauling vehicles are to be equipped with standard headlights, tail lights and amber warning strobes.

We bid as follows:

Labor and Equipment rate per truck \$ _____
Labor and Equipment rate per truck \$ _____
After 8- hour shift

Equipment List

Year	Make	Model

Please attach (3) references including company name, contact name, address, telephone number and email address.

Date: _____

Person, Vendor or Corporation

Authorized Signature and Title

Phone Number & Email

Address

City, State, Zip

If a Corporation, name the State of Incorporation: _____

City of Beloit

CONTRACT FOR PURCHASE OF SERVICES

Snow Hauling Downtown and Miscellaneous Parking Lots 2022-2023

This Agreement is by and between the City of Beloit, a Wisconsin municipal corporation, referred to herein as the **City**; and XXXXXX, referred to herein as the **CONTRACTOR**. Together, the City and CONTRACTOR are referred to as the **Parties**.

The Contractor is a: Corporation Limited Liability Company General Partnership LLP
 Sole Proprietor Unincorporated Association Other:

State of organization: XXXXX

1. SCOPE OF SERVICE

CONTRACTOR, in exchange for the compensation paid by the City under this Agreement, agrees to provide the following services:

- As shown on Beloit Snow Removal Plan (Attachment A), CONTRACTOR will haul snow, loaded by City of Beloit, on the roadways as shown in pink, and said snow will be dumped at the Turtle Creek Park in the designated area.
- Downtown hauling will take place approximately 24-48 hours after a 2" or greater snow fall, on demand, as scheduled by the City of Beloit. City will use its best efforts to notify the CONTRACTOR no later than 2 pm, Monday through Friday.
- CONTRACTOR shall provide a minimum of (4) quad axel dump trucks for the hauling operation Downtown. CONTRACTOR shall maintain a daily report for each operation.
- From time to time, CONTRACTOR may be requested by City to haul snow from designated municipal parking lots. CONTRACTOR shall maintain a daily report for each operation.
- Work shifts shall occur typically in the early morning hours (midnight- 6 am), Monday through Sunday.
- Work will not occur on the following Holidays: Thanksgiving Day, Christmas Eve, Christmas Day, New Year's Eve and New Year's Eve Day
- Overtime shall be considered after an eight (8) hour shift, regardless of start time.
- CONTRACTOR designates XXXXX Name/cell phone number, as the Agreement Agent with the primary responsibility for the performance of this Agreement. In case this Agreement Agent is replaced by another for any reason, CONTRACTOR will immediately notify Director of Operations for City at XXX-XXX-XXXX and submit a written notification, emailed to leaderw@beloitwi.gov.

Order of Precedence: In the event of a conflict between the terms of this Contract for Purchase of Services and the terms of any document attached or incorporated herein, the terms of the Contract for Purchase of Services shall control and supersede any such conflicting term.

2. **TERM AND EFFECTIVE DATE:** This Agreement shall become effective upon execution by the City Manager, (or another City Official, if authorized) on behalf of the City of Beloit, however in no case shall work commence before execution by the City of Beloit. The term of this Agreement will commence on November 1, 2022, and terminate no later than April 18, 2023, unless the Agreement is extended by mutual agreement of the PARTIES. The PARTIES agree that time is of the essence regarding this Agreement.

3. **FEES AND PAYMENT:** CITY will pay for the services provided by CONTRACTOR under this Agreement as follows:

Labor & Equipment rate: \$XX.XX/hour

Labor & Equipment overtime rate: \$XX.XX/hour

The hourly rate shall include any and all mileage expense.

A contract purchase order shall be issued under which this work shall be paid. Invoices shall be submitted on a bi-weekly basis. All itemized invoices submitted shall include the date of the snow hauling operation, driver name, vehicle # (can be license plate #), start and end time. All invoices shall be submitted to Director of Operations at 2351 Springbrook Ct., Beloit WI 53511. All invoices shall be payable net 30 days.

4. **TERMINATION OF CONTRACT:**

a. Termination by the City for default. If, within seven (7) Days of receipt of a notice to cure a default or defect, the CONTRACTOR fails to commence and satisfactorily continue correction of the default or defect set forth in the notice to cure, the City may notify the CONTRACTOR and, if applicable, the surety, that it intends to terminate this Agreement for default or defect absent appropriate corrective action within fourteen (14) additional Days. After the expiration of the additional fourteen (14) Day period, the City may terminate this Agreement by written notice absent appropriate corrective action. Termination for default or defect is in addition to any other remedies available to the City. If the City's costs arising out of the CONTRACTOR's failure to cure, including the costs of completing the work under Section 1 of this Contract and reasonable attorneys' fees, exceed the unpaid Contract Price, the CONTRACTOR shall be liable to the City for such excess costs. If the City's costs are less than the unpaid Contract Price, the City shall pay the difference to the CONTRACTOR. If the City exercises its rights under this section, upon the request of the CONTRACTOR, the City shall furnish to the CONTRACTOR a detailed accounting of the costs incurred by the City.

b. If the CONTRACTOR files a petition under the Bankruptcy Code, the Agreement shall terminate if the CONTRACTOR or the CONTRACTOR's trustee rejects this Contract, or if there has been a default and the CONTRACTOR is unable to give adequate assurance that the CONTRACTOR will perform as required by the Agreement or otherwise is unable to comply

with the requirements for assuming this Agreement under the applicable provisions of the Bankruptcy Code.

- c. The City shall make reasonable efforts to mitigate damages arising from CONTRACTOR default, and shall promptly invoice the CONTRACTOR for all amounts due.
- d. If the City terminates the Contract for default, and it is later determined that the CONTRACTOR was not in default, or that the default was excusable under the terms of the Contract Documents, then, in such event, the termination shall be deemed a termination for convenience, and the rights of the Parties shall be as set forth in Section f.
- e. Termination by City for convenience. Upon written notice to the CONTRACTOR, the City may, without cause, terminate this Agreement. The CONTRACTOR shall immediately stop the work, follow the City's instructions regarding shutdown and termination procedures, and strive to minimize any further costs.
- f. If the City terminates this Agreement for Convenience, the CONTRACTOR shall be paid for the work performed under Section 1 to date.
- g. If the City terminates this Contract, the CONTRACTOR shall:
 - 1) Execute and deliver to the City all papers and take all action required to assign, transfer, and vest in the City the right to the CONTRACTOR to all materials, supplies and equipment for which payment has been or will be made in accordance with the Contract and all subcontracts, orders and commitments which have been made in accordance with the Contract;
 - 2) Exert reasonable effort to reduce to a minimum the City's liability for subcontracts, orders, and commitments that have not been fulfilled at the time of the terminations;
 - 3) Cancel any subcontracts, orders, and commitments as the City directs; and
- h. CONTRACTOR'S right to terminate. Upon seven (7) Days' written notice to the City, the CONTRACTOR may terminate this Agreement if the work under Section 1 has been stopped for a thirty (30) Day period through no fault of the CONTRACTOR for any of the following reasons:
 - 1) Under court order or order of other governmental authorities having jurisdiction;
 - 2) As a result of the declaration of a national emergency or other governmental act during which, through no act or fault of the CONTRACTOR, materials are not available; or
 - 3) Suspension by the City for convenience.

In addition, upon seven (7) Days' written notice to the City, the CONTRACTOR may terminate this Agreement if the City:

- 1) Assigns the Agreement over the CONTRACTOR's reasonable objection; or

- 2) Fails to pay the CONTRACTOR in accordance with this Agreement.
 - 3) Otherwise materially breaches this Agreement.
 - 4) Upon termination by the CONTRACTOR in accordance with this section, the CONTRACTOR shall be entitled to recover from the City payment for all work executed under the Section 1 and for any proven loss, cost, or expense in connection with the work, including all demobilization costs plus reasonable Overhead and profit on work not performed under the Section 1.
5. **OBLIGATIONS ARISING BEFORE TERMINATION:** Even after termination, the provisions of this Agreement still apply to any work performed under Section 1, payments made, events occurring, costs charged or incurred or obligations arising before the termination date.
6. **RENEWAL:** This Agreement will not automatically renew but may be renewed at the consent of both parties in writing.
7. **ENTIRE AGREEMENT:** This Contract for Purchase of Services, including any and all attachments, exhibits and other documents referenced is the entire Agreement of the Parties and supersedes any and all oral contracts and negotiations between the Parties. If any document referenced includes a statement that expressly or implicitly disclaims the applicability of the Contract for Purchase of Services, or a statement that such other document is the “entire agreement”, such statement shall be deemed rejected and shall not apply to this Agreement.
8. **AMENDMENT TO AGREEMENT:** This Agreement shall be binding on the Parties hereto, their respective heirs, devisees, and successors, and cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto. This Agreement may not be modified, supplemented or amended, in any manner, except by written instrument signed by both PARTIES. If in the reasonable judgment of the City, the scope or nature of the services to be performed by CONTRACTOR change or deviate materially from the scope or nature of the services described above, the City may, at its discretion, suspend performance of its services until a written agreement superseding this Agreement and adjusting the scope, schedule, and terms and conditions has been executed. Where additional work is to be completed on a time and expense compensation, charges shall be in accordance with the fee schedule submitted with the CONTRACTOR’s Proposal.
9. **SEVERABILITY:** If any term of this Agreement is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms shall not be affected, and, if possible, the rights and obligations of the PARTIES are to be construed and enforced as if the Contract did not contain that term.
10. **ASSIGNMENT AND SUBCONTRACTS:** CONTRACTOR may not assign or subcontract any interest or obligation under this Agreement without the City’s prior written approval. All of the services

required hereunder will be performed by CONTRACTOR and employees of CONTRACTOR. All terms, conditions, covenants and agreement herein shall extend to and be obligatory upon any successors or assigns of CONTRACTOR upon the execution of any written consent by City.

- 11. NOTICES:** All notices or other communications required under this Agreement shall be given by registered or certified mail and are complete on the date mailed when addressed to the PARTIES at the following addresses:

CONTRACTOR:

City:

Mr. William Leader, Public Works Director of Operations
City of Beloit
2351 Springbrook Ct.
Beloit, WI 53511

- 12. NOTICE OF POTENTIAL CLAIMS:** CONTRACTOR shall promptly notify City of all potential claims by third parties which arise or result from services provided (or failure to provide services) under this Contract. CONTRACTOR shall also take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding such a potential claim, while maintaining public safety, and grants to the City the opportunity to review and inspect the evidence.

- 13. INDEMNITY:** CONTRACTOR hereby agrees to defend, indemnify, and hold harmless the City, including its elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers (the Indemnitees), from any and all suits, actions, legal or administrative proceedings, claims, demands, liabilities, interest, attorneys' fees, costs and expenses whatsoever kind or nature in any manner directly or indirectly caused, occasioned, or contribute to in whole or in part of, claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault or negligence, whether active or passive, of CONTRACTOR or of anyone acting under its director or control or on its behalf, even if liability is also sought to be imposed on City, its elected and appointed officials, officers, employees, agents, representatives and volunteers. The obligation to indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents representatives and volunteers, and each of them, shall be applicable except to the extent that liability results from the negligence of the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers. CONTRACTOR shall also defend, indemnify, and hold City harmless for all costs, expenses, and attorneys' fees incurred in establishing and litigating the indemnification coverage provided in this section. In any and all claims against the Indemnitees by any employee of the CONTRACTOR, anyone directly or indirectly employed by the CONTRACTOR or anyone for whose acts the CONTRACTOR may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR under workers' compensation acts, disability benefit acts, or other

employment benefits acts. This indemnity provision shall survive the termination, expiration or any extensions or renewals of this Agreement.

14. INSURANCE

- A) CONTRACTOR shall not commence work under this Agreement until it has obtained the insurance required herein. All coverages shall be with insurance carriers licensed and admitted to do business in the State of Wisconsin. All coverages shall be with carriers acceptable to the City. A minimum AM Best Rating of A-VII is required.
- B) It is hereby understood and agreed that the insurance required by the City is primary coverage and that any insurance or self-insurance maintained by the City, its officers, council members, agents, employees or authorized volunteers will not contribute to a loss.
- C) *Worker's Compensation and Employers Liability Minimum Requirements as required by Statute*: CONTRACTOR shall cover or insure under applicable labor laws relating to worker's compensation insurance, all of their employees in accordance with the law in the State of Wisconsin. CONTRACTOR shall provide statutory coverage for work related injuries and employer's liability insurance with limits of \$100,000 each accident, \$500,000 disease policy limit and \$100,000 disease each employee.
- D) *Liability Insurance*: CONTRACTOR shall procure and maintain during the life of this Agreement the following Commercial General Liability Insurance and Automobile Liability insurances:
- (1) GENERAL LIABILITY COVERAGE
- (a) Commercial General Liability
- i. \$2,000,000 general aggregate
 - ii. \$1,000,000 products – completed operations aggregate
 - iii. \$1,000,000 personal injury and advertising injury
 - iv. \$2,000,000 each occurrence limit
- (b) Claims made form of coverage is not acceptable.
- (c) Insurance must include:
- i. Premises and Operations Liability
 - ii. Blanket Contractual Liability including coverage for the joint negligence of the CONTRACTEE, its officers, council members, agents, employees, authorized volunteers and the named insured
 - iii. Personal Injury
 - iv. Explosion, collapse and underground coverage

- v. Products/Completed Operations
- vi. Independent Contractors

(2) BUSINESS AUTOMOBILE COVERAGE

- (a) Minimum Limits - \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage each accident.
 - (b) Must cover liability for "Any Auto" – including Owned, Non-Owned and Hired Automobile Liability.
- E) *Additional Insured*: CONTRACTOR shall name the City, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers as Additional Insured on the General Liability Coverage. This coverage shall be primary to the Additional Insured, and not contributing with any other insurance or similar protection available to the Additional Insured, whether other available coverage is primary, contributing or excess.
- F) *Waiver of Workers Compensation Subrogation*: The workers' compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses paid under the terms of the policy that arises from the work performed by the named insured for or on behalf of the City.
- G) *Cancellation Notice*: All insurances required by this Agreement shall include an endorsement stating the following: "Thirty (30) day Advance Written Notice of Cancellation or Ten (10) days for Non-Renewal shall be sent to City of Beloit; Attn: Risk Management; 100 State Street, Beloit WI, 53511."
- H) *Proof of Insurance Coverage*: Prior to execution of the Agreement, the Contractor shall file with the City of Beloit a certificate of insurance (Accord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this agreement. In addition form CG 20 10 07 04 for ongoing work exposure and form CG 20 37 07 04 for products-completed operations exposure must also be provided or its equivalent. The certificate shall provide that the policies of insurance shall not be canceled or altered without thirty (30) days prior written notice to the City. Said duty to notify the City of cancellation or alteration must be provided without any qualification or limitation. Such certificates shall be kept current for the duration of this agreement or during any further period of time wherein the Contractor is under any duty of performance hereunder.
- I) *Continuation of Coverage*: If any of the above coverage expires during the term of this Contract, the CONTRACTOR shall deliver renewal certificates and/or policies to the City at least ten (10) days prior to the expiration date.

15. SAFETY RULES AND REGULATIONS: The CONTRACTOR shall comply with all Occupational Safety and Health Administration (OSHA) and State and Local safety and health standards. The CONTRACTOR shall also take reasonable safety precautions to prevent damage to property and injury to persons on or adjacent to the work site. The CONTRACTOR shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction over the work site and the persons at the site. The CONTRACTOR shall pay all claims for property damage or personal injury caused by the CONTRACTOR, its employees, agents or subcontractors.

Should the performance of the work in any manner obstruct the streets or sidewalks, the CONTRACTOR shall put up and maintain barriers and lights to prevent accidents and be liable for all damages caused by his failure so to do; and further, the CONTRACTOR shall be liable for all damages caused by the negligent acts of the CONTRACTOR or which may result from the CONTRACTOR's carelessness in the prosecution of such work.

16. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL: The City does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The Parties have the right to enforce their rights and remedies in judicial proceedings. The City does not waive any right to a jury trial.

17. CONFIDENTIALITY : CONTRACTOR agrees not to use or disclose any information it receives from the City under this Agreement that the City has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Agreement or as authorized in advance by the City. The City agrees not to disclose any information it receives from the CONTRACTOR, that the CONTRACTOR has previously identified as confidential and which the City determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the Wisconsin open records law. The duty of City and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this Agreement, or any extensions or renewals of it.

18. COMPLIANCE WITH PUBLIC RECORDS LAW: CONTRACTOR understands that, except for disclosures prohibited, the City is bound by the Wisconsin Public Records Law, Wis. Stats. §19.21, *et seq.*, to disclose to the public upon request any records it receives from CONTRACTOR. CONTRACTOR further understands that any records which are obtained or generated by the CONTRACTOR under this Contract, except for records that are confidential, may under certain circumstances, be open to the public upon request under the Wisconsin open records law. CONTRACTOR agrees to contact the City immediately upon receiving a request for information under the open records law and to comply with the City's instructions on how to respond to the request.

- 19. GOVERNMENTAL IMMUNITIES AND NOTICE REQUIREMENTS PRESERVED:** Nothing in this Agreement shall be construed to be a waiver or modification of the governmental immunities or notice requirements imposed by Wis. Stats. §893.80 or any other law.
- 20. NO WAIVER:** No failure to exercise, and no delay in exercising, any right, power or remedy hereunder on the part of the City or CONTRACTOR shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by the City or CONTRACTOR therein. A waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant term or condition.
- 21. INTEGRATION:** This Agreement constitutes the entire agreement of the PARTIES formed by the City's RFP/RFQ and the CONTRACTOR's responsive proposal; however, if any ambiguity in this Agreement requires resolution, or this Agreement is silent on a material point, then reference may be made to the RFP/RFQ and the CONTRACTOR's proposal, in that order of priority, to construe this Agreement. All other agreements and understandings of the parties with respect to the subject matter expressed in this Agreement are unenforceable.
- 22. PARTIES ARE INDEPENDENT CONTRACTORS:** Nothing in this Agreement shall be construed to create any relationship between the Parties other than independent contractors. Unless specifically provided in this Agreement, the Parties are not agents for one another to bind the other to contracts, and have no vicarious liability for the other's acts or omissions. CONTRACTOR retains sole and absolute discretion in the manner and means of carrying out the CONTRACTOR's activities and responsibilities under this Agreement, except to the extent specified in this Agreement.
- 23. NONDISCRIMINATION AND COMPLIANCE WITH LAWS:** The undersigned will not discriminate against any qualified employee or qualified applicant for employment because of race, color, national origin, ancestry, religion, age, marital status, disability, sex, or sexual orientation. In the event any portion of this Agreement is subcontracted by the undersigned, said subcontract shall include a provision prohibiting the subcontractor from discriminating against any qualified employee or qualified applicant for employment because of race, color, national origin, ancestry, religion, age, marital status, disability, sex, or sexual orientation. This provision is inserted herein in compliance with Section 1.09 of the Code of General Ordinances of the City of Beloit, and shall be interpreted so as to carry out the intent of said ordinance.

- 24. AFFIRMATIVE ACTION:** The CONTRACTOR (has adopted) (agrees to adopt) [circle and initial one] an affirmative action plan to increase in CONTRACTOR'S partners, associates and employees, the representation and number of under-represented groups which have been victims of employment discrimination in all of CONTRACTOR'S departments, job classifications and salary categories. The CONTRACTOR agrees to include the same provision in its subcontracts and to require its subcontractors to include the same provision in their subcontracts. This provision is inserted herein in compliance with Section 1.09 of the Code of General Ordinances of the City of Beloit, and shall be interpreted so as to carry out the intent of that ordinance.
- 25. THIRD PARTY RIGHTS:** This Agreement is intended to be solely between the parties hereto. No part of this Agreement shall be construed to add, supplement, amend, abridge or repeal existing rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.
- 26. GOODWILL:** Any and all goodwill arising out of this Agreement inures solely to the benefit of the City; CONTRACTOR waives all claims to benefit of such goodwill.
- 27. AUDIT AND RETAINING OF DOCUMENTS:** The CONTRACTOR agrees to provide all reports requested by the City including, but not limited to, financial statements and reports, reports and accounting of services rendered, and any other reports or documents requested. Financial and service reports shall be provided according to a schedule (when applicable) to be included in this Agreement. Any other reports or documents shall be provided within five (5) working days after the CONTRACTOR receives the City's written requests, unless the parties agree in writing on a longer period. Payroll records and any other documents relating to the performance of services under the terms of this Agreement shall be retained by the CONTRACTOR for a period of three (3) years after completion of all work under this Contract, in order to be available for audit by the City or its designee.
- 28. CORPORATE AUTHORIZATION:** The individuals executing this Agreement on behalf of the CONTRACTOR warrant and represent that they are duly authorized to bind the CONTRACTOR to this Agreement. CONTRACTOR warrants and represents that the execution of this Agreement is not prohibited by the CONTRACTOR's articles of incorporation, by-laws, operating agreement, or other internal operating orders, or by any applicable law, regulation or court order. CONTRACTOR shall provide proof upon request.
- 29. ASSISTANCE OF COUNSEL, VOLUNTARY AGREEMENT:** The CONTRACTOR acknowledges that it has either had the assistance of legal counsel in the negotiation, review and execution of this Agreement, or has voluntarily waived the opportunity to do so; that it has read and understood each of this Agreement's terms, conditions and provisions, and their effects; and that it has executed this Agreement freely and not under conditions of duress.

- 30. ADEQUACY OF CONSIDERATION:** The Parties acknowledge that the consideration expressed in this Agreement is adequate and sufficient to make the obligations contained in this Agreement binding upon the Parties.
- 31. COSTS OF ENFORCEMENT:** The Parties agree that in the event legal action is necessary to enforce any term or condition of this Agreement, then the breaching Party will pay the non-breaching Party's costs incurred in such legal action, including actual attorney fees. If a judgment is taken, then costs of enforcement will be added to the judgment.
- 32. SURVIVAL AND PARTIES BOUND:** Unless specifically limited in this Agreement, any term, condition or provision of this Agreement will survive the execution of this Agreement or any stated time periods, to the extent necessary for their performance. This Agreement is binding upon, and inures to the benefit of, the Parties' successors, assigns, heirs, executors, trustees and personal representatives.
- 33. COMPLIANCE WITH APPLICABLE LAWS:** The CONTRACTOR shall become familiar with, and shall at all times comply with and observe all federal, state, and local laws, ordinances, and regulations which in any manner affect the services or conduct of the CONTRACTOR and its agents and employees.
- 34. GOVERNING LAW AND JURISDICTION:** This Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of Wisconsin. The PARTIES agree, for any claim or suit or other dispute relating to this Agreement that cannot be mutually resolved, it shall be filed in state Circuit Court for Rock County, Wisconsin and the parties agree to submit themselves to the jurisdiction of said court, to the exclusion of any other judicial district that may have jurisdiction over such a dispute according to any law.
- 35. CONFLICT OF INTEREST**
- A. The CONTRACTOR warrants that it and its agents and employees have no public or private interest, and will not acquire directly or indirectly any such interest, which would conflict in any manner with the performance of the services under this Agreement.
- B. The CONTRACTOR shall not employ or contract with any person currently employed by the City for any services included under the provisions of this Agreement.
- 36. NON-RESIDENT CONTRACTORS:** If the CONTRACTOR is not a resident of the State of Wisconsin, the CONTRACTOR shall file a surety bond with the Wisconsin Department of Taxation in accordance with section 71.80(16), Wis. Stats. The CONTRACTOR shall provide the City with a copy of the surety bond, which bond shall become part of this Agreement.

37. AGREEMENT NOT TO BE CONSTRUED AGAINST ANY PARTY: This Agreement is the product of negotiation between the parties hereto and no term, covenant or provision herein or the failure to include a term, covenant or provision shall be construed against any party hereto solely on the basis that one party or the other drafted this Agreement or any term, covenant or condition contained herein.

38. COUNTERPARTS, ELECTRONIC DELIVERY: This Agreement may be signed in counterparts, each of which shall be taken together as a whole to comprise a single document. Signatures on this Agreement may be exchanged between the parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original. Executed copies or counterparts of this Agreement may be delivered by facsimile or email and upon receipt will be deemed original and binding upon the parties hereto, whether or not a hard copy is also delivered. Copies of this Agreement, fully executed, shall be as valid as an original.

IN WITNESS WHEREOF, the parties hereto have set their hands.

Date: _____

Date: _____

CITY OF БЕЛОIT

CONTRACTOR

By: _____
(signature)

(Print name of Contracting Entity)

(Print Name and Title of Person Signing)

By: _____
(Signature)

ATTEST:

By: _____
(signature)

(Print Name and Title of Person Signing)

SNOW REMOVAL PLAN

