

**CITY OF MARYSVILLE AGENDA BILL**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: June 14, 2021**

<b>AGENDA ITEM:</b>	
General Equipment - Schaefer Cart Purchase	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
JR Myers	JL
<b>DEPARTMENT:</b>	
Public Works – Solid Waste	
<b>ATTACHMENTS:</b>	
Purchase Agreement	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
41046060 531000	\$401,821.23
<b>SUMMARY:</b>	
This purchase of garbage collection carts is to service the Central Annexation Area in 2022. Public Works is purchasing Schaefer carts as this matches our current inventory as well as for their durability, efficiencies in repairs, and uniform appearance throughout the City.	
Brand name bidding was utilized for this purchase in coordination with the Legal Department. Proper justification was met prior to going out to bid.	

**RECOMMENDED ACTION:**  
Staff recommends that Council authorize the Mayor to sign and execute the Purchase Agreement with General Equipment for the purchase of Schaefer carts in the amount of \$401,821.23.

**RECOMMENDED MOTION:**  
I move to authorize the Mayor to sign and execute the Purchase Agreement with General Equipment for the purchase of Schaefer Carts in the amount of \$401,821.23.

## PURCHASE AGREEMENT

**THIS PURCHASE AGREEMENT** (the “Agreement”) is made and entered into as of the date of the last signature below, by and between the City of Marysville, a Washington State municipal corporation (the “City”), and General Equipment Company, a Corporation incorporated in the State of Oregon, organized under the laws of the state of Oregon, located and doing business at 6767 NE Columbia Blvd., Portland OR, 97218 (the “Vendor”).

**WHEREAS**, the Vendor offers certain Goods, as defined below, and Vendor desires to sell such Goods under the terms and conditions set forth in this Agreement; and

**WHEREAS**, the City desires to purchase the Goods offered for sale by Vendor under the terms and conditions set forth in this Agreement; and

**NOW, THEREFORE**, in consideration of the terms, conditions, covenants, and performances contained herein, the City and the Vendor agree as follows:

- 1. Sale of Goods.** The Vendor agrees to sell, transport and deliver to City, and City agrees to purchase the items in the quantities and at the prices (the “Goods”) described in **Exhibit A** which is attached hereto and incorporated by this reference. The purchase price is as stated in Exhibit A and will not exceed \$ 401,821.23.
- 2. Term of Agreement.** The term of this Agreement shall commence upon full execution of this Agreement by the City and the Vendor and shall terminate upon final payment by the City to the Vendor, unless sooner terminated by either party under Section 9 or another applicable provision of the Agreement. The Goods shall be delivered no later than November 1, 2021.
- 3. Compliance with Law.** Vendor, at its sole cost and expense, must perform and comply with all applicable laws of the United States and the State of Washington; Municipal Code, and ordinances of the City of Marysville; and rules, regulations, orders, and directives of the City.
- 4. Amendments/Change Orders.** No alteration, change, modification or amendment to this Agreement is effective unless by an instrument in writing executed by the legally authorized parties hereto. Any changes in the scope of work or compensation must be mutually agreed upon between City and the Vendor and must be incorporated in written amendments to the Agreement.
- 5. Assignment.** This Agreement may not be assigned in any manner or by any means by Vendor without the express written consent of the City.
- 6. Waiver and Remedies.** City’s failure to enforce the terms or conditions herein or to exercise any right or privilege, or the City’s waiver of any breach hereunder must not thereafter waive any other term, condition, or privilege, whether of the same or similar type. Remedies under this Agreement are cumulative; the use of one remedy must not be taken to exclude or waive the right to use another.
- 7. Binding Effect.** The provisions, covenants and conditions provided bind the parties, their legal heirs, representatives, successors, and assigns.

8. **Ratification.** Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified and confirmed.

9. **Termination.** City, at its sole discretion, may terminate this Agreement for convenience at any time for any reason. Termination is effective immediately upon notice of termination given by the City. In the event this Agreement is terminated prior to the full delivery of goods and/or services, Vendor will only be paid for the work or goods accepted, at the City's sole discretion, at the time of termination of the Agreement.

10. **Severability.** Any invalidity, in whole or in part, of any provision of this Agreement must not affect the validity of any other of its provisions.

11. **Payments.** City will pay Vendor submitted invoices within thirty (30) days after the City's receipt and acceptance of the goods or completion and acceptance of the services, provided that Vendor has listed all appropriate information on the invoice and complied with all contractual requirements. Payment must be full compensation for goods delivered, work performed or services rendered, including all labor, materials, supplies, equipment and other expenses. The City reserves the right to require Vendor to correct any submitted or paid erroneous invoices according to the rates set forth herein. City and Vendor agree that any amount paid in error by City does not constitute a change in the agreed upon amount; Vendor agrees to issue a refund of any overages paid in error by the City. The total on the Agreement is to be the not-to-exceed amount and is not to be construed as a guaranteed amount due to Vendor.

12. **Taxes.** Vendor must pay, before delinquency, all taxes, levies, and assessments arising from its activities and undertakings under this Agreement; taxes levied on its property, equipment and improvements; and taxes on the Vendor's interest in this Agreement.

13. **Warranties.** Vendor warrants that all goods are merchantable, comply with the City's latest drawings and specifications, and are fit for the City's intended use; all goods comply with all applicable safety and health standards established for such products; all goods are properly packaged; and all appropriate instructions or warnings are supplied. Vendor's warranties will survive the termination of this agreement.

14. **Non-Discrimination and Equal Employment Opportunity.** During the term of this Agreement, Vendor will not discriminate against any employee or applicant for employment because of creed, religion, race, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical disability, unless based upon a bona fide occupational qualification. The Vendor will take affirmative action to ensure that applicants and employees are treated fairly, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical disability. Such action must include all terms and conditions of employment, compensation, and benefits, including apprenticeship.

15. **Governing Law/Venue.** This Agreement must be deemed to have been executed and delivered within the State of Washington, and the rights and obligations of the parties hereunder must be construed and enforced in accordance with, and governed by, the laws of the State of

Washington, without regard to the principles of conflict of laws. Any action or suit brought in connection with this Agreement must be brought in the Superior Court of Snohomish County, Washington.

**16. Independent Contractor.** Vendor, its subcontractors, agents and employees are independent Vendor performing services for the City and are not employees of City. The Vendor, its subcontractors, agents and employees, must not, as a result of this Agreement, accrue leave, retirement, pension, insurance, bonding or any other benefits afforded to City employees. The Vendor, its subcontractors, agents and employees, must not bind the City in any way except as may be specifically provided herein. The Vendor must have the authority to control and direct the performance and details of the work described herein.

**17. Insurance.** The Vendor must obtain and keep in force during the entire term of this Agreement, liability insurance against any and all claims for damages to person or property which may arise out of the performance of this Agreement whether such work must be by the Vendor, subcontractor or anyone directly or indirectly employed by either the Vendor or a subcontractor. The amount of coverage provided by such insurance must be not less than one million (\$1,000,000) each occurrence, two million (\$2,000,000) general aggregate and a \$2,000,000 products liability aggregate limit. The Vendor agrees to the following requirements relating to insurance coverage:

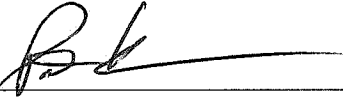
- a. Liability Insurance. All liability insurance shall be at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover products liability. The Public Entity shall be named as an additional insured under the Supplier's Commercial General Liability insurance policy using ISO Additional Insured-Vendors Endorsement CG 20 15 04 13 or a substitute endorsement providing at least as broad coverage.
- b. Worker's Compensation. Vendor must take out and maintain during the life of the Agreement, Worker's Compensation, including Washington State Stop Gap, insurance for all its employees engaged in work under or pursuant to this Agreement who are required to be so covered by the laws of the State of Washington and in case any work is subcontracted, the Vendor must require the subcontractor to provide worker's compensation insurance for all of its employees unless or to the extent that such employees are covered by the protection provided by the Vendor.
- c. Employment Security. Vendor must comply with all employment security laws of the State of Washington, and must timely make all required payments in connection therewith.

**18. Authority to Bind Parties and Enter into Agreement.** The undersigned represent that they have full authority to enter into this Agreement and to bind the parties for and on behalf of the legal entities set forth herein.

**19. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.

Dated: 5-13-21

General Equipment Company

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

Pat Kuhnau

Its: Operations Manager

CITY OF MARYSVILLE

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Jon Nehring, Mayor

Attested/Authenticated:

\_\_\_\_\_  
\_\_\_\_\_, Deputy City Clerk

Approved as to form:

\_\_\_\_\_  
Jon Walker, City Attorney

## EXHIBIT A

### SCHAEFER SYSTEMS CART PURCHASE

#	Description	Unit Price	Estimated Quantity *	Extended Price
1	USD35B – 35 gal roll cart, matching lid color	\$ <u>39.25</u>	4,395	\$ 172,503.75
2	USD35B – 35 gal roll cart, lid color CL.BRN.1	\$ <u>39.25</u>	500	\$ 19,625.00
3	USD65M – 65 gal roll cart	\$ <u>46.25</u>	2,027	\$ 93,748.75
4	USD95M – 95 gal roll cart	\$ <u>51.25</u>	578	\$ 29,622.50
5	INSRT. 3520 20 gal reducer insert for USD35 container	\$ <u>17.25</u>	854	\$ 14,731.50
			Shipping	\$ <u>37,400.00</u>
			Subtotal	\$ <u>367,631.50</u>
			9.3% Sales Tax	\$ <u>34,189.73</u>
			Total	\$ <u>401,821.23</u>