

**ITEM:**                    **Revised Streetsweeper Purchase Joint Powers Agreement**

**SUBMITTED BY:**    **Justin Miller, City Administrator**

**EXPLANATION:**

Earlier this year, the Cities of Falcon Heights and Little Canada entered into a joint powers agreement regarding the cooperative purchase of a streetsweeper. The intent was to provide better streetsweeping services to our residents as well as to save money in the long-term by not having to contract for the service with a private vendor.

During the purchase process through the State of Minnesota master bid contract, it was determined that the additional items added to the sweeper (as agreed upon by both cities) created a problem and the purchase price provided to us by the vendor was not in conformance with the state bidding contract. As a result, the overall price of the sweeper increased from \$164,317.79 to \$174,589.72. The City of Falcon Heights' portion (34.62% as based upon lane miles) increased from \$56,886.82 to \$60,442.96, an increase of \$3,556.14.

In order for the purchase to be finalized, a revised joint powers agreement with the new prices must be approved. The remainder of the agreement, such as maintenance, insurance, and liability terms, remains unchanged.

Attached is a memo from the Little Canada City Administrator to their city council outlining their options. If the Little Canada City Council decides to delay the purchase, the joint powers agreement will be void and we will need to find a contractor to conduct our spring streetsweeping.

**ACTION REQUESTED:**

Staff recommends that the Falcon Heights City Council adopt the attached revised joint powers agreement with the City of Little Canada for the joint purchase of a streetsweeper. This agreement will only be in effect if both cities agree to the new purchase price.

## MEMORANDUM

**TO: Mayor Blesener & Members of the City Council**

**FROM: Joel Hanson, City Administrator**

**DATE: March 20, 2009**

**RE: Street Sweeper Purchase with Falcon Heights**

Our joint purchase of street sweeper with the City of Falcon Heights has hit a snag. Apparently, the price I thought we had agreed to is not available. I was of the understanding that we had obtained a “demo discount” to achieve additional options at the price previously discussed. However, MacQueen Equipment, Inc. has informed me that this is not possible, as it would violate the provisions of their contract with the City of Minnesota as part of the Cooperative Purchasing Venture. We also need to comply with the CPV guidelines in order to comply with statutory purchasing requirements. Therefore, to purchase the desired sweeper will cost us an additional \$10,271.93 if we want to obtain the options noted in our joint powers agreement with Falcon Heights. This misunderstanding is my fault and responsibility and I apologize for this problem to our City Council as well as to the City of Falcon Heights.

Two options exist. The first is to proceed with the purchase at the additional cost (\$6,715.79 of the added cost would be Little Canada’s share). Delivery of the new sweeper will be delayed, but MacQueen Equipment will ensure we can get our streets swept with another piece of equipment. An amended JPA with Falcon Heights is attached if you would like to pursue this option. I believe this is Falcon Heights’ preferred choice.

The second option is to not proceed with the purchase (MacQueen Equipment has graciously allowed us this choice). One way this choice becomes an advantage is if Ramsey/Washington Metro Watershed District provides partial funding for this type of purchase as a demonstration project. (We did pursue this option last year and were told that would not be possible. However, RWMWD is reconsidering this matter and may be willing provide some cost participation, but that would not be known until this fall at the earliest. I would place the odds at no better than 50/50. Another potential way delaying the purchase could be an advantage is if we found additional partnering relationships. I’m not currently aware of any options in this regard, but we would have time to explore it.

One disadvantages of pursuing the second option will likely be a higher purchase cost under the state contract. Another disadvantage would be that we have to contract for spring sweeping with a private vendor. A third disadvantage would be the sweeper would not be available for other clean-ups, including a fall sweeping.

Staff would like the Council’s direction as to how you want us to proceed.

AMENDED

JOINT POWERS AGREEMENT  
CITY OF LITTLE CANADA – CITY OF FALCON HEIGHTS

Process for Joint Purchase/Operation of  
Street Sweeper

A. PARTIES

This Agreement is entered into pursuant to Minn. Stat. Section 471.59 between the City of Falcon Heights (Falcon Heights) and the City of Little Canada (Little Canada), both Minnesota municipal corporations within Ramsey County, Minnesota.

B. PURPOSE

The purpose of this agreement is to define the process by which a regenerative air street sweeper will be jointly acquired, operated, and financed by the municipalities in an attempt to generate cost savings and efficiencies not available to each city acting individually.

C. AGREEMENT

Now, therefore, in consideration of the mutual undertakings herein expressed, Falcon Heights and Little Canada agree as follows:

1. Purchase Process

Little Canada will oversee the purchase of the street sweeper in consultation with Falcon Heights. The following provisions shall guide the purchase:

- a. A 2009 Elgin Crosswind J+/M2 regenerative air sweeper on a Freightliner M2 chassis shall be purchased utilizing the State of Minnesota's Cooperative Purchasing Venture pricing.

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- b. The purchase price shall be ~~\$163,934~~ ~~\$154,289~~ plus sales tax of ~~\$10,655.72~~ ~~\$10,028.79~~ for a total price of ~~\$174,589.72~~ ~~\$164,317.79~~.
- c. The options to be included on the sweeper shall consist of the following:
  - ✓ Dual Air Ride High Back Cloth Seats
  - ✓ In Cab Hopper Dump
  - ✓ Air Dryer
  - ✓ AM/FM CD Radio
  - ✓ Right Hand Gutter Broom Tilt
  - ✓ El. Hydraulic Pump
  - ✓ Hopper Inspection Door with Step & Handle
  - ✓ Strobe
  - ✓ S/S Heated Power Mirrors
  - ✓ LED Light Package
  - ✓ Hopper Deluge
  - ✓ Anti-Siphon
- d. The City Councils of both Little Canada and Falcon Heights are approving the purchase of the street sweeper by their approval of this agreement.
- e. The street sweeper shall be purchased as soon as practical with the goal of having it available for operation during the 2009 sweeping season ~~by no later than April 1, 2009~~. Falcon Heights and Little Canada shall be joint owners of the sweeper and title to the sweeper shall indicate same.

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2. Operations and Maintenance

- a. The sweeper will be housed primarily in Little Canada. When in use at Falcon Heights, Falcon Heights shall provide suitable, indoor protection for the sweeper.
- b. Each city will be responsible for the dumping of its respective debris including any costs and liabilities associated with same.
- c. The Public Works Superintendents for each city shall jointly establish a daily schedule for the operator(s) of the sweeper to follow to ensure the sweeper is properly maintained.

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- d. Little Canada will be responsible for all maintenance of the sweeper beyond that needed for daily operation. Little Canada will follow the maintenance guidelines established for the sweeper by the manufacturer and provide documentation of same. Should Falcon Heights be aware of any maintenance or repairs needed on the sweeper beyond daily maintenance, they shall promptly inform Little Canada of same. In no event shall either city operate the sweeper if maintenance or repairs are needed that could result in damage to the sweeper.
- e. Each city shall designate at least one person to be trained on the operation and maintenance of the sweeper from the vendor/manufacturer. Any new operator shall be properly trained by their respective city. In no event shall an employee operate the sweeper who has not been properly trained. Each city shall document the training received by each employee.
- f. The Public Works Superintendents of each city shall jointly establish a sweeping schedule for the coming year. Spring sweeping shall commence as soon as weather permits. Falcon Heights shall have the first usage of the sweeper for spring sweeping in odd-numbered years and Little Canada in even-numbered years. Nothing in this agreement will prevent the respective Public Works Superintendents from modifying these arrangements when they deem it mutually beneficial. Furthermore, each city will cooperate with the other to accommodate special or emergency needs that could not have been anticipated.
- g. Little Canada shall insure the street sweeper either through the League of Minnesota Cities Insurance Trust or another insurer agreed upon by both parties.
- h. Should the sweeper be damaged as a result of negligence on the part of the operator, then the City whose operator caused the

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negligent act shall be responsible for the costs to repair said damage. Should a negligent act of Falcon Heights result in an insurance claim, then Falcon Heights shall be responsible for reimbursing Little Canada for any additional costs incurred as a result of the insurance claim based on calculations provided by the carrier documenting the additional cost including lost dividend income.

3. Financial Relationship and Responsibilities

- a. Little Canada shall issue the full payment for the street sweeper based on the terms of purchase. Falcon Heights shall remit its share of the purchase price within five (5) days of Little Canada's remittance to the vendor. Little Canada shall provide copies of all invoices or other records deemed necessary by Falcon Heights relative to the purchase.
- b. The cost of acquisition shall be divided between the two parties based on lane miles of streets within each City. Falcon Heights' lane miles equal 39.06 miles. Little Canada's lane miles total 73.75. Based on this information, the initial costs of acquisition shall be divided between the two cities with Falcon Heights paying 34.62% (~~\$60,442.96~~<sup>56,886.82</sup>) of the total acquisition cost and Little Canada paying the remainder (~~\$114,146.76~~<sup>107,430.97</sup>).
- c. Little Canada will be responsible for primary maintenance and will establish a separate general ledger account to track costs associated with the operation of the sweeper. (The costs of the operator will not be included in the operating account if each city hires its own operator.) Costs to be included in the operation account will be fuel, oil, tires, brooms, repair costs, parts, supplies, and labor related to the maintenance/repair of the sweeper, staff time expended for maintenance activities not associated with daily operations charged at hourly rates with benefits, insurance,

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contracted maintenance, cleaning, etc. To the extent that Falcon Heights incurs these costs in association with its usage of the sweeper, they shall provide copies of invoices documenting said expenses; the total of which shall also be accounted for in the final allocation of costs. The final allocation of costs shall be based upon a proration of hours of use by each city, including travel time, as documented by the sweeper's hour meter. These costs will be prorated between the cities based on hours of use including travel time. In consideration of Little Canada's advancing of the majority of costs for operation and maintenance, Falcon Heights shall be responsible for travel from and to Little Canada when they utilize the sweeper. Both cities pledge their cooperation to resolving any logistical issues associated with this provision and will endeavor to manage expenses in a cost effective manner.

D. INDEMNIFICATION & HOLD HARMLESS

Falcon Heights agrees to defend, indemnify, and hold harmless Little Canada against any and all claims, liability, loss, damage, or expense arising under the provisions of this Agreement and caused by or resulting from negligent acts or omissions of Falcon Heights and Falcon Heights' employees or agents. Little Canada agrees to defend, indemnify, and hold harmless Falcon Heights against any and all claims, liability, loss, damage, or expense arising under the provisions of this Agreement for which Little Canada is responsible and Little Canada's employees or agents. All parties to this agreement recognize that liability for any claims arising under this agreement are subject to the provisions of the Minnesota Municipal Tort Claims Law; Minnesota Statutes, Chapter 466. In the event of any claims or actions filed against either party, nothing in this agreement shall be construed to allow a claimant to obtain separate judgments or separate liability caps from the individual parties.

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E. WAIVER.

Any and all persons engaged in the work to be performed by Falcon Heights shall not be considered employees of Little Canada for any purpose, including Worker's Compensation, or any and all claims that may or might arise out of said employment context on behalf of said employees while so engaged. Any and all claims made by any third party as a consequence of any act or omission on the part of said Falcon Heights employees while so engaged on any of the work contemplated herein shall not be the obligation or responsibility of Little Canada. The opposite situation shall also apply: Falcon Heights shall not be responsible under the Worker's Compensation Act for any employees of Little Canada.

F. DISPUTE RESOLUTION

Any dispute under this Agreement shall first be discussed between the Mayor and City Administrator of each respective City within ten (10) days of written notice from one city to the other. Should the joint discussion not result in the resolution of the issue, then the dispute shall be arbitrated by Little Canada and Falcon Heights under the auspices of the American Arbitration Association. It is understood that each party will bear its own respective costs resulting from these proceedings. It is further understood that each party shall be responsible for one-half of the costs imposed by the American Arbitration Association.

G. DURATION OF AGREEMENT

This Agreement shall continue for an indefinite term. Either party may terminate this agreement with 12 months written notice to the other. The City cancelling this agreement shall be paid its share (as outline in provision 3.b. of this agreement) of the depreciated value of sweeper. The value of the sweeper shall be determined by a qualified appraiser at the effective date of cancellation with said appraiser to be mutually agreed upon by both cities



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H. SUCCESSORS BOUND

This Agreement shall be binding upon and inure to the benefit of any successor governmental subdivision of the parties.

I. COMPLETENESS OF THE AGREEMENT

This document contains all the terms and conditions of this Agreement, and any alterations or variations of the terms of this Agreement shall be invalid unless made in writing and signed by the parties. There are no other understandings, representations or agreements, written or oral, not incorporated herein. If any part of this Agreement is declared null and void by law, the remaining paragraphs of said Agreement shall be valid.

J. NOTICES

Whenever it shall be required or permitted by this Agreement that notice or demand be given or served by either party to or on the other party, such notice or demand shall be delivered personally or mailed by United States mail to the addresses hereinafter set forth by certified mail. Such notice or demand shall be deemed timely given when delivered personally or when deposited in the mail in accordance with the above. The addresses of the parties hereto for such mail purposes are as follows, until written notice of such address has been given:

City Administrator  
City of Falcon Heights  
2077 W. Larpenteur Avenue  
Falcon Heights, MN 55113

City Administrator  
City of Little Canada  
515 Little Canada Road East  
Little Canada, MN 55117

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IN WITNESS WHEREOF, Little Canada and Falcon Heights have caused this Agreement to be executed by authority of their respective city councils and have caused their corporate seals to be affixed.

Pursuant to Council authorization granted at Council meeting held on the \_\_\_\_\_ day of ~~March~~ January, 2009.

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CITY OF FALCON HEIGHTS

BY: \_\_\_\_\_  
Peter Lindstrom, Mayor

(SEAL)

BY: \_\_\_\_\_  
Justin Miller, City Administrator

Pursuant to Council authorization granted at Council meeting held on the \_\_\_\_\_ day of ~~March~~ January, 2009.

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CITY OF LITTLE CANADA

BY: \_\_\_\_\_  
William Blesener, Mayor

(SEAL)

BY: \_\_\_\_\_  
Joel R. Hanson, City Administrator