

**HARDIN COUNTY FISCAL COURT  
RESOLUTION NO. 2021-114**

**BE IT RESOLVED**, upon recommendation of Judge/Executive Harry L. Berry, with concurrence of the Resources & Community Support Committee to approve the bid and agreement from Guardian Cleaners for the Hardin County Janitorial Services in the amount of \$113,900 annually.

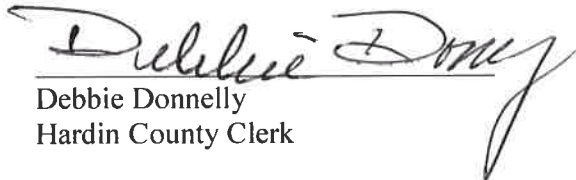
**BE IT FURTHER RESOLVED**, to authorize Judge/Executive Harry L. Berry to negotiate the terms and conditions and to execute any contracts.

**ADOPTED**, by the Hardin County Fiscal Court in its regular meeting on 22 June 2021.



Harry L. Berry  
Hardin County Judge/Executive

ATTEST:



Debbie Donnelly  
Hardin County Clerk

**JANITORIAL CONTRACT  
AT HARDIN COUNTY LOCATIONS**

This Agreement is made and entered into this 1<sup>st</sup> day of July 2021, by and between Hardin County, Kentucky, by and through its duly elected Fiscal Court, hereinafter referred to as "County", and **Guardian Cleaners, LLC**, 24 East Anjou Court, Elizabethtown, KY, a Kentucky limited liability company, hereinafter referred to as "Contractor" (each of the County and Contractor may be referred to herein individually as a "Party" and collectively as "Parties").

WITNESSETH:

WHEREAS, the County issued its Request for Proposal: Hardin County Janitorial Services RFP NO: 2021-025 dated May 30, 2021 (the "RFP"); and

WHEREAS, the Contractor submitted its proposal to the County in response to the RFP on May 30, 2021 (the "Proposal") and was subsequently awarded this contract to provide janitorial services at Hardin County Government facilities pursuant to Resolution 2021-114 of the Hardin County Fiscal Court adopted on the 22<sup>nd</sup> day of June 2021 (the "Resolution"); and

WHEREAS, the County has complied with applicable competitive procedures and the Kentucky Constitution and all applicable statutes concerning the awarding of this Agreement; and

**NOW, THEREFORE**, for and in consideration of the mutual promises, agreements and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby contract and agree as follows, to wit:

I. PERFORMANCE OF SERVICES

The Parties hereby agree that Contractor shall provide building maintenance at Hardin County Government facilities pursuant to **Exhibit A** (Performance Work Statement) and **Exhibit B** (RFP 2020-032) in this agreement, both of which are incorporated by reference and made a part of this agreement. Should there be additions or deletions to Hardin County Government facilities contained in Exhibit A, pricing may adjust as set out in Section III. C.

II. TERM AND TERMINATION

The term of this Agreement shall be for a term of five (5) years from the start date of July 1, 2021. This contract may be renewed upon the identical terms, including pricing and scope of services, up to the constitutional maximum of 4 terms (5 years x 4 terms) prior to being rebid.

If the Contractor shall fail to perform services in an adequate manner as determined in the County's sole judgement, the County shall provide the Contractor notice and an opportunity to cure. The Contractor shall have 30 days from the notice to cure performance. Upon contractors failure to cure its performance or abandonment of performance, the County may perform or contract for performance of the services and charge those costs to the Contractor.

This agreement may be terminated by either party for any reason, or no reason, by providing ninety (90) days' written notice to the other party.

### III. PAYMENT

- A. The fees to be paid by the County to the Contractor for Hardin County Government janitorial shall be \$113,900.00 annually for the duration of the agreement. The Contractor may request an increase during the term of the contract, with at least thirty (30) days' notice, in the event of a government mandated minimum wage increase, a tax increase or other mandatory governmental action creating an increase in cost to the contractor. If the County and Contractor are unable to agree to the cost increase request, either party may terminate the agreement with ninety (90) days' notice.
- B. The Contractor shall not include any state or local taxes in the prices it charges the County.
- C. The Parties agree that there may be some minor changes to the scope of services to that set out in the RFP. Such changes may include, but are not limited to, service sites being added or deleted or the type of service needed at a particular location. If the value of the change is greater than ten percent (10%) of the total project cost or if the change in the square footage to be serviced is more than a 10% change, the Parties agree to meet with the authorized representatives of the Contractor and the County to determine an equitable adjustment of the fees paid to the Contractor.
- D. The County shall pay the Contractor in accordance with its normal payment practices and schedule. The Contractor by signature hereto indicates that the Contractor has been provided appropriate information regarding the payment process and agrees to that process.

### IV. MISCELLANEOUS

The Contractor shall comply with all applicable federal, state and local occupational safety and health requirements and standards.

### V. WAIVER AND RELEASE

The Contractor releases and forever discharges and holds harmless the County above from any and all liability, claims, and demands of whatever kind or nature, either in law or in equity, which arise or may hereafter arise from the services provided by the Contractor under this agreement, including those which occur on county property. In no event shall the Contractor or the Contractor's employees be considered an employee of the County for any purpose. The Contractor shall indemnify the County for any claim, settlement, or judgment rendered against the County as a result of this contract be either the employees of the Contractor or the public at large.

### VI. INSURANCE

The Contractor shall purchase and maintain insurance with an insurance company licensed to do business in the State of Kentucky, to remain at all times during the term

of any contract with the County, in full force and effect. The Contractor shall provide for insurance at its own expense. The professional liability insurance coverage shall be designed to specifically provide coverage for claims that may arise out of or result from the Contractor's acts, errors, or omissions performing the execution of their professional work, whether such execution be by the Contractor, its employees, agents, or by anyone for whose acts the Contractor may be held liable. The General Liability, Professional Liability and Contractor's Pollution and Professional Liability policies must name Hardin County as an additional insured, with a certificate of insurance provided to the County, providing minimum limits of coverage as follows:

- a) General Liability: \$1,000,000 each occurrence
- b) Professional Liability (E&O): \$1,000,000 each occurrence (or per claim)
- c) Auto Liability: \$1M combined single limit
- d) Workers Compensation: Part A – Statutory Limits; Part B -- \$1,000,000
- e) Umbrella Liability: \$1M each occurrence

## VII. TRANSFERS

### 7.1 Modification

- A. Either party may seek a modification of this Agreement consistent with the accepted bid.
- B. All requests for modifications shall be made in writing to each party's designated representative.
- C. The Contractor shall furnish, upon the County's request, information, documents, data and other applicable items pertaining to its request.

### 7.2 Transfers

- A. The Contractor shall not assign, transfer, or convey this Agreement, or its rights, duties or obligations hereunder, without prior written consent of the County. Any attempt to assign, transfer, or convey any part of this Agreement without the approval of the County shall render this Agreement void.
- B. The Contractor may not subcontract with a separate entity to perform any service encompassed by this Agreement without the approval of the County. Any attempt to subcontract with a separate entity to perform service encompassed by this Agreement without County approval shall render this Agreement voidable.
- C. When seeking the County's approval for a transfer, assignment or conveyance of this Agreement, or approval of a subcontract, the Contractor must provide, upon the County's request, information relating to the contemplated transfer, assignment, conveyance or subcontract.

## VIII. INTERPRETATION AND CONSTRUCTION OF THIS AGREEMENT

### 8.1 Complete Agreement

This Agreement, along with Exhibits A and B constitute the entire agreement and understanding between the parties hereto, and replaces, cancels and supersedes any prior agreements and understandings relating to the subject matter hereof.

### 8.2 Governing Law

This Agreement is executed in the Commonwealth of Kentucky and all matters pertaining to the validity, construction, interpretation and effect of this Agreement shall be governed by the laws of the Commonwealth of Kentucky.

### 8.3 Construction

Should any provision of this Agreement require interpretation or construction, it is agreed by the parties hereto that the entity or party interpreting or constructing this Agreement shall not apply a presumption that the provisions hereof shall be more strictly construed against one party than another by reason of the rule of construction that a document is to be more strictly construed against the party who itself or through its agent prepared the same. The headings or sections and subsections are for convenience only and shall not affect or control the meaning or construction of any of the provisions of this Agreement.

### 8.4 Notices

- A. All notices, requests, demands or other communications required under this Agreement shall be made in writing and shall be served by hand delivery or by placing such in the United States Mail, certified mail, return receipt requested and bearing adequate postage. Each notice shall be effective upon receipt. Rejection, refusal to accept or the inability to deliver because of changed address or status shall be deemed to be receipt of the notice sent.
- B. The Contractor shall notify the Hardin County Buildings & Grounds Director of any change of address or change of personnel to whom all notices, requests, demands or other communications should be directed.

### 8.5 Severability

In the event that any term, provision, or covenant hereunder shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain valid and enforceable by any party, and the invalid or unenforceable covenant shall automatically be deemed modified and amended to provide for the maximum rights available under applicable law to the party who is the beneficiary of the covenant in question.

### 8.6 Third Parties

Nothing in this Agreement, express or implied, is intended to confer any right or

remedies on any person other than the parties expressly named herein and their respective permanent successors, assigns and legal representatives.

8.7 Authority of Parties

The individuals who have executed this Agreement on behalf of the respective parties expressly represent and warrant that they are authorized to sign on behalf of such entities for the purpose of daily binding such entities to this Agreement.

8.8 Not a Public Utility or Facility

The Contractor acknowledges and understands that this Contract does not confer on the Contractor any immunities from any zoning regulations or provide any other governmental immunities or privileges; does not confer on any facilities owned or operated by the Contractor the status of "Public Facility" as defined in KRS 100.111 (19); and does not confer on the Contractor any special status equal to, or as a subdivision of, Hardin County, Kentucky, or any other governmental status.

IN TESTIMONY WHEREOF, the County has caused this Agreement to be executed for and on its behalf by its duly authorized Judge-Executive and attested by the Hardin County Clerk and the Contractor executes the same by the co-owners of the Contractor as named herein below.



Harry L. Berry  
Hardin County Judge-Executive

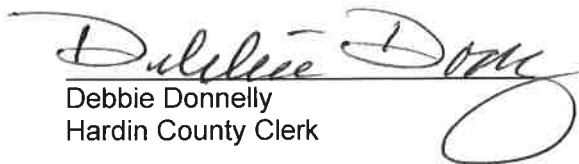


Mark Nelson  
Co-Owner  
Guardian Cleaners, LLC



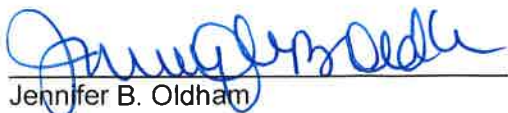
Phon Phoutharansy  
Co-Owner  
Guardian Cleaners, LLC

Attest:



Debbie Donnelly  
Hardin County Clerk

Reviewed:



Jennifer B. Oldham  
Hardin County Attorney