

## REQUEST FOR COUNCIL ACTION

**SUBJECT:** Milling and Sweeping Contract

**SUMMARY:** Approve an Agreement with NPL Construction for Milling and Sweeper services in an amount not-to-exceed \$66,720.00.

**FISCAL**

**IMPACT:** The funds for this project are available in the Road Capital Account.

**STAFF RECOMMENDATION:**

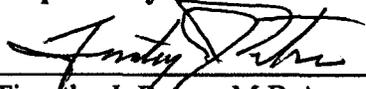
Staff recommends approval of an Agreement with NPL Construction for Milling and Sweeper services in an amount not-to-exceed \$66,720.00

**MOTION RECOMMENDED:**

"I move to adopt Resolution No. 15-57 authorizing the Mayor to execute an Agreement with NPL Construction for Milling and Sweeper services in an amount not-to-exceed \$66,720.00.

Roll Call vote required

**Prepared by:**

  
\_\_\_\_\_  
Timothy J. Peters, M.B.A.  
Public Services Manager

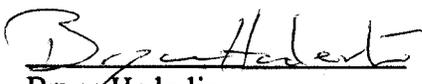
**Reviewed by:**

  
\_\_\_\_\_  
Wendell T. Rigby, P.E.  
Director of Public Works

**Reviewed as to Legal Sufficiency:**

  
\_\_\_\_\_  
Jeffery Robinson  
City Attorney

**Recommended by:**

  
\_\_\_\_\_  
Bryce Haderlie  
Interim City Manager

## **BACKGROUND DISCUSSION:**

The city solicited bids for the milling operation associated with the proposed in-house paving work to be completed this summer. The city does not possess a milling machine. The milling machine is used to remove a portion of the existing asphalt, prior to the placement of a new layer of asphalt by city staff. After the asphalt is milled and prior to the placement of the next layer of asphalt, the streets are swept. The bids include a milling machine with an operator and a sweeper with an operator.

For the purpose of the bids the city estimated 9 mobilization events and approximately 170 hours of work, although actual quantities will vary because the exact quantities are not known at this time.

The bid was advertised in the classified ads of local newspapers prior to the bid opening on Thursday, March 5, 2015. The Invitation for Bid became available to contractors from the West Jordan City Purchasing Division February 10, 2015. Bids were received from six contractors (see attached bid tabulation) with NPL Construction being the low, responsible bidder.

The city will provide trucks, drivers and traffic control for the milling operation. The asphalt millings will remain the property of West Jordan.

### **Attachments:**

- Resolution
- Agreement
- Bid Tabulation

**THE CITY OF WEST JORDAN, UTAH  
A Municipal Corporation**

**RESOLUTION NO. 15-57**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN  
THE CITY AND NPL CONSTRUCTION**

Whereas, the City Council of the City of West Jordan has received bids for the Asphalt Milling Machine and Sweeper with Operators, with the low, responsible bid being from NPL Construction in the amount not to exceed \$66,720.00; and

Whereas, the City Council desires to award the contract to NPL Construction which award shall not be binding upon the City of West Jordan unless and until the contract is fully executed by the parties; and

Whereas, the proposed contract between the City of West Jordan and NPL Construction (a copy of which is attached as **Exhibit A**) for the Asphalt Milling Machine and Sweeper with Operators has been reviewed; and

Whereas, the City Council of the City of West Jordan has determined that the attached contract with NPL Construction for Asphalt Milling Machine and Sweeper with Operators is acceptable for an amount not to exceed \$66,720.00.

NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF WEST JORDAN, UTAH:

- Section 1. The agreement for the Asphalt Milling Machine and Sweeper with Operators is hereby awarded to NPL Construction which award shall not be binding upon the City of West Jordan until the contract is fully executed by the parties.
- Section 2. Agreement between the City of West Jordan and NPL Construction in the amount of \$66,720.00; and
- Section 3. This Resolution shall take effect immediately.

Adopted by the City Council of West Jordan, Utah, this 25<sup>th</sup> day of March 2015.

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Kim V. Rolfe  
Mayor

ATTEST:

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Melanie S. Briggs  
City Recorder

**THE CITY OF WEST JORDAN, UTAH  
A Municipal Corporation**

**RESOLUTION NO. 15-57**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN  
THE CITY AND NPL CONSTRUCTION**

Voting by the City Council	"AYE"	"NAY"
Jeff Haaga	_____	_____
Judy Hansen	_____	_____
Chris McConnehey	_____	_____
Chad Nichols	_____	_____
Ben Southworth	_____	_____
Mayor Kim V. Rolfe	_____	_____

# CITY OF WEST JORDAN CONTRACT

1. CONTRACTING PARTIES: This contract is between the City of West Jordan, a municipality and political subdivision of the State of Utah and the following CONTRACTOR:

**Name and Address of Contractor**

NPL Construction  
3110 W Directors Row  
Salt Lake City, UT 84104

**LEGAL STATUS OF CONTRACTOR**

- Sole Proprietor
- Non-Profit Corporation
- For-Profit Corporation
- Partnership
- Government Agency
- Limited Liability Company

Federal Tax ID# 88-6003998

- 2. GENERAL PURPOSE OF CONTRACT: The general purpose of this contract is to provide asphalt milling machine and sweeper with operators for both machines.
- 3. PROCUREMENT: This contract is entered into as a result of the Invitation for Bids which was submitted to the City on 03/05/2015 by the contractor.
- 4. CONTRACT PERIOD: **Effective date:** 05/01/2015 **Termination date:** 10/31/2015, unless terminated early or extended in accordance with the terms and conditions of this contract.
- 5. CONTRACT COSTS: CONTRACTOR will be paid a maximum of \$66,720.00 for costs authorized by this contract.
- 6. INSURANCE: The contractor shall maintain not less than: (a) \$1,000,000.00 automobile insurance, (b) \$1,000,000.00 general liability insurance with \$3,000,000.00 general aggregate, and (c) worker's compensation as required by state statute, during the duration of this contract.
- 7. ATTACHMENT A: Standard Terms and Conditions  
ATTACHMENT B: Scope of Work/Invitation to Bid  
ATTACHMENT C: Insurance Certificate – Naming the City, its officers, employees, and volunteers as additional insured with respect to liability.  
ATTACHMENT D: Payment Bond – *Not Required*  
ATTACHMENT E: Performance Bond – *Not Required*  
ATTACHMENT F: Workers Compensation Certificate

**Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.**

- 8. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
  - a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
  - b. City of West Jordan's Procurement Policies, and the Invitation for Bids (IFB) which was submitted to the City on 03/05/2015 by the contractor.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

**CONTRACTOR**

**CITY OF WEST JORDAN**

\_\_\_\_\_  
Contractor's signature

\_\_\_\_\_  
Mayor's signature

\_\_\_\_\_  
Type or Print Name and Title

**Attest:**

**Approved As To Form:**

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



## ATTACHMENT A: STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this Contract are pursuant to the authority set forth in the West Jordan Municipal Code Section 2-7-301 et seq. Mandatory applicable state and federal law and regulations also apply.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this Contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake County.
3. **RECORDS ADMINISTRATION:** The CONTRACTOR shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the CONTRACTOR for costs authorized by this contract. These records shall be retained by the CONTRACTOR for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later.
4. **AUDIT OF RECORDS:** The CONTRACTOR agrees to allow City, State, and Federal auditors, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the City of West Jordan, unless disclosure has been made in accordance with City ordinances and policies. Further, contractor certifies that it has not offered or given any gift or compensation prohibited by local, state, or federal law, to any officer or employee of the City of West Jordan to secure favorable treatment with respect to being awarded this Contract.
6. **INSURANCE:** The contractor shall maintain not less than: (a) \$1,000,000.00 automobile insurance, (b) \$1,000,000.00 general liability insurance with \$3,000,000.00 general aggregate, and (c) worker's compensation as required by state statute, during the duration of this contract.
7. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** Contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind the City of West Jordan to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for the City, except as expressly set forth herein. The CONTRACTOR shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the CITY for these contract services. Persons employed by the CITY and acting under the direction of the CITY shall not be deemed to be employees or agents of the CONTRACTOR.
8. **INDEMNITY CLAUSE:** The CONTRACTOR agrees to indemnify, save harmless, and release the CITY OF WEST JORDAN, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the CONTRACTOR'S officers, agents, volunteers, or employees, but not for claims arising from the City's sole negligence.
9. **EQUAL OPPORTUNITY CLAUSE:** The CONTRACTOR agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the CONTRACTOR agrees to abide by Utah's Executive Order, dated June 30, 1989, which prohibits sexual harassment in the work place.
10. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
11. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the parties hereto, and attached to the original signed copy of the contract.
12. **DEBARMENT:** The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the City.
13. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 30 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
14. **SALES TAX EXEMPTION:** The City of West Jordan's sales and use tax exemption number is E39555. The tangible personal property or services being purchased are being paid from City funds and used in the exercise of the City's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of the City.
15. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products or services that it licenses, contracts, or sells to the City of West Jordan under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product or services will do what the salesperson said it would do, (2) the product or services will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product or services will be suitable for the ordinary purposes for which such product is used, (4) the product or services will be suitable for any special purposes that the City of West Jordan has relied on the contractor's skill or judgment to consider when it advised the City about the product or services, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the City has not been warned. Remedies available to the City of West Jordan include the following: The contractor will repair or replace (at no charge to the City) the product or services whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product or services proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the City of West Jordan may otherwise have under this contract or provided under the Uniform Commercial Code of the State of Utah.

**ATTACHMENT B: SCOPE OF WORK**

## INVITATION FOR BIDS

### RETURN BIDS TO:

CITY OF WEST JORDAN  
City Recorder's Office  
8000 South Redwood Road  
West Jordan, Utah 84088

BID NO.:

DUE DATE: **03/5/2015**  
**2:00 pm sharp**

### Contractor Provided Asphalt Milling Machine and Sweeper and Operators for Both

#### Please Complete:

Company Name:	<u>NPL Construction</u>	Contact Person:	<u>Cory Opheikens</u>
Phone Number:	<u>801-786-9427</u>	Fax Number:	<u>801-972-1410</u>
Address (orders):	<u>3110 West Directors Row</u>	City:	<u>Salt Lake</u> State: <u>UT</u> Zip: <u>84104</u>
Remit Address:	<u>3110 West Directors Row</u>	City:	<u>Salt Lake</u> State: <u>UT</u> Zip: <u>84104</u>
Email Address:	<u>copheikens@gonpl.com</u>	Fed Tax ID #:	<u>88-6003998</u>

The City of West Jordan, Utah is seeking bids for a supplier to furnish an asphalt milling machine, sweeper and operators for both.

The milling and sweeper shall comply with APWA 2012 specifications.

The milling machine will be mobilized an estimated 9 times between May 2015 and October 2015.

Last year staff utilized a milling machine for approximately 170 hours.

The numbers listed above are estimates for bidding purposes only - actual quantities will vary depending upon the need. Some streets will be milled full width, while others will be an edge mill.

Exceptions to the specifications (if any) must be listed on a separate sheet marked "exceptions" and shall explain in writing each exception taken.

A minor exception, if taken and fully explained to the satisfaction of the West Jordan Public Works Department, will not necessarily be cause for rejection of the bid.

Questions regarding the procurement process to: Paul Wellington, Purchasing Agent e-mail: paulwe@wjordan.com.

Questions concerning the specifications may be directed to: Tim Peters, timp@wjordan.com.

only written changes to the specifications in the form of an addendum will be considered in the bid evaluation.

Sealed bids will be received the City of West Jordan, City Recorder's Office, 8000 South Redwood Road, West Jordan, Utah 84088 until March 5 at 2:00 P.M. at which time they shall be publicly opened and read aloud.

Bids, modifications, or corrections received after the closing time on the "Due Date" will be considered late and will not be opened.

Facsimile transmitted bids or emailed bids will not be considered.

It is the intention of the City to issue a purchase order to the lowest responsive and responsible bidder that meets the bid specifications, with reasonable promptness; however, the City does not guarantee to make any award based upon this IFB.

**Bids will only be considered if they are submitted on the forms provided by the City.**

#### **SCOPE OF WORK**

- \* All work shall be in compliance with the 2012 Edition of APWA specifications
- \* Refer to Section 32 01 16.71 Cold Milling Asphalt Paving

- \* Staff estimates that the milling and sweeping operation will be mobilized an estimated nine (9) times this season between May, 2015 and October 2015.
- \* Contractor must provide their own water meter for the fire hydrants to fill the milling machine.
- \* The milling machine shall have the ability to directly load the City's 10-wheelers and bobtail trucks
- \* The asphalt millings shall remain the property of the City of West Jordan
- \* The milling machine shall mill the existing pavement to smooth out irregularities, or to lower surface elevation for future overlay construction.
- \* The City of West Jordan will provide traffic control for the milling operation.
- \* The milling machine operator and sweeper operator shall halt their operation immediately and notify the City of West Jordan Streets Superintendent if there are any deficiencies in the traffic control and have those issues appropriately addressed/corrected, prior to continuing their operation.
- \* The City of West Jordan will provide notifications to the neighborhood.
- \* The City of West Jordan will provide tree pruning in accordance with the City's Municipal Code.
- \* The milling operator shall meet cross slopes and depth of milling as directed by the Streets Superintendent.
- \* Streets shall be swept immediately following the asphalt milling operation.\*
- \* Streets shall be swept clean of all loose asphalt and debris.
- \* Contractor shall provide traffic control/barricades, etc. for any of their equipment left at the site overnight.
- \* Contractor is liable for any property damage due to loose material on pavement surface, vertical cuts, drop offs, etc.
- \* The lowering of utilities will be performed by others.
- \* The milling operator shall not disfigure adjacent work or existing surface improvements by accidentally cutting into them - if such disfigurements take place, restoration shall be the responsibility of the milling contractor.
- \* Please see the attached map for the proposed streets to be paved - however, this is no guarantee of paving to be completed. The City of West Jordan will **not** be responsible for equipment "down time" unless it is the result of buried/covered utilities. General maintenance of the equipment shall not be billed to the City

**NOTE:**

- The selected contractor shall at all times maintain a current workers compensation insurance policy for all employees of contractor in accordance with State of Utah statute.
- The selected contractor shall at all times maintain a general liability insurance policy in the amount of \$1,000,000 dollars (minimum) per occurrence for bodily injury, personal injury, and property damage.
- The selected contractor shall at all times maintain a general automotive insurance policy in the amount of \$1,000,000 dollars (minimum) per occurrence for bodily injury, personal injury, and property damage.
- The selected contractor's insurance shall at all times name the City, its officers, employees, and volunteers as additional insured with respect to liability arising from any contract that results from this bid.

**PRICING:**

*The numbers listed above are estimates for bidding purposes only - actual quantities will vary depending upon the need.*

Estimated Quantity	Unit	Cost Each	Description	Subtotal
9	Each	\$500.00	Mobilization	\$ 4,500.00
170	Hour	\$366.00	Milling and Sweeping Operation	\$62,220.00
<b>Total</b>				<b>\$ 66,720.00</b>

**Protected Information**

The Government Records Access and Management Act (GRAMA)  
Utah Code Ann., Subsection 63G-2-305,

GRAMA provides that trade secrets, commercial information or non-individual financial information may be protected by submitting a Claim of Business Confidentiality.

To protect information under a Claim of Business Confidentiality, the bidder must:

1. Provide a written Claim of Business Confidentiality at the time the information (proposal) is provided to West Jordan, and
2. Include a concise statement of reasons supporting the claim of business confidentiality (Subsection 63G-2-309(1)).

3. Submit an electronic "redacted" (excluding protected information) copy of your proposal response. Copy must clearly be marked "Redacted Version."

A Claim of Business Confidentiality may be appropriate for information such as client lists and non-public financial statements. Pricing and service elements may not be protected. An entire proposal may not be protected under a Claim of Business Confidentiality. The claim of business confidentiality must be submitted with your proposal on the form which may be accessed at:

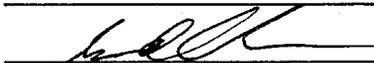
<http://www.purchasing.utah.gov/contract/documents/confidentialityclaimform.doc>

To ensure the information is protected, the bidder must clearly identify in the Executive Summary and in the body of the proposal any specific information for which a bidder claims business confidentiality protection as "PROTECTED".

All materials submitted become the property of West Jordan, Utah. Materials may be evaluated by anyone designated by West Jordan as part of the proposal evaluation committee. Informative Materials submitted may be returned only at West Jordan's option.

Bidder's Name: Brad Coleman for NPL Construction

Title: Superintendent

Signature: 

Date: 3/4/2015

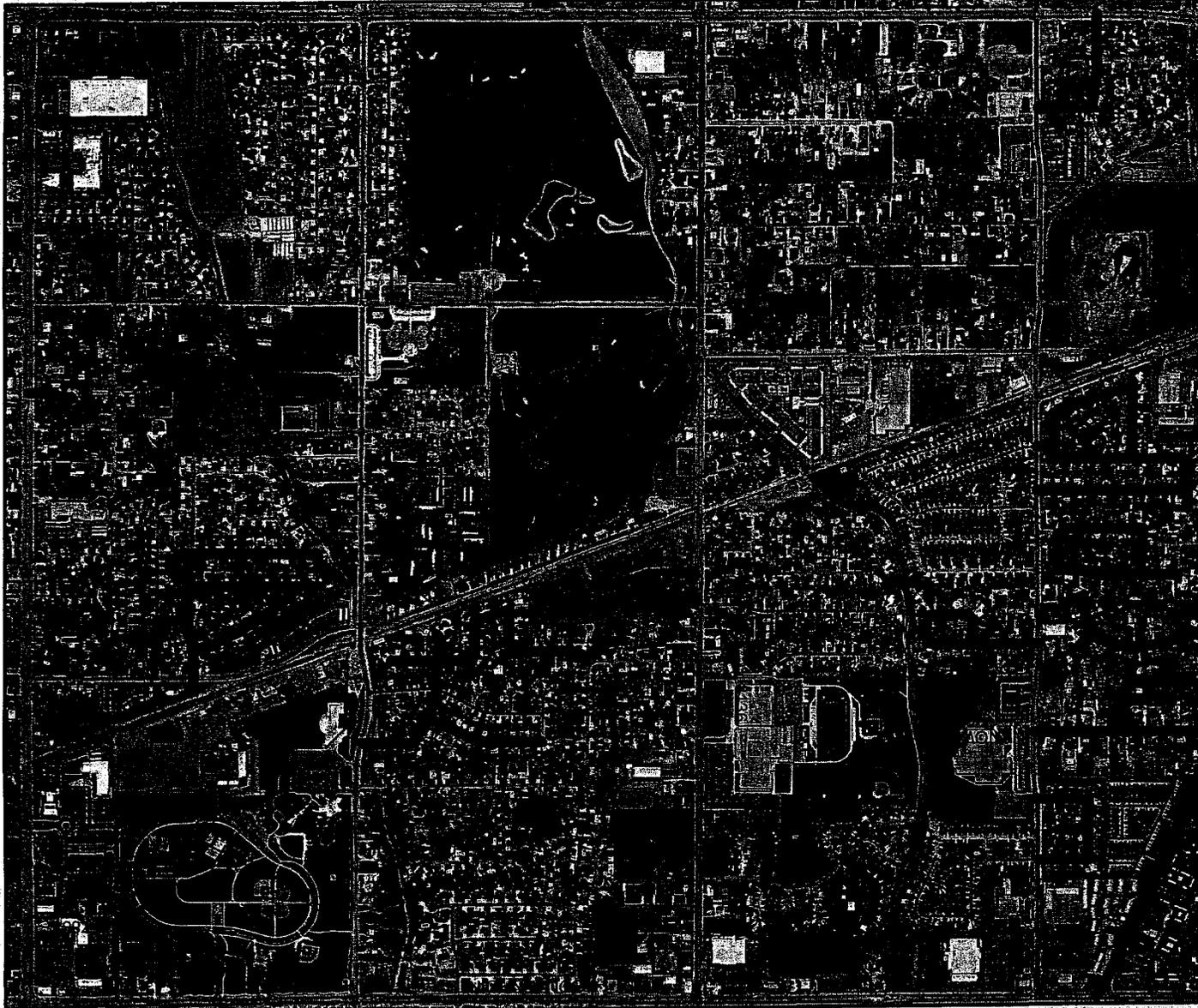


**3110 West Directors Row, SLC, UT 84104**  
**Phone: 801-972-1310 Fax: 801-927-1410**

**Exceptions:**

- Estimate based on asphalt accessible to rotomill. Hand work not included.
- NBC not responsible for inaccessible areas: Directly next to building walls, pavement corners, parking island/curbs, light poles, and areas inaccessible due to vegetation.
- Estimate does not include any concrete grinding. Mill will not plane concrete.
- City to locate all buried utilities and lower all valves and manholes prior to milling, downtime charges for all utility hits will apply.
- City to protect storm drain inlets to prevent milled material from entering if required.
- Downtime to be charge at \$366.00 per hour as a result of buried/covered utilities.
- This quote does not include payment and performance bonds. (available for extra)
- City to provide all surveying, utility locates, and on grade layout (to include mark grades) prior to milling.
- Mobilizations will be charged if milling does not occur on consecutive days and mill is moved off site.
- Certified wages have not been applied to this project

# 2015 City Overlay Projects



**ATTACHMENT C: INSURANCE CERTIFICATE**

**ATTACHMENT F: WORKERS COMPENSATION CERTIFICATE**