

CONTRACT RESULTING FROM INVITATION TO BID NUMBER 10089909-22-G, Janitorial Services for Storm Water Department.

This Contract (Contract) is entered into by and between the City of San Diego, a municipal corporation (City), and the successful bidder to Invitation to Bid (ITB) # 10089909-22-G, Janitorial Services for Storm Water Department. (Contractor).

RECITALS

On or about 5/30/2022, City issued an ITB to prospective bidders on services to be provided to the City. The ITB and any addenda and exhibits thereto are collectively referred to as the "ITB." The ITB is attached hereto as Exhibit A.

City has determined that Contractor has the expertise, experience, and personnel necessary to provide the services.

City wishes to retain Contractor to provide janitorial services as further described in the Scope of Work, attached hereto as Exhibit B. (Services).

For good and valuable consideration, the sufficiency of which is acknowledged, City and Contractor agree as follows:

**ARTICLE I
CONTRACTOR SERVICES**

1.1 Scope of Work. Contractor shall provide the Services to City as described in Exhibit B which is incorporated herein by reference. Contractor will submit all required forms and information described in Exhibit A to the Purchasing Agent before providing Service.

1.2 General Contract Terms and Provisions. This Contract incorporates by reference the General Contract Terms and Provisions, attached hereto as Exhibit C.

**ARTICLE II
DURATION OF CONTRACT**

2.1 Term. This Contract shall be for a period of (1) one year beginning on the Effective Date. The City may, in its sole discretion, extend this Contract for (4) four additional (1) one year period(s). The term of this Contract shall not exceed five (5) years unless approved by the City Council by ordinance.

2.2 Effective Date. This Contract shall be effective on the date it is executed by the last Party to sign the Contract, and approved by the City Attorney in accordance with San Diego Charter Section 40.

**ARTICLE III
COMPENSATION**

3.1 Amount of Compensation. City shall pay Contractor for performance of all Services rendered in accordance with this Contract in an amount not to exceed \$300,000.

**ARTICLE IV
WAGE REQUIREMENTS**

4.1 By submitting a response to this ITB, Contractor certifies that he or she is aware of, and agrees to comply with, the wage provisions described in Exhibit D, Wage Requirements, which is incorporated herein by reference, before commencing Services.

**ARTICLE V
CONTRACT DOCUMENTS**

5.1 Contract Documents. The following documents comprise the Contract between the City and Contractor: this Contract and all exhibits thereto; the Notice to Proceed; and the City's written acceptance of exceptions or clarifications to the ITB, if any.

5.2 Contract Interpretation. The Contract Documents completely describe the janitorial maintenance services to be provided. Contractor will provide any janitorial maintenance services that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result whether or not specifically called for or identified in the Contract Documents. Words or phrases which have a well-known technical or construction industry or trade meaning and are used to describe janitorial maintenance services will be interpreted in accordance with that meaning unless a definition has been provided in the Contract Documents.

5.3 Precedence. In resolving conflicts resulting from errors or discrepancies in any of the Contract Documents, the Parties will use the order of precedence as set forth below. The document highest in the order of precedence controls. Inconsistent provisions in the Contract Documents that address the same subject, are consistent, and have different degrees of specificity, are not in conflict and the more specific language will control. The order of precedence from highest to lowest is as follows:

- 1st The Contract
- 2nd The ITB and the City's written acceptance of any exceptions or clarifications to the ITB, if any
- 3rd Contractor's Pricing

5.4 Counterparts. This Contract may be executed in counterparts which, when taken together, shall constitute a single signed original as though all Parties had executed the same page.

5.5 Public Agencies. Other public agencies, as defined by California Government Code section 6500, may choose to use the terms of this Contract, subject to Contractor's acceptance. The City is not liable or responsible for any obligations related to a subsequent Contract between Contractor and another public agency.

IN WITNESS WHEREOF, this Contract is executed by City and Contractor acting by and through their authorized officers.

CONTRACTOR

CITY OF SAN DIEGO
A Municipal Corporation

Tom's Janitorial Services, Inc.
Bidder

BY:

[Signature]

P.O. Box 152896
Street Address

Print Name: Claudia C. Abarcá

San Diego
City

Director
Purchasing & Contracting Department

(619) 890-9961
Telephone No.

September 13, 2022.
Date Signed

~~Tom~~ tomd_63@yahoo.com
E-Mail

BY:

TOM DUONG
Signature of Bidder's Authorized Representative

TOM DUONG
Print Name

President
Title

6-26-2022
Date

Approved as to form this 15th day of

September, 20 22.
MARA W. ELLIOTT, City Attorney

BY: Nicole M. Senow
Deputy City Attorney

EXHIBIT A
INSTRUCTIONS AND BID REQUIREMENTS

A. BID SUBMISSION

1. Timely Bid Submittal. Bids must be submitted as described herein to the Purchasing & Contracting Department (P&C).

1.1 Reserved.

1.2 Paper Bids. The City will accept paper bids in lieu of eBids. Paper bids must be submitted in a sealed envelope to the Purchasing & Contracting Department (P&C) located at 1200 Third Avenue, Suite 200, San Diego, CA 92101. The Solicitation Number and Closing Date must be referenced in the lower left-hand corner of the outside of the envelope. Faxed bids will not be accepted.

1.3 Bid Due Date. Bids must be submitted prior to the Closing Date indicated in the eBidding System. E-mailed and/or faxed bids will not be accepted.

1.4 Pre-Bid Conference. Pre-bid conference information is noted on the eBidding System.

1.4.1 Bidders are required to attend the pre-bid conference. Bidder's failure to attend will result in disqualification.

1.5 Questions and Comments. Written questions and comments must be submitted electronically via the eBidding System no later than the date specified on the eBidding System. Only written communications relative to the procurement shall be considered. The City's eBidding System is the only acceptable method for submission of questions. All questions will be answered in writing. The City will distribute questions and answers without identification of the inquirer(s) to all bidders who are on record as having received this ITB via its eBidding System. No oral communications can be relied upon for this ITB. Addenda will be issued addressing questions or comments that are determined by the City to cause a change to any part of this ITB.

1.6 Contact with City Staff. Unless otherwise authorized herein, bidders who are considering submitting a bid in response to this ITB, or who submit a bid in response to this ITB, are prohibited from communicating with City staff about this ITB from the date this ITB is issued until a contract is awarded.

2. Submission of Information and Forms.

2.1 Completed and signed Contract Signature Page. If any addenda are issued, the latest Addendum Contract Signature Page is required.

2.2 Exceptions requested by bidder, if any. The bidder must present written factual or legal justification for any exception requested to the Scope of Work, Contract, or the Exhibits. Any exceptions to the Contract that have not been accepted by the City in writing are deemed rejected. The City, in its sole discretion, may accept some or all of bidder's exceptions, reject bidder's exceptions and deem the bid non-responsive, or award the Contract without bidder's proposed exceptions.

2.3 The Contractor Standards Pledge of Compliance Form.

2.4 Equal Opportunity Contracting forms including the Work Force Report and Contractors Certification of Pending Actions.

2.5 Living Wage Ordinance Certification of Compliance.

2.6 Licenses as required in Exhibit B.

2.7 Reserved.

2.8 Additional Information as required in Exhibit B.

2.9 Reserved

2.10 Reserved

2.11 One copy of the safety data sheet (SDS) for each product bid. Only those products whose label and MSDS clearly state the contents, hazard potential, and protective measures required shall be considered for purchase.

3. Bid Review. Bidders are responsible for carefully examining the ITB, the Scope of Work, this Contract, and all documents incorporated into the Contract by reference before submitting a bid. If selected for award of contract, bidder shall be bound by same unless the City has accepted bidder's exceptions, if any, in writing.

4. Addenda. The City may issue addenda to this ITB as necessary. All addenda are incorporated into the Contract. The bidder is responsible for determining whether addenda were issued prior to a bid submission. Failure to respond to or properly address addenda may result in rejection of a bid.

5. Quantities. The estimated quantities provided by the City are not guaranteed. These quantities are listed for informational purposes only. Quantities vary depending on the demands of the City. Any variations from the estimated quantities shall not entitle the bidder to an adjustment in the unit price or any additional compensation.

6. Quality. Unless otherwise required, all goods furnished shall be new and the best of their kind.

6.1 Items Offered. Bidder shall state the applicable trade name, brand, catalog, manufacturer, and/or product number of the required good, if any, in the bid.

6.2 Brand Names. Any reference to a specific brand name in a solicitation is illustrative only and describes a component best meeting the specific operational, design, performance, maintenance, quality, or reliability standards and requirements of the City. Bidder may offer an equivalent or equal in response to a brand name referenced (Proposed Equivalent). The City may consider the Proposed Equivalent after it is subjected to testing and evaluation which must be completed prior to the award of contract. If the bidder offers an item of a manufacturer or vendor other than that specified, the bidder must identify the maker, brand, quality, manufacturer number, product number, catalog number, or other trade designation. The City has complete discretion in determining if a Proposed Equivalent will satisfy its requirements. It is the bidder's responsibility to provide, at their expense, any product information, test data, or other information or documents the City requests to properly evaluate or demonstrate the acceptability of the Proposed Equivalent, including independent testing, evaluation at qualified test facilities, or destructive testing.

7. Modifications, Withdrawals, or Mistakes. Bidder is responsible for verifying all prices and extensions before submitting a bid.

7.1 Modification or Withdrawal of Bid before Bid Opening. Prior to the Closing Date, the bidder or bidder's authorized representative may modify or withdraw the bid by providing written notice of the bid modification or withdrawal to the City Contact via the eBidding System. E-mail or telephonic withdrawals or modifications are not permissible.

7.2 Bid Modification or Withdrawal of Bid After Bid Opening. Any bidder who seeks to modify or withdraw a bid because of the bidder's inadvertent computational error affecting the bid price shall notify the City Contact identified on the eBidding System no later than three working days following the Closing Date. The bidder shall provide worksheets and such other information as may be required by the City to substantiate the claim of inadvertent error. Failure to do so may bar relief and allow the City recourse from the bid surety. The burden is upon the bidder to prove the inadvertent error. If, as a result of a bid modification, the bidder is no longer the apparent successful bidder, the City will award to the newly established apparent successful bidder. The City's decision is final.

8. Incurred Expenses. The City is not responsible for any expenses incurred by bidders in participating in this solicitation process.

9. **Public Records.** By submitting a bid, the bidder acknowledges that any information submitted in response to this ITB is a public record subject to disclosure unless the City determines that a specific exemption in the California Public Records Act (CPRA) applies. If the bidder submits information clearly marked confidential or proprietary, the City may protect such information and treat it with confidentiality to the extent permitted by law. However, it will be the responsibility of the bidder to provide to the City the specific legal grounds on which the City can rely in withholding information requested under the CPRA should the City choose to withhold such information. General references to sections of the CPRA will not suffice. Rather, the bidder must provide a specific and detailed legal basis, including applicable case law, that clearly establishes the requested information is exempt from the disclosure under the CPRA. If the bidder does not provide a specific and detailed legal basis for requesting the City to withhold bidder's confidential or proprietary information at the time of bid submittal, City will release the information as required by the CPRA and bidder will hold the City, its elected officials, officers, and employees harmless for release of this information. It will be the bidder's obligation to defend, at bidder's expense, any legal actions or challenges seeking to obtain from the City any information requested under the CPRA withheld by the City at the bidder's request. Furthermore, the bidder shall indemnify and hold harmless the City, its elected officials, officers, and employees from and against any claim or liability, and defend any action brought against the City, resulting from the City's refusal to release information requested under the CPRA which was withheld at bidder's request. Nothing in the Contract resulting from this bid creates any obligation on the part of the City to notify the bidder or obtain the bidder's approval or consent before releasing information subject to disclosure under the CPRA.

10. **Right to Audit.** The City Auditor may access bidder's records as described in San Diego Charter section 39.2 to confirm contract compliance.

B. PRICING

1. **Fixed Price.** All prices shall be firm, fixed, fully burdened, FOB destination, and include any applicable delivery or freight charges, and any other costs required to provide the requirements as specified in this ITB.

2. **Taxes and Fees.** Taxes and applicable local, state, and federal regulatory fees should not be included in the price proposal. Applicable taxes and regulatory fees will be added to the net amount invoiced. The City is liable for state, city, and county sales taxes but is exempt from Federal Excise Tax and will furnish exemption certificates upon request. All or any portion of the City sales tax returned to the City will be considered in the evaluation of bids.

3. **Escalation.** An escalation factor is not allowed unless called for in this ITB. If escalation is allowed, bidder must notify the City in writing in the event of a decline in market price(s) below the bid price. At that time, the City will make an adjustment in the Contract or may elect to re-solicit.

4. **Unit Price.** Unless the bidder clearly indicates that the price is based on consideration of being awarded the entire lot and that an adjustment to the price was made based on receiving the entire bid, any difference between the unit price correctly extended and the total price shown for all items shall be offered shall be resolved in favor of the unit price.

C. **BID OPENING.** All bids will be opened at, or immediately after, the time noticed for the bid opening in a location that is open to the public. No bidder or interested person will be excluded from the bid opening. Where no member of the public is in attendance, at least one City officer or employee, in addition to the City employee opening the bids, will be present. Bid results will be announced in the presence of those attending. The name of the project will be audibly announced to those present followed by the name of the bidder, the name of the surety, the amount of the bond, if required, and the total amounts or unit amounts bid. Any person present shall have the right to ask the announcements be repeated or to ask that omitted data be supplied. Such requests will be honored to the extent they do not unreasonably delay or interfere with the bid opening procedure, as determined at the sole discretion of the City employee opening the bids.

D. EVALUATION OF BIDS

1. **Low Bid Award.** A contract will be awarded to the lowest responsible and responsive bidder.

2. **Additional Information.** The City may require bidder to provide additional written or oral information to clarify responses.

3. **Sustainable Materials.** Consistent with Council Policy 100-14, the City encourages use of readily recyclable submittal materials that contain post-consumer recycled content.

4. **Waiver of Defects and Technicalities.** The City may waive defects and technicalities in bids when to do so is in the City's best interests.

5. **Rejection of All Bids.** The City may reject any and all bids when to do so is in the City's best interests.

E. ANNOUNCEMENT OF AWARD

1. **Award of Contract.** The City will inform all bidders of its intent to award a Contract in writing.

2. **Obtaining Bid Results.** Bid results may be obtained by: (1) attending the bid opening; (2) e-mailing a request to the City Contact identified on the eBidding System; or (3) visiting the P&C eBidding System to review the bid results. To ensure an accurate response, requests should reference the Solicitation Number. Bid results will not be released over the phone.

3. **Multiple Awards.** City may award more than one contract by awarding separate items or groups of items to various bidders. The additional administrative costs associated with awarding more than one Contract will be considered in the determination.

F. **PROTESTS.** The City's protest procedures are codified in Chapter 2, Article 2, Division 30 of the San Diego Municipal Code (SDMC). These procedures provide unsuccessful bidders with the opportunity to challenge the City's determination on legal and factual grounds. The City will not consider or otherwise act upon an untimely protest.

G. **SUBMITTALS REQUIRED UPON NOTICE OF INTENT TO AWARD.** The successful bidder is required to submit the following documents to P&C **within ten (10) business days** from the date on the Notice of Intent to Award letter:

1. **Insurance Documents.** Evidence of all required insurance, including all required endorsements, as specified in Article VII of the General Contract Terms and Provisions.

2. **Taxpayer Identification Number.** Internal Revenue Service (IRS) regulations require the City to have the correct name, address, and Taxpayer Identification Number (TIN) or Social Security Number (SSN) on file for businesses or persons who provide goods or services to the City. This information is necessary to complete Form 1099 at the end of each tax year. To comply with IRS regulations, the City requires each Contractor to provide a Form W-9 prior to the award of a Contract.

3. **Business Tax Certificate.** All businesses that contract with the City must have a current business tax certificate unless the City Treasurer determines the business is exempt.

4. **Bond.** A bond as described in Exhibit B.

5. Reserved.

The City may find the bidder to be non-responsive and award the Contract to the next responsible and responsive low bidder if the apparent successful bidder fails to timely provide the required information or documents.

**EXHIBIT B
SCOPE OF WORK**

A. BACKGROUND

The City of San Diego is seeking a qualified Contractor to provide complete Janitorial Services for the Stormwater Department, as required and as specified for the following City facilities:

Site 1: 2781 Caminito Chollas, San Diego, CA 92105

- Four (4) trailers with an approximate size of 60 feet by 35 feet
- One (1) office area with an approximate size of 35 feet by 34 feet

Site 2: 4020 Taylor Street, San Diego, CA 92110

- Two (2) trailers with an approximate size of 40 feet by 20 feet

B. MANDATORY PRE-BID CONFERENCE AND SITE INSPECTIONS

Proposers are required to attend both the pre-bid conference and the site inspections for all facilities listed on the table below. The following table provides start times of site visits and is provided as a guide. The order of the site visits will remain unchanged, unless otherwise notified. This will be the only opportunity for Proposers to walk the sites.

Pre-Proposal Conference	2781 Caminito Chollas, San Diego, CA 92105	Stormwater Operations Conference Room	Monday, June 6, 2022	9:00 a.m.
Mandatory Site Inspections	2781 Caminito Chollas, San Diego, CA 92105	Stormwater Operations Conference Room	Monday, June 6, 2022	9:30 a.m.
Mandatory Site Inspections	4020 Taylor Street, San Diego, CA 92110	Main Trailer	Monday, June 6, 2022	10:00 a.m.

Failure to attend both the mandatory pre-bid conference and mandatory site inspections for all facilities shall deem a proposer's submittal non-responsive.

Drive time will be allowed between each site, as needed.

Proposers are responsible for inspecting the work sites to verify site conditions and size of areas to be serviced. Failure to do so will not relieve the Contractor of their responsibility to perform in accordance with these specifications. No additional compensation or relief from any obligations of the contract will be granted because of lack of knowledge of the sites.

By submitting a proposal, Proposer acknowledges that they are relying on their own examination of the work site and have the capability to fulfill the contract requirements;

and are knowledgeable of all other data and matters requisite to the fulfillment of the contract.

Information provided by the City during either the mandatory pre-bid conference or the mandatory site inspections is not intended to be a substitute for, or a supplement to, the independent verification by the Proposer to the extent such independent investigation of site conditions is deemed necessary or desirable by the Proposer. Proposer acknowledges that they have not solely relied upon City furnished information regarding site conditions in preparing and submitting a proposal.

C. CONTRACTOR COVID-19 SELF-CERTIFICATION VACCINATION LETTER

Per City Ordinance No. O-21398, effective January 3, 2022, all City contractors who interact in person with City employees while providing contracted services indoors in City facilities or while performing bargaining unit work while indoors are required to be fully vaccinated against COVID-19 as a condition for provision or continued provision of contracted services. Contractors are required to self-certify that the members of their workforce reporting to work at a City facility are fully vaccinated. The requirements covered under O-21398 and the Self-Certification Vaccination Letter are attached hereto as Attachment A.

D. BACKGROUND CHECK REQUIRED

Prior to starting work on this contract, and during the term of this contract, Contractor is required to provide proof that all janitorial staff, including supervisors, management, and subcontractors, assigned to this contract have passed a minimum of a Live Scan background check. All costs associated with the Live Scan and any other background checks will be borne by the Contractor. The Contractor is responsible for obtaining the Live Scan or any other backgrounds checks. The Contractor may contact the California Department of Justice for guidance in this matter.

Janitorial maintenance personnel with outstanding wants or warrants will not be accepted unless wants and warrants are cleared. Janitorial maintenance personnel with felony records will not be accepted. The City's decision in this matter will be final.

Prior to the start of this contract, the Contractor must provide the Technical Representative, or designee, with the names of all staff, including supervisors and subcontractor staff, who have passed the required background check and who are assigned to this contract. Prior to any changes in assigned personnel the Contractor will provide the Technical Representative, or designee, with an updated list of janitorial staff, supervisors, and subcontractors assigned to the contract.

Upon passing the background check, the Contractor shall issue each employee who has passed the background check and who shall be working on this contract a photographic identification badge/card. The cost of this identification badge shall be borne by the Contractor. This employee identification badge/card shall be displayed on the employee's outer clothing at all times the employee is in any City facility. No janitorial staff, including

supervisors and subcontractors, will be permitted in any City facility that is a part of this contract, until they have passed the background check.

Background checks may take a minimum of five (5) weeks. Therefore, during the term of the contract, the Contractor must maintain sufficient staffing to maintain the facilities while background checks are completed on new employees. For security reasons, excessive turn over will be cause for termination of this contract.

E. QUALIFICATIONS AND EXPERIENCE

The following experience, qualifications and skills are required. Failure to provide the required and/or complete information may be cause for the Proposal to be rejected as non-responsive.

1. Contractor shall submit a company/corporation organization chart including the dedicated account manager, all supervisors who will supervise work, and all senior management who supervise the dedicated account manager, including all years of tenure of such.
2. Contractor must have a minimum of three (3) years of experience (in the last five (5) years) conducting work of similar type, scope, and scale as those specified in the ITB as demonstrated by professional references submitted as part of the City of San Diego Contractor Standards Pledge of Compliance form for the ITB.
3. Contractor shall submit the resume of an account manager (Project Manager), who shall be dedicated to this Contract, and must have a minimum of two (2) years of experience (in the last five (5) years) managing and conducting work of similar type, scope, and scale as those specified in the ITB.
4. All managers and supervisors proposed to be involved in the Services at the Site must have a minimum of two (2) years' service in providing managerial and supervisory support in cleaning and conducting work of similar type, scope, and scale as those specified in the ITB. Contractor shall submit the resume for each manager and supervisor proposed to be involved in Services at the Site.

F. LEVEL OF EXPERIENCE

The Contractor is required to have a minimum of three (3) years of experience, in the last five years conducting work of similar type, scope, and scale as specified in the ITB. (use Attachment B).

G. CONTRACTOR'S RESPONSIBILITIES

1. Staffing

The Contractor shall provide adequate supervisory oversight and competent personnel capable of completing all work required under this contract as scheduled and to the standards commonly acceptable in the industry and to the satisfaction of the Technical Representative or designee. The Contractor shall also maintain a sufficient number of trained staff to cover vacations, illness, and emergency leave for staff assigned to this contract.

a. Janitorial Service Manager

The Contractor shall retain one (1) Janitorial Service Manager for the duration of the contract. The Janitorial Service Manager will be accountable for all janitorial services provided and proficiency in Janitorial Service Contract Management.

The Janitorial Service Manager will serve as the single point of contact with City's Technical Representative, or designee, for administrative needs including invoicing and contract related matters.

b. On Site Supervisor(s)

If the Janitorial Service Manager will not be the site supervisors, then the Janitorial Service Manager shall designate a minimum of one (1) qualified On-Site Supervisor (Supervisor) at all times while work is being performed to provide the necessary and adequate supervision to ensure work is completed as specified in this contract. Prior to commencing work under this Contract, the Contractor shall notify the Technical Representative, or designee of the name of the supervisor assigned to each site. Any changes in supervision shall be submitted in writing five (5) days prior to the start date of the new supervisor to the Technical Representative or designee. The Contractor shall also be responsible for ensuring that the new Supervisor understands the requirements of this Contract.

c. Staffing Plan

The Contractor shall also maintain a sufficient number of trained staff to cover vacations, illness, and emergency leave for staff assigned to this contract. Prior to commencing work, anytime staffing changes occur, and upon request from the Technical Representative, or designee, the Contractor shall submit a staffing plan. The staffing plan must include the following:

1. A staffing plan confirming availability of all staff, and any needed reserve staff, address staff recruiting and retention.
2. The staffing plan shall specify the total number of janitorial, management and supervisorial staff contractor will dedicate to each site.
3. Include names, titles, and descriptions.

d. Uniforms

Janitorial staff, including supervisors, shall work in distinguishing neat and clean uniforms provided by the Contractor. All uniforms shall be cleaned and maintained by the Contractor. At a minimum, the Contractor will furnish their employees with a shirt, or some other type of upper body wear, in a common color bearing the company's identification. Uniform shall also consist of proper footwear that fully covers the foot. Sandals and flip-flops are unacceptable footwear. Long pants shall be worn on each work shift. Shorts and cut-offs are unacceptable. Contractor's employees must have a professional appearance and proper personal hygiene. Appropriate uniform shall be worn at all times, including personnel who are being trained. Failure to do so may result in termination of contract.

e. Training

Prior to the start of work on this Contract, Contractor shall contact the Technical Representative, or designee(s) to obtain a copy of the Safety Data Sheet (SDS) for City-provided chemicals and shall train their janitorial staff on safety requirements to include SDS for all chemicals used for this Contract (including any City-provided chemicals), Blood Borne Pathogen, Personal Protective Equipment, and Injury/Illness Program as required by CAL OSHA, Title 8, Sections 3203, 1926.59, and 5193. Janitorial staff shall be trained in the proper use of green cleaning techniques and products.

The Contractor is required to provide certification that janitorial personnel assigned to this Contract have received the training specified in this subsection. This certification must be submitted to the Technical Representative or designee prior to the commencement of the contract (use Attachment C). For new employees being assigned to this Contract, the required certification must be provided to the Technical Representative or designee prior to the commencement of duties. All training shall be provided at the sole expense of the Contractor. The City reserves the right to require retraining at the Contractor's expense, as determined by the City, in its sole discretion.

f. Certification

Failure of the Contractor to provide the above required certification to the Technical Representative or designee shall be cause for immediate removal of the employee from this Contract and may be cause for termination of the contract. The Contractor is responsible for ensuring new employees understand the requirements of this Contract and are properly trained prior to starting work.

g. Communication

Contractor shall ensure that at least one (1) member of the onsite janitorial crew can communicate in English both verbally and in writing. Assigned supervisors shall be capable of completing legible written forms and of understanding oral and written instructions in English.

h. Removal of Employee

The Technical Representative may require the Contractor to remove from the work site any employee(s) deemed careless, incompetent, or otherwise objectionable, whose continued employment on the job is considered to be contrary to the best interest of the City of San Diego.

Janitors will also be temporarily removed in the event a sexual harassment complaint is filed against them. If allegations are determined to be unfounded following a complete investigation by the Contractor and the City, the janitor removed may return to work on a City contract. However, if the allegations are determined to be founded, the janitor will be considered permanently barred from work on any City contract.

2. Cleaning Supplies, Chemicals and Equipment

a. Contractor Furnished Cleaning Equipment

The Contractor shall be responsible for furnishing the equipment required for performing specified tasks, unless otherwise noted. All materials shall be top-quality by industry standards. All vacuum cleaners shall be power lifting, silent, commercial grade with micro filters.

b. City Furnished Supplies

The City shall provide all required cleaning chemicals and day-to-day janitorial supplies required on this contract, such as but not limited to, trash liners, paper towels, deodorizers, liquid or powdered hand soap, toilet paper, seat covers and shower curtains, unless Contractor is otherwise notified by the Technical Representative, or designee during the term of this Contract. Contractor shall inform the Technical Representative, or designee, at least one (1) week in advance, of the need to replenish supplies. The Technical Representative, or designee will initiate the request to order cleaning supplies.

All janitorial supplies and chemicals provided by the City are individually funded by each division and are to be stored in the specific Janitor's Closet as designated by the Technical Representative. They shall not be removed or taken off City property or be comingled or shared between the different divisions within the department.

3. Keys, Security Access Cards, and Employee Identification Badges

Keys, security access cards, and employee identification badges supplied to the Contractor shall not be shared or loaned out to others. They must be retained by authorized janitorial personnel to whom they were issued. Failure to abide by these security regulations is a breach in security and may be grounds for removal of the

employee from the contract. Repeated violations of these security regulations by a Contractor's employees may be grounds for termination of this contract.

Keys, security access cards, and employee identification badges supplied to Contractor shall not be duplicated, except by the City. Lost keys, security access cards, and employee identification badges shall be reported immediately to the Technical Representative, or designee.

All keys, security access cards, and employee identification badges are the property of the City and shall be returned upon completion of the contract. If the Contractor loses any of the keys during the term of the contract or fails to return the keys immediately upon completion or termination of the contract, the Contractor shall pay the City for the cost of re-keying the locks; such costs may be retained from the final payment. If the City does not re-key the locks, the cost of any replacement key(s) shall be paid by the Contractor; such costs may be retained from monthly payments.

4. Enhanced Sanitation

When Enhanced Sanitation Regulations are in place by the City and directed by the Technical Representative or designee, all janitorial employees must:

- a. Disinfect areas within the common space that may have had contact with employees or the general public.
- b. Wear Personal Protective Equipment (PPE) while performing tasks or while in any City facility, including gloves, facial covering, and face shields, if applicable. Facial coverings must cover the mouth and nose.
- c. Use single use disposable latex or nitrile gloves.
- d. Use other PPE as required and reasonable for a specific task.

Personal Protective Equipment for all janitorial employees is to be provided by the Contractor. Additional regulations or requirements may be implemented by the Centers for Disease Control, which must be followed by the Contractor and its employees at the direction of the Technical Representative or designee.

5. Janitorial Staff Reporting Procedures

Janitorial personnel, including all supervisors conducting inspections, shall sign in upon reporting for work and shall sign out prior to leaving work on a log provided by the Technical Representative, or designee. Janitorial personnel are to sign in and out based on actual arrival and departure times versus scheduled times. Supervisors shall write "Supervisor" beside their name. The City has no obligation to pay for services if the log is not properly completed. The log will be kept in a designated area identified by the Technical Representative, or designee.

The janitorial personnel shall complete the Janitor's Cleaning Checklist (Attachment D) when tasks are completed and leave them in the designated area. The City shall provide the Contractor with a Janitor's Cleaning Checklist prior to commencement

of work. The Contractor shall be responsible for ensuring copies are made available to janitorial personnel, at no additional cost to the City.

The City has no obligation to pay for services if the checklists are not completed.

6. Contractor Response Time

The Janitorial Service Manager, authorized to discuss matters related to this Contract, must be available during normal business hours, between 8:00 a.m. and 5:00 p.m., Monday through Friday. The Janitorial Service Manager must be available via cell phone, and/or email during these designated times.

a. Emergency Calls

A Supervisor shall respond to emergency telephone calls from the City within fifteen (15) minutes of the call being placed. All actions required to resolve the emergency shall be completed within four (4) hours. Emergency calls are defined as those where the Technical Representative, or designee states an emergency exists and notifies the Contractor's office of such emergency. Failure to take appropriate corrective action for emergencies within the time frame may result in termination of the contract.

If service is provided after regular business hours, vendor can invoice at an hourly rate submitted on the Pricing page of this Contract. Business hours are between 6:30am and 6:00pm Monday through Friday.

The Contractor shall have the capability to make calls of an emergency/safety nature involving patron conduct, twenty-four (24) hours a day. The Contractor, upon observing any plumbing stoppages, leaking faucet, or electrical malfunctions shall immediately contact City's Work Control (Station 38) by phone at (619) 525-8540. The Contractor shall also submit an incident report to the Technical Representative or designee within twenty-four (24) hours.

b. Non-Emergency Calls

Janitorial Service Manager, or the designated supervisors shall respond to non-emergency calls, or emails within one (1) hour of the call being placed, or the email being sent. All actions required to resolve the non-emergency issue(s) or deficiencies must be completed by the next business day unless otherwise directed by the Technical Representative, or designee. Failure to respond and/or take appropriate corrective action within the time frame specified may result in termination of this Contract.

7. Safety Requirements

All work performed under this Contract will be performed in such a manner as to provide maximum safety to the public and employees and shall comply with all safety provisions and regulations. The Contractor is responsible for abiding by all CAL/OSHA

requirements, including the labeling of containers. Contractors who have ten (10) or more employees shall have an injury/illness program as required by OSHA.

Wet floor warning signs shall be supplied by the Contractor and properly utilized whenever a potentially hazardous floor condition exists. It is the Contractor's responsibility to ensure that adequate warning signs are posted, and that Contractor's employees adhere to all safety regulations.

Personal Protective Equipment (PPE) including but not limited to, eye protection, boots, gloves, mask and fall protection devices, as required, shall be supplied by the Contractor for janitorial staff and properly used at all times.

8. Safety Data Sheets (SDS)

The Contractor is responsible for ensuring that copies of all SDS are available at the work site. When the Contractor picks up City-provided chemicals from the City storeroom to be used on this contract, they shall pick up a copy of the SDSs for their work site.

For Contractor-provided chemicals, the Contractor is required to provide a SDS and applicable green certification. Contractor provided chemicals shall be approved by the City, prior to usage. Only those products whose labels and SDS clearly state the content, hazard potential, and protective measures required shall be approved for use. Proof of product certification as green may include, but not be limited to, a copy of the green certification, or product literature or label stating that the product is green certified.

Failure to comply with the above shall be cause for immediate termination of the contract for violation of safety procedures.

9. Janitor's Closet

Janitorial closets/rooms, as applicable, will be maintained in a clean, disinfected, and sanitized manner to include sinks, floors, and all fixtures and fittings. Cleaning materials shall be properly maintained and stored. Buckets shall be emptied and cleaned daily.

10. Security Precautions

Janitorial personnel shall not allow anyone on the premises unless that person is specifically assigned by the Contractor to do janitorial service at the facility. This rule will be strictly enforced, and non-compliance shall be cause for termination of this Contract.

The Contractor will ensure that each office or facility is locked upon completion of each cleaning. Offices will not be left open when not attended or when cleaning is conducted out of sight of the open office. Security shall be maintained during the

cleaning period and access to any office by anyone except janitorial personnel will not be permitted.

11. Site Inspection Upon Commencement and Turnover of Contract

- a. Within five (5) days of the Effective Date of this Contract, the Contractor will inspect contract sites with the Technical Representative, or designee to determine if the sites are in compliance with the specifications. If deficiencies are identified, the Technical Representative, or designee may authorize, in writing, a mutually agreed upon one (1) time payment to the Contractor to correct the deficiencies. If work is authorized, the Contractor will bring the sites into compliance with the contract specifications and thereafter maintain the sites at the level required under this Contract.
- b. The Contractor shall provide a Janitor's Cleaning Checklist for each facility to the City's Technical Representative, or designee within ten (10) working days of the Site Inspection. The Janitor's Cleaning Checklist outlines the tasks to be completed for each facility and allow for notes or other communication for uncompleted task or noteworthy items to the City's Technical Representative, or designee for each cleaning round.

12. Environmental Management System Awareness Program

The Wastewater Treatment and Disposal Division of the City of San Diego's Public Utilities Department has undertaken a voluntary certification in Environmental Management Systems and is committed to Regulatory Compliance, Pollution Prevention, and Continual Improvement (commonly referred to as ISO 14001 certification). The Contractor shall be aware of the environment while working at the site under contract which means keeping the site clean, recycling when possible, turning off lights if you are the last one to leave, and reporting any environmental issues. Please contact the Facility Environmental Coordinator at telephone number (858)694-7000 to report any environmental issues or to obtain additional information regarding this policy.

13 Storm Water Pollution Preventive Regulations

Contractor shall comply with the City's Storm Water Management and Discharge Control provisions codified in Chapter 4, Article 3, Division 3 of the San Diego Municipal Code, as may be amended, and any and all applicable Best Management Practice guidelines and pollution elimination requirements as may be established by the Enforcement Official, in performing or delivering services at City owned, leased, or managed property, or in performance of services and activities on behalf of the City of San Diego regardless of location. For the Municipal Code and additional resources refer to <https://www.sandiego.gov/stormwater/regulations>.

H. QUALITY OF WORK/INSPECTIONS

The Contractor shall provide quality janitorial services for the sites specified in Section J. STATEMENT OF TASKS AND CLEANING STANDARDS. All work shall be performed in accordance with the best Industry Standard and all facilities shall be kept clean and maintained in accordance with the Cleaning Standards specified throughout the Term of this Contract.

1. Inspections by Contractor

The Contractor shall perform regular and comprehensive inspections of the job sites to ensure that all work is completed in accordance with the specifications of this Exhibit B, Scope of Work. At a minimum, these inspections shall be performed by a Supervisor on a weekly basis.

The Contractor shall schedule a regular monthly meeting at a specified day and time with the Technical Representative, or designee to evaluate services performed. Failure to appear for the meeting as scheduled shall be cause for termination.

2. Inspections by Technical Representative, or Designee

Regular inspections shall be conducted by the Technical Representative or designee. Any performance deficiencies shall be noted on the Janitor's Cleaning Checklist (Attachment D) and submitted to the Janitorial Service Manager and/or the Supervisor. A copy will also be emailed to the Contractor.

Deficiencies must be corrected the next business day unless otherwise directed by the Technical Representative, or designee. Failure to correct deficiencies to comply with the specifications within the time specified may result in termination of this Contract.

I. STATEMENT OF TASKS AND CLEANING STANDARDS

All tasks shall be performed in accordance with the cleaning standards stated within this Exhibit B, Scope of Work throughout the Term of this Contract.

The following standards are intended to indicate the acceptable minimum level of service to satisfy the requirements of this Exhibit B, Scope of Work.

Daily, Weekly, Monthly, and Weekend Tasks, as outlined below, must be completed between the hours of 8:00 a.m. and 5:00 p.m. Janitors are to be available during the designated hours.

1. Daily Tasks (Full Service Day)

The following tasks (Tasks No. 1 – 12) shall be performed on a daily basis (Monday – Friday) at each site, unless otherwise expressly noted:

1. Sweep/Dust and Mop Floors

Contractor shall remove dirt on all non-carpeted flooring to include stairways, stairway landings and areas under chairs, tables, and desks by one (1) or more of the following:

- a. Sweeping with a horsehair or similar type push broom.
- b. Using a dust mop.
- c. Using renewable commercial-type cleaning cloths; and
- d. Using a heavy-duty vacuum cleaner with an appropriate pick up tool.

Special attention will be given to edges, nooks, and baseboards to prevent the accumulation of soil, lint, or other material.

2. Damp Mop and Disinfect Floors

Contractor shall damp mop and disinfect vinyl, tile, concrete floor, linoleum, and other types of floor covering excluding rubber, carpet, hardwood and sports flooring in restrooms, locker rooms, and kitchens (all other areas requiring mopping are to be damp mopped only) to remove all spots, stains, or spills as part of normal floor care. While damp mopping, Contractor shall take special care to not leave streaks on the floor, or cause the accumulation of soil, lint or other material in the corners, edges, nooks, and baseboards. Floors shall have a uniform appearance without swirl marks, detergent residue, or any evidence of soil, stain, film or standing water.

3. Vacuum/Spot Clean Carpeted Floors and Rugs

Contractor shall vacuum carpets and rugs to remove dirt. Vacuum cleaning shall also include the removal of all spots, stains, or spills as part of normal floor care. Rugs and carpet runners are to be straightened and adjusted. A pile lifter vacuum shall be used.

The vacuum cleaner must use filters that prevent dust from entering the air. Special care shall be given to edges, nooks, and baseboards to prevent accumulation of soil, lint or other material.

4. Clean Glass, Mirrors, and Metal Handrails

Contractor shall clean all glass including observation windows, display-type windows; display cases, glass doors and adjoining panes, interior partitions, mirrors, and metal handrails will be washed and cleaned daily. Glass surfaces shall be left clean with no fingerprints, streaks, spots, or dirt film. Care shall be taken in cleaning any surfaces covered with solar film to avoid any damage to the film.

5. Empty and Clean all Wastebaskets, Trash Receptacles, and Ash Urns

Contractor shall empty all wastebaskets, trash receptacles, ashtrays, butt cans, and sand urns inside facility and outside all lobby door entrances, patios and breeze ways. All receptacles shall be washed, as necessary, to maintain them in a stain-free and odor-free condition. Trash receptacles shall be lined with City-provided plastic trash bags. Contractor shall place all trash bags in a designated dumpster(s). The sand in sand urns shall be sifted as needed.

6. Empty Recycling Bins

All recycling bins at each facility shall be emptied, as needed, into designated recycling bins/dumpsters/roll offs; they shall not be emptied into containers designated for trash. Cardboard boxes shall be broken down and flattened before placing in recycling bins or dumpsters. All recycling receptacles shall be washed, when needed and as directed by the Technical Representative, or designee, to maintain them in a stain-free and odor-free condition.

7. Clean Restrooms, Lockers, and Showers

Contractor shall maintain restrooms, lockers, and showers in a clean, disinfected, and sanitized manner using cleaning agents and/or disinfectants. Restrooms shall be scrubbed using anti-bacterial/anti-fungal cleaner. Walls, wall partitions, shower curtains, flooring, floor seams, cracks, grout, wainscoting, etc., and fixtures including sinks, toilets, urinals, water closets, and toilets shall be washed/scrubbed with quality materials using techniques which will remove and prevent soil buildup, formation or encrustation, or stains, under lids, ledges, sills or rims. All metal fixtures and hand grab rails will be cleaned. Tile grout shall be cleaned and scrubbed to maintain clean appearance. Toilet stall partitions and door locks will be inspected and cleaned daily on both sides of the panels. Special attention will be given to the countertops to ensure they are disinfected. Entry door and stall door frames will be cleaned with special emphasis around the hinges.

The term "clean" as used here will mean that no dirt, dust, lint, stains, spots, grease, molds or odors can be detected on areas including, but not limited to, floors, walls, lockers, partitions, ledges, trim, doors, moldings, shower doors, shower mats and/or curtains or fixtures within the restroom, lockers or showers.

8. Refill Dispensers for Paper Towels, Soap, Toilet Paper, and Toilet Seat Covers

Contractor shall refill all dispensers for paper towels, soap, toilet paper and toilet seat cover using City-provided material. Contractor shall provide a minimum of one (1) week notice to the Technical Representative or designee when supplies need to be replenished.

9. Clean Drinking Fountains/Water Dispensers

Contractor shall clean and sanitize drinking fountains/water dispensers to remove all spots, marks and hard water stains.

10. Clean Kitchen Area/Break Room

Contractor shall clean and disinfect all kitchen areas/break rooms including sinks and countertops. All spots, marks, and stains shall be removed; tables and chairs shall be cleaned and straightened. Exterior of microwave and refrigerator shall be wiped clean by Janitorial staff.

11. Pick-up Litter, Trash, and Garbage

Contractor shall pick-up and dispose of all litter, trash, garbage, and foreign discarded or abandoned objects found in the interior of the facility, all entry ways, patios, and hallways. All trash will be placed in a City designated dumpster.

12. Disinfect Common Areas and Frequently Touched Fixtures

Contractor shall clean and disinfect all common areas, conference room tables, break rooms, keypads, button pads, handrails, light switches, doorknobs and handles (inside and outside of door) with disinfectant solution to leave them clean and polished with no dirt, fingerprints, streaks, or spots.

2. Weekly Tasks

The following tasks (Tasks No. 13 – 17) shall be performed on a weekly basis at each site, unless otherwise expressly noted.

13. Clean Walls, Door Frames, and Jambs

Contractor shall clean and disinfect walls, doors, door frames/jambs, partitions, ledges, moldings, windowsills, including wood and metal work, to remove dust, dirt, spots, stains, hand marks, and any other marks or scuffs.

14. Sweep Areas

Contractor shall sweep exterior sidewalks, pedestrian access walkways, stairs, stairwells, main entrance, and outside vestibules.

15. Dust

Contractor shall dust in all offices, common and public areas, including but not limited to service counters, waiting rooms, conference rooms, kitchens, break rooms, etc.

Contractor shall dust desks (when cleared of work material), hutches, tables, chairs, file cabinets, shelving, countertops, lampshades, light fixtures, pictures, lockers, telephones, map frames, moldings, ledges, switches, door frames and jambs, window sills, partitions, and any other surface that accumulates dust. Dusting of furniture will include chair legs, table legs, frames, and bases. Dusting will be performed using a cloth and/or vacuum cleaner. Dusting will be performed in a manner to maintain the facility in a dustless condition and free of surface spots, stains, or marks. Contractor shall not move or disturb any articles, documents, equipment, or papers, and shall only dust exposed areas. Desks shall only be dusted if they are clear of work materials.

16. Clean Tables, Chairs, and Countertops

Contractor shall clean all tables, chairs, and countertops will be cleaned, disinfected, and sanitized to remove fingerprints, streaks, spots or dirt film. No wax or oily polish shall be applied.

17. Clean Walls in Restrooms

Contractor shall clean, disinfected, and sanitized all walls using pre-approved cleaning agents and/or disinfectants.

3. Monthly Tasks

The following tasks (Tasks No. 18 – 19) shall be performed on a monthly basis at each site, unless otherwise expressly noted.

18. Vacuum and Spot Clean Fabric Furniture

Vacuum seat cushions to remove all visible dirt. Special attention will be given to prevent the accumulation of soil, lint, or other material. Spot clean all fabric type furniture to remove all dirt, spots, and stains, as needed with an appropriate non-toxic fabric cleaner. This task does not include regular shampooing of fabric furniture.

19. Polish Wood Furniture

Wood office furniture, including, but not limited to desks, credenzas, and shelves, shall be polished with high quality furniture polish.

4. As-Needed Tasks and Enhanced Sanitation Performed with Written Pre-Authorization

The Contractor may be called upon to provide extra cleaning services for out of scope tasks, including but not limited to window and blind cleaning, under this contract. No extra services, however, shall be performed without specific written authorization and instructions from the Technical Representative. Any additional services performed without written authorization shall be considered unauthorized and shall not obligate the City to pay for such services. Extra cleaning services shall be listed separately on invoices and a copy of the written authorization must be attached. No travel time shall be charged.

The following tasks shall be performed at the sole discretion of the City and as directed by the Technical Representative, or designee.

1. Strip, Wax, and Buff Tile, Vinyl/Tile, and Ceramic Flooring

Contractor shall provide removal (stripping) of accumulated traffic stains and old wax. Work shall be accomplished by thoroughly scrubbing with a machine floor scrubber using steel wool pads, basin brush, or pads similar or equal to 3-M pads. Complete pick up cleaning water and followed with clear water rinse. Floor treatment shall be applied per manufacturer's instructions and buffed with a high-speed buffer (minimum 1500 RPM). Propane buffers are not to be used in any facility. Contractor shall post sufficient safety signs indicating slip hazards and or wet floor when buffing, damp mopping, scrubbing, stripping, and waxing. Contractor is responsible for moving and replacing all furniture.

2. Clean Carpets

Wet/steam clean carpets to remove all dirt, spots, and stains. The carpet cleaning machinery shall be industrial grade carpet cleaning machines to include use of a bonnet and extractor machine.

J. FACILITY LOCATIONS AND DESCRIPTIONS

Janitorial services shall be completed by the Contractor at each site. Description and square footage provided for each site location is approximate. Each Bidder is responsible for verifying actual square footage.

Site 1: Chollas Yard 2781 Caminito Chollas, San Diego, CA 92105

Section 1. Operations & Maintenance Trailer

- Approximate Sq. Ft.: 2160
- 1 Restroom: 1 toilet & 1 sinks
- Kitchen: 1 sink, 1 microwave, countertop, refrigerator
- Community Computer area: 1 long table, chairs
- Flooring: all carpeted except vinyl in restrooms & kitchen

Section 2. Engineering & Planning Trailer

- Approximate Sq. Ft.: 1800
- 1 Restroom: 1 toilet & 1 sinks
- Kitchen: 1 sink, 1 microwave, countertop, refrigerator
- Flooring: all carpeted except vinyl in restrooms & kitchen

Section 3. Stormwater 3rd Trailer – Trailer A Sweeping

- Approximate Sq. Ft.: 2160
- 1 Restroom: 1 toilet & 1 sinks
- Kitchen: 1 sink, 1 microwave, countertop, refrigerator
- Computer area: 1 countertop, 4 chairs
- Flooring: all carpeted except vinyl in restrooms & kitchen

Section 4. Stormwater Office Area

- Approximate Sq. Ft.: 2340
- Kitchen area: 1 sink, 1 microwave, tables, chairs, countertop
- 1 restroom: 1 toilet, 1 sink
- Flooring: Carpet, Reception area, Restroom and Break Room vinyl
- Drinking Fountain

Section 5. Trailer B Stormwater

- Approximate Sq. Ft.: 2160
- Kitchen area: 1 sink, 1 microwave, tables, chairs, countertop
- 1 restroom: 1 toilet, 1 sink
- Computer area: 1 countertop, 4 chairs
- Flooring: all carpeted except vinyl in restroom & kitchen

Site 2: 4020 Taylor Street

Section 6. Trailer 1

- Approximate Sq. Ft.: 480
- 1 Restroom: 1 toilet & 1 sink & 1 Shower
- Flooring: all carpeted except vinyl in restrooms & kitchen
- Kitchen: 1 sink, countertop, refrigerator, microwave

Section 7. Trailer 2

- Approximate Sq. Ft.: 480
- 1 Restroom: 1 toilet & 1 sink
- Flooring: all vinyl

K. CITY OBSERVED HOLIDAYS

Janitorial services shall not be performed on the following City observed holidays. There are ten (10) City-observed holidays as follows.

- New Year's Day
- Martin Luther King, Jr. Day
- Presidents' Day
- Cesar Chavez Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans' Day
- Thanksgiving Day
- Christmas

L. WORK/TASK SCHEDULE

The Contractor shall submit a work schedule to the Technical Representative or designee prior to commencement of work. Schedule changes must be submitted in writing and authorized by the Technical Representative, or designee. Failure to comply with the above requirements may be cause for termination of this contract.

1. Weekly Tasks

Daily Tasks shall be performed contemporaneously with weekly tasks.

2. Monthly Tasks

All Monthly Tasks must be completed by the 15th of the month. Daily tasks are to be performed contemporaneously with the Monthly Tasks. However, Monthly Tasks are not required to be performed on the same day as the Weekly Tasks.

M. INVOICING PROCEDURES.

The Contractor shall be paid monthly, in arrears, for work performed satisfactorily. The invoices shall clearly state the monthly cost and any authorized extra cleaning services for each section. The monthly cost shall be as stated on the current Price Schedule. Other tasks shall be billed in the month completed. For extra cleaning services, a copy of the written authorization shall be attached to the invoice. Failure to do so will result in payment being withheld for such services.

Billing shall be in accordance with the current contract Price Schedule, allowing for City approved adjustments if any. Invoices shall be submitted to the Technical Representative, at the address specified on the Purchase Order(s).

N. SUBCONTRACTORS

The Contractor shall not subcontract any portion of this Contract to any party without pre-authorized written approval from the Technical Representative. San Diego Municipal Code section 22.4210(c), part of the City's Living Wage Ordinance, requires the Contractor to use its own employees to perform at least 50 (fifty) percent of the work described in this Contract.

Any subcontractors must comply with all contractual requirements including but not limited to background checks, uniforms, and badges.

If the City learns Contractor is using subcontractors that have not previously been authorized by the City, the City has the option, in its sole discretion, to terminate the contract.

O. NON-INTERFERENCE WITH CITY OPERATIONS

Employees and agents of Contractor shall, while on the premises of the City, comply with all City rules and regulations. Contractor shall acquaint itself with conditions at the work site so as not to interfere with City operations. Contractor shall not stop, delay, or interfere with City work schedule(s) or operations without the prior approval of the Technical Representative or designee. Contractor shall be entirely responsible for working in harmony with all others on the work site (i.e. City staff and Contractor's staff) when Contractor is working on City premises.

P. COOPERATION AND TRANSITION

Contractor shall cooperate with the City and any contractor currently providing services at the sites at the initiation of this Contract to accomplish a smooth phase-out and transition of responsibilities and services.

Q. DISPLACED JANITOR OPPORTUNITY ACT

The Displaced Janitor Opportunity Act, dated September 2, 2011, Chapter 4.5 (commencing with Section 1060) of Part 3 of Division 2 of the Labor Code is incorporated as part of this proposal and any resulting contract by reference (Attachment E).

By signing and/or authorizing this bid submittal, Proposer acknowledges that they have read and understood the meaning, intent and requirements of said Act; and if awarded the contract, Proposer will be expected to comply with the applicable provisions of the Act in initiating and performing work under this Contract.

R. ADDITIONAL SUBMISSION OF INFORMATION AND FORMS

The following forms shall be submitted, as specified below:

Goods and Services ITB
Revised: April 29, 2016
OCA Document No. 1277089

SUBMITTALS REQUIRED PRIOR TO COMMENCEMENT OF WORK

- o Level of experience (Attachment B).
- o Training Certification for Janitorial Personnel (Attachment C).
- o Staffing Plan.
- o Supervisor assignment for each location.

S. PERFORMANCE BOND

The Contractor shall be required to furnish the City of San Diego with a surety bond executed by a surety company authorized to do business in the State of California, and approved by the City of San Diego, in a sum equal to one-hundred percent (100%) of the Contract amount, conditional for the performance of the Contract.

The performance bond shall be submitted to Purchasing & Contracting within ten (10) days of request. Failure to provide the bond within the time frame specified by the City shall be cause for the bid to be rejected as non-responsive. The bond shall be maintained by the Contractor in full force and effect during the entire period of performance under Contract. Failure to do so shall be cause for termination of the Contract.

T. ADDITIONAL INSURANCE

Contractor shall not begin any performance under the contract until it has provided the City with evidence of the following insurance coverage, in addition to the coverage required under Section 7.2 of the General Contract Terms and Provisions, revised January 16, 2020.

Crime Insurance, including Employee Dishonest/Fidelity coverage, for a minimum of twenty-five thousand dollars (\$25,000.00) per employee or one hundred thousand dollars (\$100,000.00) blanket limit. This coverage protects the Contractor against loss by the theft or mysterious disappearance of property by any of Contractor's employees or third parties while said property is in the care, custody, or control of the Contractor resulting directly or indirectly from the performance or execution of the Contractor or subcontract thereunder.

U. TECHNICAL REPRESENTATIVE

The Technical Representative for this Contract is identified in the notice of award and is responsible for overseeing and monitoring this Contract. The Technical Representative will provide daily oversight of this Contract to ensure compliance and performance of this Exhibit B, Scope of Work. The Technical Representative is also responsible for oversight of all the invoice payments and billing questions for purchase orders issues under this Contract. The Purchasing Agent shall be responsible for all contractual matters and is the only individual authorized to make changes of any kind to this Contract. The Contractor shall not rely upon any oral change from anyone, or a written request for change from someone other than the Purchasing Agent. All changes must be in writing, signed by the Purchasing Agent. The City may identify a new Technical Representative to fulfill

obligations of the Technical Representative set forth in this Contract by providing Contractor with the name and contact information of that individual in writing.

V. DEPARTMENT OF INDUSTRIAL RELATIONS PROPERTY SERVICE WORKERS PROTECTION (PSWPA) ACT, AND (DIR) REGISTRATION NUMBER

Pursuant to sections 1420 through 1434 of the California Labor Code, the contractor and all subcontractors with one or more employees and one or more janitorial workers operating in California shall register with the State of California Department of Industrial Relations (DIR). Requirements include but are not limited to contractor registration, maintaining accurate records, sexual harassment training, and civil penalties of \$100 for each calendar day for non-compliance (not to exceed \$10,000).

Failure to comply with registration requirements shall be caused to reject the proposer's submittal as non-responsive.

	Registration No.	Expiration Date	Name
Janitorial DIR Registration No.	JS-LR-10000 853829	1/13/2023	TOM'S JANITORIAL SERVICES INC-
Subcontractor DIR Registration No.			

W. PRICE SCHEDULE

It is the City's intent to award this solicitation to a single Proposer. The estimated annual quantities provided by the City are not guaranteed. The quantities may vary depending on the demands of the City. Any variations from these estimated quantities shall not entitle the Contractor to an adjustment in the unit price or to any additional compensation and in no case shall exceed \$3 million without City Council approval.

Proposer shall complete the pricing schedule in its entirety to be considered responsive. The prices stated on the Price pages shall be submitted as a flat rate for performance of all specifications in this solicitation; fully burdened, firm, fixed price and shall include the complete service and/or material, and be inclusive of any and all related charges and costs, including, but not limited to labor (in accordance with the City of San Diego's Living Wage Ordinance at the most current Living Wage rate), cleaning materials/supplies (as specified), equipment, travel, transportation, training, overhead, administrative costs, profit, etc. The City shall evaluate pricing for this solicitation solely based upon proposers submitted flat rate, as specified in the Price page below.

Unit prices shall be based on the unit of measure (u/m) as specified on the pricing page(s). Any changes to the unit of measure made by the proposer may be cause for the item to be rejected as non-responsive. "N/A" should be used for any areas of the Pricing pages that are not applicable. Blanks on the Price pages will be interpreted as zero (0), and no price will be allowed.

Pricing Proposal

Site 1: Chollas Yard

Section 1. Operations & Maintenance Trailer

Item No.	Estimated Frequency	U/M	Description	Unit Cost	Annual Cost*
1	250	DY	Daily Tasks: Five (5) days a week, Monday - Friday, between the hours of 8:00 a.m. and 5:00 p.m.	\$20.00/Day	\$5,000/Year
2	52	WK	Weekly Tasks	\$5.00/Week	\$260.00/Year
3	12	MO	Monthly Tasks	\$10.00/Month	\$120.00/Year
Section 1 Total					\$5,380.00/Year

Section 2. Engineering & Planning Trailer

Item No.	Estimated Frequency	U/M	Description	Unit Cost	Annual Cost*
1	250	DY	Daily Tasks: Five (5) days a week, Monday - Friday, between the hours of 8:00 a.m. and 5:00 p.m.	\$20.00/Day	\$5,000/Year
2	52	WK	Weekly Tasks	\$5.00/Week	\$260.00/Year
3	12	MO	Monthly Tasks	\$10.00/Month	\$120.00/Year
Section 2 Total					\$5,380.00/Year

Section 3. Stormwater 3rd Trailer -- Trailer A Sweeping

Item No.	Estimated Frequency	U/M	Description	Unit Cost	Annual Cost*
1	250	DY	Daily Tasks: Five (5) days a week, Monday - Friday, between the hours of 8:00 a.m. and 5:00 p.m.	\$20.00/Day	\$5,000/Year
2	52	WK	Weekly Tasks	\$5.00/Week	\$260.00/Year
3	12	MO	Monthly Tasks	\$10.00/Month	\$120.00/Year
Section 3 Total					\$5,380.00/Year

Section 4. Stormwater Office Area

Item No.	Estimated Frequency	U/M	Description	Unit Cost	Annual Cost*
1	250	DY	Daily Tasks: Five (5) days a week, Monday - Friday, between the hours of 8:00 a.m. and 5:00 p.m.	\$20.00/Day	\$5,000/Year
2	52	WK	Weekly Tasks	\$5.00/Week	\$260.00/Year
3	12	MO	Monthly Tasks	\$10.00/Month	\$120.00/Year
Section 4 Total					\$5,380.00/Year

Section 5. Trailer B Stormwater

Item No.	Estimated Frequency	U/M	Description	Unit Cost	Annual Cost*
1	250	DY	Daily Tasks: Five (5) days a week, Monday - Friday, between the hours of 8:00 a.m. and 5:00 p.m.	\$20.00/Day	\$5,000/Year
2	52	WK	Weekly Tasks	\$5.00/Week	\$260.00/Year
3	12	MO	Monthly Tasks	\$10.00/Month	\$120.00/Year
Section 5 Total					\$5,380.00/Year

Site 2: 4020 Taylor Street

Section 6. Trailer 1 at 4020 Taylor Street

Item No.	Estimated Frequency	U/M	Description	Unit Cost	Annual Cost*
1	250	DY	Daily Tasks: Five (5) days a week, Monday - Friday, between the hours of 8:00 a.m. and 5:00 p.m.	\$20.00/Day	\$5,000/Year
2	52	WK	Weekly Tasks	\$5.00/Week	\$260.00/Year
3	12	MO	Monthly Tasks	\$10.00/Month	\$120.00/Year
Section 6 Total					\$5,380.00/Year

Section 7. Trailer 2 at 4020 Taylor Street

Item No.	Estimated Frequency	U/M	Description	Unit Cost	Annual Cost*
1	250	DY	Daily Tasks: Five (5) days a week, Monday - Friday, between the hours of 8:00 a.m. and 5:00 p.m.	\$20.00/Day	\$5,000/Year
2	52	WK	Weekly Tasks	\$5.00/Week	\$260.00/Year
3	12	MO	Monthly Tasks	\$10.00/Month	\$120.00/Year
Section 7 Total					\$5,380.00/Year

Section 8: Performance Bond

Item No.	Estimated Frequency	U/M	Description	Unit Cost	Extension
1	1	EA	Annual Bonds (Payment and Performance)	\$100	\$1,200

Section 9. Extra Cleaning Services/Callback

Estimated Frequency	U/M	Description	Cost Per Hour	Annual Cost
75	HR	Extra Cleaning Services, as specified.	\$20.00	\$1,500/Year

EXHIBIT C



THE CITY OF SAN DIEGO
GENERAL CONTRACT TERMS AND PROVISIONS
APPLICABLE TO GOODS, SERVICES, AND CONSULTANT CONTRACTS

ARTICLE I
SCOPE AND TERM OF CONTRACT

1.1 Scope of Contract. The scope of contract between the City and a provider of goods and/or services (Contractor) is described in the Contract Documents. The Contract Documents are comprised of the Request for Proposal, Invitation to Bid, or other solicitation document (Solicitation); the successful bid or proposal; the letter awarding the contract to Contractor; the City's written acceptance of exceptions or clarifications to the Solicitation, if any; and these General Contract Terms and Provisions.

1.2 Effective Date. A contract between the City and Contractor (Contract) is effective on the last date that the contract is signed by the parties and approved by the City Attorney in accordance with Charter section 40. Unless otherwise terminated, this Contract is effective until it is completed or as otherwise agreed upon in writing by the parties, whichever is the earliest. A Contract term cannot exceed five (5) years unless approved by the City Council by ordinance.

1.3 Contract Extension. The City may, in its sole discretion, unilaterally exercise an option to extend the Contract as described in the Contract Documents. In addition, the City may, in its sole discretion, unilaterally extend the Contract on a month-to-month basis following contract expiration if authorized under Charter section 99 and the Contract Documents. Contractor shall not increase its pricing in excess of the percentage increase described in the Contract.

ARTICLE II
CONTRACT ADMINISTRATOR

2.1 Contract Administrator. The Purchasing Agent or designee is the Contract Administrator for purposes of this Contract, and has the responsibilities described in this Contract, in the San Diego Charter, and in Chapter 2, Article 2, Divisions 5, 30, and 32.

2.1.1 Contractor Performance Evaluations. The Contract Administrator will evaluate Contractor's performance as often as the Contract Administrator deems necessary throughout the term of the contract. This evaluation will be based on criteria including the quality of goods or services, the timeliness of performance, and adherence to applicable laws, including prevailing wage and living wage. City will provide Contractors who receive an unsatisfactory rating with a copy of the evaluation and an opportunity to respond. City may consider final evaluations, including Contractor's response, in evaluating future proposals and bids for contract award.

2.2 Notices. Unless otherwise specified, in all cases where written notice is required under this Contract, service shall be deemed sufficient if the notice is personally delivered or deposited in the United States mail, with first class postage paid, attention to the Purchasing Agent. Proper notice is effective on the date of personal delivery or five (5) days after deposit in a United States postal mailbox unless provided otherwise in the Contract. Notices to the City shall be sent to:

Purchasing Agent
City of San Diego, Purchasing and Contracting Division
1200 3rd Avenue, Suite 200
San Diego, CA 92101-4195

ARTICLE III COMPENSATION

3.1 Manner of Payment. Contractor will be paid monthly, in arrears, for goods and/or services provided in accordance with the terms and provisions specified in the Contract.

3.2 Invoices.

3.2.1 Invoice Detail. Contractor's invoice must be on Contractor's stationary with Contractor's name, address, and remittance address if different. Contractor's invoice must have a date, an invoice number, a purchase order number, a description of the goods or services provided, and an amount due.

3.2.2 Service Contracts. Contractor must submit invoices for services to City by the 10th of the month following the month in which Contractor provided services. Invoices must include the address of the location where services were performed and the dates in which services were provided.

3.2.3 Goods Contracts. Contractor must submit invoices for goods to City within seven days of the shipment. Invoices must describe the goods provided.

3.2.4 Parts Contracts. Contractor must submit invoices for parts to City within seven calendar (7) days of the date the parts are shipped. Invoices must include the manufacturer of the part, manufacturer's published list price, percentage discount applied in accordance with Pricing Page(s), the net price to City, and an item description, quantity, and extension.

3.2.5 Extraordinary Work. City will not pay Contractor for extraordinary work unless Contractor receives prior written authorization from the Contract Administrator. Failure to do so will result in payment being withheld for services. If approved, Contractor will include an invoice that describes the work performed and the location where the work was performed, and a copy of the Contract Administrator's written authorization.

3.2.6 Reporting Requirements. Contractor must submit the following reports using the City's web-based contract compliance portal. Incomplete and/or delinquent reports may cause payment delays, non-payment of invoice, or both. For questions, please view the City's online tutorials on how to utilize the City's web-based contract compliance portal.

3.2.6.1 Monthly Employment Utilization Reports. Contractor and Contractor's subcontractors and suppliers must submit Monthly Employment Utilization Reports by the fifth (5th) day of the subsequent month.

3.2.6.2 Monthly Invoicing and Payments. Contractor and Contractor's subcontractors and suppliers must submit Monthly Invoicing and Payment Reports by the fifth (5th) day of the subsequent month.

3.3 Annual Appropriation of Funds. Contractor acknowledges that the Contract term may extend over multiple City fiscal years, and that work and compensation under this Contract is contingent on the City Council appropriating funding for and authorizing such work and compensation for those fiscal years. This Contract may be terminated at the end of the fiscal year for which sufficient funding is not appropriated and authorized. City is not obligated to pay Contractor for any amounts not duly appropriated and authorized by City Council.

3.4 Price Adjustments. Based on Contractor's written request and justification, the City may approve an increase in unit prices on Contractor's pricing pages consistent with the amount requested in the justification in an amount not to exceed the increase in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U) as published by the Bureau of Labor Statistics, or 5.0%, whichever is less, during the preceding one year term. If the CPI-U is a negative number, then the unit prices shall not be adjusted for that option year (the unit prices will not be decreased). A negative CPI-U shall be counted against any subsequent increases in the CPI-U when calculating the unit prices for later option years. Contractor must provide such written request and justification no less than sixty days before the date in which City may exercise the option to renew the contract, or sixty days before the anniversary date of the Contract. Justification in support of the written request must include a description of the basis for the adjustment, the proposed effective date and reasons for said date, and the amount of the adjustment requested with documentation to support the requested change (e.g. CPI-U or 5.0%, whichever is less). City's approval of this request must be in writing.

ARTICLE IV SUSPENSION AND TERMINATION

4.1 City's Right to Suspend for Convenience. City may suspend all or any portion of Contractor's performance under this Contract at its sole option and for its convenience for a reasonable period of time not to exceed six (6) months. City must first give ten (10) days' written notice to Contractor of such suspension. City will pay to Contractor a sum equivalent to the reasonable value of the goods and/or services satisfactorily provided up to the date of suspension. City may rescind the suspension prior to or at six (6) months by providing Contractor with written notice of the rescission, at which time Contractor would be required to resume performance in compliance with the terms and provisions of this Contract. Contractor will be entitled to an extension of time to complete performance under the Contract equal to the length of the suspension unless otherwise agreed to in writing by the Parties.

4.2 City's Right to Terminate for Convenience. City may, at its sole option and for its convenience, terminate all or any portion of this Contract by giving thirty (30) days' written notice of such termination to Contractor. The termination of the Contract shall be effective upon receipt of the notice by Contractor. After termination of all or any portion of the Contract, Contractor shall: (1) immediately discontinue all affected performance (unless the notice directs otherwise); and (2) complete any and all additional work necessary for the orderly filing of

documents and closing of Contractor's affected performance under the Contract. After filing of documents and completion of performance, Contractor shall deliver to City all data, drawings, specifications, reports, estimates, summaries, and such other information and materials created or received by Contractor in performing this Contract, whether completed or in process. By accepting payment for completion, filing, and delivering documents as called for in this section, Contractor discharges City of all of City's payment obligations and liabilities under this Contract with regard to the affected performance.

4.3 City's Right to Terminate for Default. Contractor's failure to satisfactorily perform any obligation required by this Contract constitutes a default. Examples of default include a determination by City that Contractor has: (1) failed to deliver goods and/or perform the services of the required quality or within the time specified; (2) failed to perform any of the obligations of this Contract; and (3) failed to make sufficient progress in performance which may jeopardize full performance.

4.3.1 If Contractor fails to satisfactorily cure a default within ten (10) calendar days of receiving written notice from City specifying the nature of the default, City may immediately cancel and/or terminate this Contract, and terminate each and every right of Contractor, and any person claiming any rights by or through Contractor under this Contract.

4.3.2 If City terminates this Contract, in whole or in part, City may procure, upon such terms and in such manner as the Purchasing Agent may deem appropriate, equivalent goods or services and Contractor shall be liable to City for any excess costs. Contractor shall also continue performance to the extent not terminated.

4.4 Termination for Bankruptcy or Assignment for the Benefit of Creditors. If Contractor files a voluntary petition in bankruptcy, is adjudicated bankrupt, or makes a general assignment for the benefit of creditors, the City may at its option and without further notice to, or demand upon Contractor, terminate this Contract, and terminate each and every right of Contractor, and any person claiming rights by and through Contractor under this Contract.

4.5 Contractor's Right to Payment Following Contract Termination.

4.5.1 Termination for Convenience. If the termination is for the convenience of City an equitable adjustment in the Contract price shall be made. No amount shall be allowed for anticipated profit on unperformed services, and no amount shall be paid for an as needed contract beyond the Contract termination date.

4.5.2 Termination for Default. If, after City gives notice of termination for failure to fulfill Contract obligations to Contractor, it is determined that Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of City. In such event, adjustment in the Contract price shall be made as provided in Section 4.3.2. City's rights and remedies are in addition to any other rights and remedies provided by law or under this Contract.

4.6 Remedies Cumulative. City's remedies are cumulative and are not intended to be exclusive of any other remedies or means of redress to which City may be lawfully entitled in case of any breach or threatened breach of any provision of this Contract.

ARTICLE V ADDITIONAL CONTRACTOR OBLIGATIONS

5.1 Inspection and Acceptance. The City will inspect and accept goods provided under this Contract at the shipment destination unless specified otherwise. Inspection will be made and acceptance will be determined by the City department shown in the shipping address of the Purchase Order or other duly authorized representative of City.

5.2 Responsibility for Lost or Damaged Shipments. Contractor bears the risk of loss or damage to goods prior to the time of their receipt and acceptance by City. City has no obligation to accept damaged shipments and reserves the right to return damaged goods, at Contractor's sole expense, even if the damage was not apparent or discovered until after receipt.

5.3 Responsibility for Damages. Contractor is responsible for all damage that occurs as a result of Contractor's fault or negligence or that of its' employees, agents, or representatives in connection with the performance of this Contract. Contractor shall immediately report any such damage to people and/or property to the Contract Administrator.

5.4 Delivery. Delivery shall be made on the delivery day specified in the Contract Documents. The City, in its sole discretion, may extend the time for delivery. The City may order, in writing, the suspension, delay or interruption of delivery of goods and/or services.

5.5 Delay. Unless otherwise specified herein, time is of the essence for each and every provision of the Contract. Contractor must immediately notify City in writing if there is, or it is anticipated that there will be, a delay in performance. The written notice must explain the cause for the delay and provide a reasonable estimate of the length of the delay. City may terminate this Contract as provided herein if City, in its sole discretion, determines the delay is material.

5.5.1 If a delay in performance is caused by any unforeseen event(s) beyond the control of the parties, City may allow Contractor to a reasonable extension of time to complete performance, but Contractor will not be entitled to damages or additional compensation. Any such extension of time must be approved in writing by City. The following conditions may constitute such a delay: war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather or other similar condition of the elements necessitating cessation of the performance; inability to obtain materials, equipment or labor; or other specific reasons agreed to between City and Contractor. This provision does not apply to a delay caused by Contractor's acts or omissions. Contractor is not entitled to an extension of time to perform if a delay is caused by Contractor's inability to obtain materials, equipment, or labor unless City has received, in a timely manner, documentary proof satisfactory to City of Contractor's inability to obtain materials, equipment, or labor, in which case City's approval must be in writing.

5.6 Restrictions and Regulations Requiring Contract Modification. Contractor shall immediately notify City in writing of any regulations or restrictions that may or will require Contractor to alter the material, quality, workmanship, or performance of the goods and/or services to be provided. City reserves the right to accept any such alteration, including any resulting reasonable price adjustments, or to cancel the Contract at no expense to the City.

5.7 Warranties. All goods and/or services provided under the Contract must be warranted by Contractor or manufacturer for at least twelve (12) months after acceptance by City, except automotive equipment. Automotive equipment must be warranted for a minimum of 12,000 miles or 12 months, whichever occurs first, unless otherwise stated in the Contract. Contractor is responsible to City for all warranty service, parts, and labor. Contractor is required to ensure that warranty work is performed at a facility acceptable to City and that services, parts, and labor are available and provided to meet City's schedules and deadlines. Contractor may establish a warranty service contract with an agency satisfactory to City instead of performing the warranty service itself. If Contractor is not an authorized service center and causes any damage to equipment being serviced, which results in the existing warranty being voided, Contractor will be liable for all costs of repairs to the equipment, or the costs of replacing the equipment with new equipment that meets City's operational needs.

5.8 Industry Standards. Contractor shall provide goods and/or services acceptable to City in strict conformance with the Contract. Contractor shall also provide goods and/or services in accordance with the standards customarily adhered to by an experienced and competent provider of the goods and/or services called for under this Contract using the degree of care and skill ordinarily exercised by reputable providers of such goods and/or services. Where approval by City, the Mayor, or other representative of City is required, it is understood to be general approval only and does not relieve Contractor of responsibility for complying with all applicable laws, codes, policies, regulations, and good business practices.

5.9 Records Retention and Examination. Contractor shall retain, protect, and maintain in an accessible location all records and documents, including paper, electronic, and computer records, relating to this Contract for five (5) years after receipt of final payment by City under this Contract. Contractor shall make all such records and documents available for inspection, copying, or other reproduction, and auditing by authorized representatives of City, including the Purchasing Agent or designee. Contractor shall make available all requested data and records at reasonable locations within City or County of San Diego at any time during normal business hours, and as often as City deems necessary. If records are not made available within the City or County of San Diego, Contractor shall pay City's travel costs to the location where the records are maintained and shall pay for all related travel expenses. Failure to make requested records available for inspection, copying, or other reproduction, or auditing by the date requested may result in termination of the Contract. Contractor must include this provision in all subcontracts made in connection with this Contract.

5.9.1 Contractor shall maintain records of all subcontracts entered into with all firms, all project invoices received from Subcontractors and Suppliers, all purchases of materials and services from Suppliers, and all joint venture participation. Records shall show name, telephone number including area code, and business address of each Subcontractor and Supplier, and joint venture partner, and the total amount actually paid to each firm. Project relevant records, regardless of tier, may be periodically reviewed by the City.

5.10 Quality Assurance Meetings. Upon City's request, Contractor shall schedule one or more quality assurance meetings with City's Contract Administrator to discuss Contractor's performance. If requested, Contractor shall schedule the first quality assurance meeting no later than eight (8) weeks from the date of commencement of work under the Contract. At the quality assurance meeting(s), City's Contract Administrator will provide Contractor with feedback, will note any deficiencies in Contract performance, and provide Contractor with an opportunity to address and correct such deficiencies. The total number of quality assurance meetings that may be required by City will depend upon Contractor's performance.

5.11 Duty to Cooperate with Auditor. The City Auditor may, in his sole discretion, at no cost to the City, and for purposes of performing his responsibilities under Charter section 39.2, review Contractor's records to confirm contract compliance. Contractor shall make reasonable efforts to cooperate with Auditor's requests.

5.12 Safety Data Sheets. If specified by City in the solicitation or otherwise required by this Contract, Contractor must send with each shipment one (1) copy of the Safety Data Sheet (SDS) for each item shipped. Failure to comply with this procedure will be cause for immediate termination of the Contract for violation of safety procedures.

5.13 Project Personnel. Except as formally approved by the City, the key personnel identified in Contractor's bid or proposal shall be the individuals who will actually complete the work. Changes in staffing must be reported in writing and approved by the City.

5.13.1 Criminal Background Certification. Contractor certifies that all employees working on this Contract have had a criminal background check and that said employees are clear of any sexual and drug related convictions. Contractor further certifies that all employees hired by Contractor or a subcontractor shall be free from any felony convictions.

5.13.2 Photo Identification Badge. Contractor shall provide a company photo identification badge to any individual assigned by Contractor or subcontractor to perform services or deliver goods on City premises. Such badge must be worn at all times while on City premises. City reserves the right to require Contractor to pay fingerprinting fees for personnel assigned to work in sensitive areas. All employees shall turn in their photo identification badges to Contractor upon completion of services and prior to final payment of invoice.

5.14 Standards of Conduct. Contractor is responsible for maintaining standards of employee competence, conduct, courtesy, appearance, honesty, and integrity satisfactory to the City.

5.14.1 Supervision. Contractor shall provide adequate and competent supervision at all times during the Contract term. Contractor shall be readily available to meet with the City. Contractor shall provide the telephone numbers where its representative(s) can be reached.

5.14.2 City Premises. Contractor's employees and agents shall comply with all City rules and regulations while on City premises.

5.14.3 Removal of Employees. City may request Contractor immediately remove from assignment to the City any employee found unfit to perform duties at the City. Contractor shall comply with all such requests.

5.15 Licenses and Permits. Contractor shall, without additional expense to the City, be responsible for obtaining any necessary licenses, permits, certifications, accreditations, fees and approvals for complying with any federal, state, county, municipal, and other laws, codes, and regulations applicable to Contract performance. This includes, but is not limited to, any laws or regulations requiring the use of licensed contractors to perform parts of the work.

5.16 Contractor and Subcontractor Registration Requirements. Prior to the award of the Contract or Task Order, Contractor and Contractor's subcontractors and suppliers must register with the City's web-based vendor registration and bid management system. The City may not award the Contract until registration of all subcontractors and suppliers is complete. In the event this requirement is not met within the time frame specified by the City, the City reserves the right to rescind the Contract award and to make the award to the next responsive and responsible proposer of bidder.

ARTICLE VI INTELLECTUAL PROPERTY RIGHTS

6.1 Rights in Data. If, in connection with the services performed under this Contract, Contractor or its employees, agents, or subcontractors, create artwork, audio recordings, blueprints, designs, diagrams, documentation, photographs, plans, reports, software, source code, specifications, surveys, system designs, video recordings, or any other original works of authorship, whether written or readable by machine (Deliverable Materials), all rights of Contractor or its subcontractors in the Deliverable Materials, including, but not limited to publication, and registration of copyrights, and trademarks in the Deliverable Materials, are the sole property of City. Contractor, including its employees, agents, and subcontractors, may not use any Deliverable Material for purposes unrelated to Contractor's work on behalf of the City without prior written consent of City. Contractor may not publish or reproduce any Deliverable Materials, for purposes unrelated to Contractor's work on behalf of the City, without the prior written consent of the City.

6.2 Intellectual Property Rights Assignment. For no additional compensation, Contractor hereby assigns to City all of Contractor's rights, title, and interest in and to the content of the Deliverable Materials created by Contractor or its employees, agents, or subcontractors, including copyrights, in connection with the services performed under this Contract. Contractor

shall promptly execute and deliver, and shall cause its employees, agents, and subcontractors to promptly execute and deliver, upon request by the City or any of its successors or assigns at any time and without further compensation of any kind, any power of attorney, assignment, application for copyright, patent, trademark or other intellectual property right protection, or other papers or instruments which may be necessary or desirable to fully secure, perfect or otherwise protect to or for the City, its successors and assigns, all right, title and interest in and to the content of the Deliverable Materials. Contractor also shall cooperate and assist in the prosecution of any action or opposition proceeding involving such intellectual property rights and any adjudication of those rights.

6.3 Contractor Works. Contractor Works means tangible and intangible information and material that: (a) had already been conceived, invented, created, developed or acquired by Contractor prior to the effective date of this Contract; or (b) were conceived, invented, created, or developed by Contractor after the effective date of this Contract, but only to the extent such information and material do not constitute part or all of the Deliverable Materials called for in this Contract. All Contractor Works, and all modifications or derivatives of such Contractor Works, including all intellectual property rights in or pertaining to the same, shall be owned solely and exclusively by Contractor.

6.4 Subcontracting. In the event that Contractor utilizes a subcontractor(s) for any portion of the work that comprises the whole or part of the specified Deliverable Materials to the City, the agreement between Contractor and the subcontractor shall include a statement that identifies the Deliverable Materials as a “works for hire” as described in the United States Copyright Act of 1976, as amended, and that all intellectual property rights in the Deliverable Materials, whether arising in copyright, trademark, service mark or other forms of intellectual property rights, belong to and shall vest solely with the City. Further, the agreement between Contractor and its subcontractor shall require that the subcontractor, if necessary, shall grant, transfer, sell and assign, free of charge, exclusively to City, all titles, rights and interests in and to the Deliverable Materials, including all copyrights, trademarks and other intellectual property rights. City shall have the right to review any such agreement for compliance with this provision.

6.5 Intellectual Property Warranty and Indemnification. Contractor represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this Contract are either original, or not encumbered, and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If Deliverable Materials provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, City shall have the right, in its sole discretion, to require Contractor to produce, at Contractor’s own expense, new non-infringing materials, deliverables or works as a means of remedying any claim of infringement in addition to any other remedy available to the City under law or equity. Contractor further agrees to indemnify, defend, and hold harmless the City, its officers, employees and agents from and against any and all claims, actions, costs, judgments or damages, of any type, alleging or threatening that any Deliverable Materials, supplies, equipment, services or works provided under this contract infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any third party (Third Party Claim of Infringement). If a Third Party Claim

of Infringement is threatened or made before Contractor receives payment under this Contract, City shall be entitled, upon written notice to Contractor, to withhold some or all of such payment.

6.6 Software Licensing. Contractor represents and warrants that the software, if any, as delivered to City, does not contain any program code, virus, worm, trap door, back door, time or clock that would erase data or programming or otherwise cause the software to become inoperable, inaccessible, or incapable of being used in accordance with its user manuals, either automatically, upon the occurrence of licensor-selected conditions or manually on command. Contractor further represents and warrants that all third party software, delivered to City or used by Contractor in the performance of the Contract, is fully licensed by the appropriate licensor.

6.7 Publication. Contractor may not publish or reproduce any Deliverable Materials, for purposes unrelated to Contractor's work on behalf of the City without prior written consent from the City.

6.8 Royalties, Licenses, and Patents. Unless otherwise specified, Contractor shall pay all royalties, license, and patent fees associated with the goods that are the subject of this solicitation. Contractor warrants that the goods, materials, supplies, and equipment to be supplied do not infringe upon any patent, trademark, or copyright, and further agrees to defend any and all suits, actions and claims for infringement that are brought against the City, and to defend, indemnify and hold harmless the City, its elected officials, officers, and employees from all liability, loss and damages, whether general, exemplary or punitive, suffered as a result of any actual or claimed infringement asserted against the City, Contractor, or those furnishing goods, materials, supplies, or equipment to Contractor under the Contract.

ARTICLE VII INDEMNIFICATION AND INSURANCE

7.1 Indemnification. To the fullest extent permitted by law, Contractor shall defend (with legal counsel reasonably acceptable to City), indemnify, protect, and hold harmless City and its elected officials, officers, employees, agents, and representatives (Indemnified Parties) from and against any and all claims, losses, costs, damages, injuries (including, without limitation, injury to or death of an employee of Contractor or its subcontractors), expense, and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, and litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, any goods provided or performance of services under this Contract by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or anyone that either of them control. Contractor's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or willful misconduct of the Indemnified Parties.

7.2 Insurance. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or

in connection with the performance of the work hereunder and the results of that work by Contractor, his agents, representatives, employees or subcontractors.

Contractor shall provide, at a minimum, the following:

7.2.1 Commercial General Liability. Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

7.2.2 Commercial Automobile Liability. Insurance Services Office Form Number CA 0001 covering Code 1 (any auto) or, if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

7.2.3 Workers' Compensation. Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

7.2.4 Professional Liability (Errors and Omissions). For consultant contracts, insurance appropriate to Consultant's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If Contractor maintains broader coverage and/or higher limits than the minimums shown above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

7.2.5 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

7.2.5.1 Additional Insured Status. The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

7.2.5.2 Primary Coverage. For any claims related to this contract, Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

7.2.5.3 Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to City.

7.2.5.4 Waiver of Subrogation. Contractor hereby grants to City a waiver of any right to subrogation which the Workers' Compensation insurer of said Contractor may acquire against City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

7.2.5.5 Claims Made Policies (applicable only to professional liability). The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

7.3 Self Insured Retentions. Self-insured retentions must be declared to and approved by City. City may require Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

7.4 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VI, unless otherwise acceptable to City.

City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Approved Surplus Lines Insurers (LASLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

7.5 Verification of Coverage. Contractor shall furnish City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Contractor's obligation to provide them. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

7.6 Special Risks or Circumstances. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

7.7 Additional Insurance. Contractor may obtain additional insurance not required by this Contract.

7.8 Excess Insurance. All policies providing excess coverage to City shall follow the form of the primary policy or policies including but not limited to all endorsements.

7.9 Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a format at least as broad as the CG 20 38 04 13 endorsement.

ARTICLE VIII BONDS

8.1 Payment and Performance Bond. Prior to the execution of this Contract, City may require Contractor to post a payment and performance bond (Bond). The Bond shall guarantee Contractor's faithful performance of this Contract and assure payment to contractors, subcontractors, and to persons furnishing goods and/or services under this Contract.

8.1.1 Bond Amount. The Bond shall be in a sum equal to twenty-five percent (25%) of the Contract amount, unless otherwise stated in the Specifications. City may file a claim against the Bond if Contractor fails or refuses to fulfill the terms and provisions of the Contract.

8.1.2 Bond Term. The Bond shall remain in full force and effect at least until complete performance of this Contract and payment of all claims for materials and labor, at which time it will convert to a ten percent (10%) warranty bond, which shall remain in place until the end of the warranty periods set forth in this Contract. The Bond shall be renewed annually, at least sixty (60) days in advance of its expiration, and Contractor shall provide timely proof of annual renewal to City.

8.1.3 Bond Surety. The Bond must be furnished by a company authorized by the State of California Department of Insurance to transact surety business in the State of California and which has a current A.M. Best rating of at least "A-, VIII."

8.1.4 Non-Renewal or Cancellation. The Bond must provide that City and Contractor shall be provided with sixty (60) days' advance written notice in the event of non-renewal, cancellation, or material change to its terms. In the event of non-renewal, cancellation, or material change to the Bond terms, Contractor shall provide City with evidence of the new source of surety within twenty-one (21) calendar days after the date of the notice of non-renewal, cancellation, or material change. Failure to maintain the Bond, as required herein, in full force

and effect as required under this Contract, will be a material breach of the Contract subject to termination of the Contract.

8.2 Alternate Security. City may, at its sole discretion, accept alternate security in the form of an endorsed certificate of deposit, a money order, a certified check drawn on a solvent bank, or other security acceptable to the Purchasing Agent in an amount equal to the required Bond.

ARTICLE IX CITY-MANDATED CLAUSES AND REQUIREMENTS

9.1 Contractor Certification of Compliance. By signing this Contract, Contractor certifies that Contractor is aware of, and will comply with, these City-mandated clauses throughout the duration of the Contract.

9.1.1 Drug-Free Workplace Certification. Contractor shall comply with City's Drug-Free Workplace requirements set forth in Council Policy 100-17, which is incorporated into the Contract by this reference.

9.1.2 Contractor Certification for Americans with Disabilities Act (ADA) and State Access Laws and Regulations: Contractor shall comply with all accessibility requirements under the ADA and under Title 24 of the California Code of Regulations (Title 24). When a conflict exists between the ADA and Title 24, Contractor shall comply with the most restrictive requirement (i.e., that which provides the most access). Contractor also shall comply with the City's ADA Compliance/City Contractors requirements as set forth in Council Policy 100-04, which is incorporated into this Contract by reference. Contractor warrants and certifies compliance with all federal and state access laws and regulations and further certifies that any subcontract agreement for this contract contains language which indicates the subcontractor's agreement to abide by the provisions of the City's Council Policy and any applicable access laws and regulations.

9.1.3 Non-Discrimination Requirements.

9.1.3.1 Compliance with City's Equal Opportunity Contracting Program (EOCP). Contractor shall comply with City's EOCP Requirements. Contractor shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Contractor shall provide equal opportunity in all employment practices. Prime Contractors shall ensure that their subcontractors comply with this program. Nothing in this Section shall be interpreted to hold a Prime Contractor liable for any discriminatory practice of its subcontractors.

9.1.3.2 Non-Discrimination Ordinance. Contractor shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of subcontractors, vendors or suppliers. Contractor shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result

in Contract termination, debarment, or other sanctions. Contractor shall ensure that this language is included in contracts between Contractor and any subcontractors, vendors and suppliers.

9.1.3.3 Compliance Investigations. Upon City's request, Contractor agrees to provide to City, within sixty calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Contractor for each subcontract or supply contract. Contractor further agrees to fully cooperate in any investigation conducted by City pursuant to City's Nondiscrimination in Contracting Ordinance. Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.

9.1.4 Equal Benefits Ordinance Certification. Unless an exception applies, Contractor shall comply with the Equal Benefits Ordinance (EBO) codified in the San Diego Municipal Code (SDMC). Failure to maintain equal benefits is a material breach of the Contract.

9.1.5 Contractor Standards. Contractor shall comply with Contractor Standards provisions codified in the SDMC. Contractor understands and agrees that violation of Contractor Standards may be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.

9.1.6 Noise Abatement. Contractor shall operate, conduct, or construct without violating the City's Noise Abatement Ordinance codified in the SDMC.

9.1.7 Storm Water Pollution Prevention Program. Contractor shall comply with the City's Storm Water Management and Discharge Control provisions codified in Division 3 of Chapter 4 of the SDMC, as may be amended, and any and all applicable Best Management Practice guidelines and pollution elimination requirements in performing or delivering services at City owned, leased, or managed property, or in performance of services and activities on behalf of City regardless of location.

Contractor shall comply with the City's Jurisdictional Urban Runoff Management Plan encompassing Citywide programs and activities designed to prevent and reduce storm water pollution within City boundaries as adopted by the City Council on January 22, 2008, via Resolution No. 303351, as may be amended.

Contractor shall comply with each City facility or work site's Storm Water Pollution Prevention Plan, as applicable, and institute all controls needed while completing the services to minimize any negative impact to the storm water collection system and environment.

9.1.8 Service Worker Retention Ordinance. If applicable, Contractor shall comply with the Service Worker Retention Ordinance (SWRO) codified in the SDMC.

9.1.9 Product Endorsement. Contractor shall comply with Council Policy 000-41 which requires that other than listing the City as a client and other limited endorsements, any advertisements, social media, promotions or other marketing referring to the City as a user of a product or service will require prior written approval of the Mayor or designee. Use of the City Seal or City logos is prohibited.

9.1.10 Business Tax Certificate. Unless the City Treasurer determines in writing that a contractor is exempt from the payment of business tax, any contractor doing business with the City of San Diego is required to obtain a Business Tax Certificate (BTC) and to provide a copy of its BTC to the City before a Contract is executed.

9.1.11 Equal Pay Ordinance. Unless an exception applies, Contractor shall comply with the Equal Pay Ordinance codified in San Diego Municipal Code sections 22.4801 through 22.4809. Contractor shall certify in writing that it will comply with the requirements of the EPO.

9.1.11.1 Contractor and Subcontract Requirement. The Equal Pay Ordinance applies to any subcontractor who performs work on behalf of a Contractor to the same extent as it would apply to that Contractor. Any Contractor subject to the Equal Pay Ordinance shall require all of its subcontractors to certify compliance with the Equal Pay Ordinance in its written subcontracts.

ARTICLE X CONFLICT OF INTEREST AND VIOLATIONS OF LAW

10.1 Conflict of Interest Laws. Contractor is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices including, but not limited to, California Government Code sections 1090, *et. seq.* and 81000, *et. seq.*, and the Ethics Ordinance, codified in the SDMC. City may determine that Contractor must complete one or more statements of economic interest disclosing relevant financial interests. Upon City's request, Contractor shall submit the necessary documents to City.

10.2 Contractor's Responsibility for Employees and Agents. Contractor is required to establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business or other relationships.

10.3 Contractor's Financial or Organizational Interests. In connection with any task, Contractor shall not recommend or specify any product, supplier, or contractor with whom Contractor has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

10.4 Certification of Non-Collusion. Contractor certifies that: (1) Contractor's bid or proposal was not made in the interest of or on behalf of any person, firm, or corporation not identified; (2) Contractor did not directly or indirectly induce or solicit any other bidder or proposer to put in a sham bid or proposal; (3) Contractor did not directly or indirectly induce or

solicit any other person, firm or corporation to refrain from bidding; and (4) Contractor did not seek by collusion to secure any advantage over the other bidders or proposers.

10.5 Hiring City Employees. This Contract shall be unilaterally and immediately terminated by City if Contractor employs an individual who within the twelve (12) months immediately preceding such employment did in his/her capacity as a City officer or employee participate in negotiations with or otherwise have an influence on the selection of Contractor.

ARTICLE XI DISPUTE RESOLUTION

11.1 Mediation. If a dispute arises out of or relates to this Contract and cannot be settled through normal contract negotiations, Contractor and City shall use mandatory non-binding mediation before having recourse in a court of law.

11.2 Selection of Mediator. A single mediator that is acceptable to both parties shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Contract, if possible.

11.3 Expenses. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties, unless they agree otherwise.

11.4 Conduct of Mediation Sessions. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. The discussions, statements, writings and admissions will be confidential to the proceedings (pursuant to California Evidence Code sections 1115 through 1128) and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. Both parties shall have a representative attend the mediation who is authorized to settle the dispute, though City's recommendation of settlement may be subject to the approval of the Mayor and City Council. Either party may have attorneys, witnesses or experts present.

11.5 Mediation Results. Any agreements resulting from mediation shall be memorialized in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the parties. Mediators shall not be subject to any subpoena or liability, and their actions shall not be subject to discovery.

ARTICLE XII MANDATORY ASSISTANCE

12.1 Mandatory Assistance. If a third party dispute or litigation, or both, arises out of, or relates in any way to the services provided to the City under a Contract, Contractor, its agents, officers, and employees agree to assist in resolving the dispute or litigation upon City's request. Contractor's assistance includes, but is not limited to, providing professional consultations,

attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

12.2 Compensation for Mandatory Assistance. City will compensate Contractor for fees incurred for providing Mandatory Assistance. If, however, the fees incurred for the Mandatory Assistance are determined, through resolution of the third party dispute or litigation, or both, to be attributable in whole, or in part, to the acts or omissions of Contractor, its agents, officers, and employees, Contractor shall reimburse City for all fees paid to Contractor, its agents, officers, and employees for Mandatory Assistance.

12.3 Attorneys' Fees Related to Mandatory Assistance. In providing City with dispute or litigation assistance, Contractor or its agents, officers, and employees may incur expenses and/or costs. Contractor agrees that any attorney fees it may incur as a result of assistance provided under Section 12.2 are not reimbursable.

ARTICLE XIII MISCELLANEOUS

13.1 Headings. All headings are for convenience only and shall not affect the interpretation of this Contract.

13.2 Non-Assignment. Contractor may not assign the obligations under this Contract, whether by express assignment or by sale of the company, nor any monies due or to become due under this Contract, without City's prior written approval. Any assignment in violation of this paragraph shall constitute a default and is grounds for termination of this Contract at the City's sole discretion. In no event shall any putative assignment create a contractual relationship between City and any putative assignee.

13.3 Independent Contractors. Contractor and any subcontractors employed by Contractor are independent contractors and not agents of City. Any provisions of this Contract that may appear to give City any right to direct Contractor concerning the details of performing or providing the goods and/or services, or to exercise any control over performance of the Contract, shall mean only that Contractor shall follow the direction of City concerning the end results of the performance.

13.4 Subcontractors. All persons assigned to perform any work related to this Contract, including any subcontractors, are deemed to be employees of Contractor, and Contractor shall be directly responsible for their work.

13.5 Covenants and Conditions. All provisions of this Contract expressed as either covenants or conditions on the part of City or Contractor shall be deemed to be both covenants and conditions.

13.6 Compliance with Controlling Law. Contractor shall comply with all applicable local, state, and federal laws, regulations, and policies. Contractor's act or omission in violation of applicable local, state, and federal laws, regulations, and policies is grounds for contract

termination. In addition to all other remedies or damages allowed by law, Contractor is liable to City for all damages, including costs for substitute performance, sustained as a result of the violation. In addition, Contractor may be subject to suspension, debarment, or both.

13.7 Governing Law. The Contract shall be deemed to be made under, construed in accordance with, and governed by the laws of the State of California without regard to the conflicts or choice of law provisions thereof.

13.8 Venue. The venue for any suit concerning solicitations or the Contract, the interpretation of application of any of its terms and conditions, or any related disputes shall be in the County of San Diego, State of California.

13.9 Successors in Interest. This Contract and all rights and obligations created by this Contract shall be in force and effect whether or not any parties to the Contract have been succeeded by another entity, and all rights and obligations created by this Contract shall be vested and binding on any party's successor in interest.

13.10 No Waiver. No failure of either City or Contractor to insist upon the strict performance by the other of any covenant, term or condition of this Contract, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Contract, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Contract, and each and every covenant, condition, and term hereof shall continue in full force and effect without respect to any existing or subsequent breach.

13.11 Severability. The unenforceability, invalidity, or illegality of any provision of this Contract shall not render any other provision of this Contract unenforceable, invalid, or illegal.

13.12 Drafting Ambiguities. The parties acknowledge that they have the right to be advised by legal counsel with respect to the negotiations, terms and conditions of this Contract, and the decision of whether to seek advice of legal counsel with respect to this Contract is the sole responsibility of each party. This Contract shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Contract.

13.13 Amendments. Neither this Contract nor any provision hereof may be changed, modified, amended or waived except by a written agreement executed by duly authorized representatives of City and Contractor. Any alleged oral amendments have no force or effect. The Purchasing Agent must sign all Contract amendments.

13.14 Conflicts Between Terms. If this Contract conflicts with an applicable local, state, or federal law, regulation, or court order, applicable local, state, or federal law, regulation, or court order shall control. Varying degrees of stringency among the main body of this Contract, the exhibits or attachments, and laws, regulations, or orders are not deemed conflicts, and the most stringent requirement shall control. Each party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Contract.

13.15 Survival of Obligations. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with this Contract, as well as all continuing obligations indicated in this Contract, shall survive, completion and acceptance of performance and termination, expiration or completion of the Contract.

13.16 Confidentiality of Services. All services performed by Contractor, and any sub-contractor(s) if applicable, including but not limited to all drafts, data, information, correspondence, proposals, reports of any nature, estimates compiled or composed by Contractor, are for the sole use of City, its agents, and employees. Neither the documents nor their contents shall be released by Contractor or any subcontractor to any third party without the prior written consent of City. This provision does not apply to information that: (1) was publicly known, or otherwise known to Contractor, at the time it was disclosed to Contractor by City; (2) subsequently becomes publicly known through no act or omission of Contractor; or (3) otherwise becomes known to Contractor other than through disclosure by City.

13.17 Insolvency. If Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the Contract, written notification of the bankruptcy to the Purchasing Agent and the Contract Administrator responsible for administering the Contract. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of City contract numbers and contracting offices for all City contracts against which final payment has not been made. This obligation remains in effect until final payment is made under this Contract.

13.18 No Third Party Beneficiaries. Except as may be specifically set forth in this Contract, none of the provisions of this Contract are intended to benefit any third party not specifically referenced herein. No party other than City and Contractor shall have the right to enforce any of the provisions of this Contract.

13.19 Actions of City in its Governmental Capacity. Nothing in this Contract shall be interpreted as limiting the rights and obligations of City in its governmental or regulatory capacity.

**EXHIBIT D
WAGE REQUIREMENTS**

A. LIVING WAGES. This Contract is subject to the City's Living Wage Ordinance (LWO), codified at SDMC sections 22.4201 through 22.4245. The LWO requires payment of minimum hourly wage rates and other benefits unless an exemption applies. SDMC section 22.4225 requires each bidder to fill out and file a living wage certification with the City Manager within thirty (30) days of Award of the Contract. LWO wage and health benefit rates are adjusted annually in accordance with SDMC section 22.4220(b) to reflect the Consumer Price Index. Service contracts, financial assistance agreements, and City facilities agreements must include this upward adjustment of wage rates to covered employees on July 1 of each year. In addition, bidder agrees to require all of its subcontractors, sublessees, and concessionaires subject to the LWO to comply with the LWO and all applicable regulations and rules.

1. Exemption from Living Wage Ordinance. Pursuant to SDMC section 22.4215, this Contract may be exempt from the LWO. For a determination on this exemption, Contractor must complete the Living Wage Ordinance Application for Exemption.

STATE OF CALIFORNIA

Gavin Newsom, Governor

DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Labor Standards Enforcement
Licensing & Registration Unit
1515 Clay Street, Suite 1902
Oakland, CA 94612
Tel: (510) 879-8333 Fax: (510) 286-1366

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P. O. Box 420603
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Registration Services
Division of Labor Standards Enforcement

August 2019

NOTICE

Update to Janitorial Employer Registration Law

All janitorial employers, with or without employees, must register with the Labor Commissioner's Office

All janitorial employers in California must now register with the Labor Commissioner's Office. Any person or business entity with any of the following conditions must register:

- Any person or entity that employs at least one janitorial worker, which could be as an employee, an independent contractor, or a franchisee.
- Any person or entity that has no janitorial workers but enters into a contract, subcontract, or franchise agreement for the provision of janitorial services.

To register:

- Gather the [required documents](#).
- Complete the new application or renew your existing registration [online](#) or by [mail](#).

The update to [the Property Service Workers Protection Act](#), effective June 27, 2019, expanded the definition of janitorial employer to include any person or entity that provides or engages to provide janitorial services, even if they have no employees.

Please note: Proof of valid workers' compensation coverage or proof of exemption from the requirement to maintain workers' compensation coverage is required for registration. Janitorial employers with no employees may be exempt from the requirement to maintain valid workers' compensation coverage and must provide proof of this exemption.

The law defines janitorial employers as:

Any person or entity that employs at least one covered worker or otherwise engages by contract, subcontract, or franchise agreement for the provision of janitorial services by one or more covered workers. The term "employer" includes the term "covered successor employer," but does not include an entity that is the recipient of the janitorial services.

A covered worker is any individual working predominantly as a janitor, whether as an employee, independent contractor, or a franchisee. The term janitor is defined in the [Service Contract Act Directory of Occupations](#) maintained by the United States Department of Labor.

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AB-350 Displaced Janitor Opportunity Act. (2011-2012)

SHARE THIS:



AMENDED IN SENATE SEPTEMBER 02, 2011

AMENDED IN SENATE AUGUST 30, 2011

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN SENATE JUNE 30, 2011

AMENDED IN ASSEMBLY APRIL 27, 2011

CALIFORNIA LEGISLATURE— 2011–2012 REGULAR SESSION

ASSEMBLY BILL

NO. 350

Introduced by Assembly Member Solorio
(Coauthor(s): Assembly Member Lara, Mendoza)
(Coauthor(s): Senator Vargas)

February 10, 2011

An act to amend Sections 1060, 1061, and 1064 of, and to amend the heading of Chapter 4.5 (commencing with Section 1060) of Part 3 of Division 2 of, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 350, as amended, Solorio. Displaced Janitor Opportunity Act.

Existing law, the Displaced Janitor Opportunity Act, requires contractors and subcontractors, that are awarded contracts or subcontracts by an awarding authority to provide janitorial or building maintenance services at a particular job site or sites, to retain, for a period of 60 days, certain employees who were employed at that site by the previous contractor or subcontractor. The act requires the successor contractors and subcontractors to offer continued employment to those employees retained for the 60-day period if their performance during that 60-day period is satisfactory. The act authorizes an employee who was not offered employment or who has been discharged in violation of these provisions by a successor contractor or successor subcontractor, or an agent of the employee, to bring an action against a successor contractor or successor subcontractor in any superior court of the state having jurisdiction over the successor contractor or successor subcontractor, as specified.

This bill would rename the act the Displaced Property Service Employee Opportunity Act and make the provisions of the act applicable to property services, which would consist of licensed security, as defined, window cleaning, food cafeteria and dietary services, janitorial services, and ~~cleaning-related or light~~ building maintenance

services. This bill would exclude from the definitions of "contractor" and "subcontractor" specified types of food service providers. The bill also would make conforming changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The heading of Chapter 4.5 (commencing with Section 1060) of Part 3 of Division 2 of the Labor Code is amended to read:

CHAPTER 4.5. Displaced Property Service Employee Opportunity Act

SEC. 2. Section 1060 of the Labor Code is amended to read:

1060. The following definitions shall apply throughout this chapter:

(a) "Awarding authority" means any person that awards or otherwise enters into contracts for property services performed within the State of California, including any subcontracts for those services.

(b) "Contractor" means any person that employs 25 or more individuals and that enters into a property service contract with the awarding authority, excluding an organization vendored or contracted through a regional center or the State Department of Developmental Services pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) or the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) to provide services and supports for persons with developmental disabilities, as defined in Section 4512 of the Welfare and Institutions Code, that employs 200 or fewer individuals in the delivery of food services, that enters into a food service contract with the awarding authority or with a contractor to assist that contractor in performing a food service contract, and that provides a written notice to the awarding authority asserting exemption pursuant to this subdivision. In calculating whether an organization employs 200 or fewer individuals for these purposes, persons employed solely to produce commodities or provide services for procurement pursuant to Sections 46 to 48c, inclusive, of Title 41 of the United States Code shall not be counted.

(c) "Employee" means any person employed as a property service employee of a contractor or subcontractor who works at least 15 hours per week, has been employed by the contractor for at least four months prior to receiving notification of a contract termination, as described in paragraph (1) of subdivision (a) of Section 1061, and whose primary place of employment is in the State of California under a contract to provide property services. "Employee" does not include a person who is a managerial, supervisory, or confidential employee, including those employees who would be so defined under the federal Fair Labor Standards Act.

(d) "Person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ individuals or enter into contracts.

(e) "Property service" means janitorial, ~~cleaning-related or light~~ building maintenance, licensed security, window cleaning, or food cafeteria and dietary services. For purposes of this subdivision, "licensed security service" means service rendered by a person covered under a valid collective bargaining agreement who is registered as a security guard pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code.

(f) "Property service contract" means any contract that has the principal purpose of providing property services through the use of property service employees.

(g) "Subcontractor" means any person who is not an employee who enters into a contract with a contractor to assist the contractor in performing a property service contract, excluding an organization vendored or contracted through a regional center or the State Department of Developmental Services pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) or the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) to provide services and supports for persons with developmental disabilities, as defined in Section 4512 of the Welfare and Institutions Code, that employs 200 or fewer individuals in the delivery of food services, that enters into a food service contract with the awarding authority or with a contractor to assist that contractor in performing a food service contract, and that provides a written notice to the awarding authority asserting exemption pursuant to this subdivision. In calculating whether an organization employs 200 or fewer individuals for these purposes, persons employed solely to produce commodities or provide services for

procurement pursuant to Sections 46 to 48c, inclusive, of Title 41 of the United States Code shall not be counted.

(h) "Successor property service contract" means a property service contract for the performance of essentially the same services as were previously performed pursuant to a different property service contract at the same facility that terminated within the previous 30 days. A property service contract entered into more than 30 days after the termination of a predecessor property service contract shall be considered a "successor property service contract" if its execution was delayed for the purpose of avoiding application of this chapter.

SEC. 3. Section 1061 of the Labor Code is amended to read:

1061. (a) (1) If an awarding authority notifies a contractor that the property service contract between the awarding authority and the contractor has been terminated or will be terminated, the awarding authority shall indicate in that notification whether a successor property service contract has been or will be awarded in its place and, if so, shall identify the name and address of the successor contractor. The terminated contractor shall, within three working days after receiving that notification, provide to the successor contractor identified by the awarding authority, the name, date of hire, and job classification of each employee employed at the site or sites covered by the terminated property service contract at the time of the contract termination.

(2) If the terminated contractor has not learned the identity of the successor contractor, if any, the terminated contractor shall provide that information to the awarding authority, which shall be responsible for providing that information to the successor contractor as soon as that contractor has been selected.

(3) The requirements of this section shall be equally applicable to all subcontractors of a terminated contractor.

(b) (1) A successor contractor or successor subcontractor shall retain, for a 60-day transition employment period, employees who have been employed by the terminated contractor or its subcontractors, if any, for the preceding four months or longer at the site or sites covered by the successor service contract unless the successor contractor or successor subcontractor has reasonable and substantiated cause not to hire a particular employee based on that employee's performance or conduct while working under the terminated contract. This requirement shall be stated by awarding authorities in all initial bid packages that are governed by this chapter.

(2) The successor contractor or successor subcontractor shall make a written offer of employment to each employee, as required by this section, in the employee's primary language or another language in which the employee is literate. That offer shall state the time within which the employee must accept that offer, but in no case may that time be less than 10 days. Nothing in this section requires the successor contractor or successor subcontractor to pay the same wages or offer the same benefits as were provided by the prior contractor or prior subcontractor.

(3) If at any time the successor contractor or successor subcontractor determines that fewer employees are needed to perform services under the successor property service contract or successor subcontract than were required by the terminated contractor under the terminated contract or terminated subcontract, the successor contractor or successor subcontractor shall retain employees by seniority within the job classification.

(c) The successor contractor or successor subcontractor, upon commencing service under the successor property service contract, shall provide a list of its employees and a list of employees of its subcontractors providing property services at the site or sites covered under that contract to the awarding authority. These lists shall indicate which of these employees were employed at the site or sites by the terminated contractor or terminated subcontractor. The successor contractor or successor subcontractor shall also provide a list of any of the terminated contractor's employees who were not retained either by the successor contractor or successor subcontractor, stating the reason these employees were not retained.

(d) During the 60-day transition employment period, the successor contractor or successor subcontractor shall maintain a preferential hiring list of eligible covered employees not retained by the successor contractor or successor subcontractor from which the successor contractor or successor subcontractor shall hire additional employees until such time as all of the terminated contractor's or terminated subcontractor's employees have been offered employment with the successor contractor or successor subcontractor.

(e) During the initial 60-day transition employment period, the successor contractor or successor subcontractor shall not discharge without cause an employee retained pursuant to this chapter. Cause shall be based only on the performance or conduct of the particular employee.

(f) At the end of the 60-day transition employment period, a successor contractor or successor subcontractor shall provide a written performance evaluation to each employee retained pursuant to this chapter. If the employee's performance during that 60-day period is satisfactory, the successor contractor or successor subcontractor shall offer the employee continued employment. Any employment after the 60-day transition employment period shall be at-will employment under which the employee may be terminated without cause.

(g) Nothing in this section shall require an employer to employ a person who is a registered sex offender or who has been convicted of a felony involving robbery, rape, murder, assault with intent to kill, assault that inflicts grievous bodily injury, or any similar violation.

SEC. 4. Section 1064 of the Labor Code is amended to read:

1064. Nothing in this chapter shall prohibit a local government agency from enacting ordinances relating to displaced property service employees that impose greater standards than, or establish enforcement provisions in addition to, those prescribed by this chapter.