



# ***CITY COUNCIL AGENDA REPORT***

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MEETING DATE: OCTOBER 18, 2011

ITEM NUMBER:

**SUBJECT: STREET SWEEPING SERVICES REQUEST FOR PROPOSAL**

**DATE: OCTOBER 5, 2011**

**FROM: OFFICE OF THE CEO**

**PRESENTATION BY: THOMAS R. HATCH, CEO**

**FOR FURTHER INFORMATION CONTACT: THOMAS R. HATCH @ (714) 754-5328**

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## **RECOMMENDATION:**

Staff recommends that the City Council authorize staff to release the Request for Proposal (RFP) for Street Sweeping Services (Attachment 3) based upon the analysis provided by both the Street Sweeping Services Contracting Committee and Public Services Department.

## **BACKGROUND/ANALYSIS:**

Council Policy 100-6 provides guidelines for evaluating the potential contracting of on-going City services on a long-term or permanent basis. As set forth in the policy, a committee was formed and comprised of three segments: Project Responsibility, Department Representative and Employee Representative. The committee was tasked with the following:

- Hearing a presentation from department representatives and asking questions about the specific proposal under consideration;
- Working together to outline how to evaluate a comparable City effort to provide the same or similar service;
- Having the project facilitator draft an analysis addressing the available alternatives for service delivery as outlined by the committee; and,
- Determining if outside comparative data would be useful.

On September 13, 2011 the Street Sweeping Services Contracting Committee met to discuss the duties and responsibilities of the Street Sweeping Services program and determine "the available alternatives for service delivery." After hearing a presentation by department staff and asking questions, the Contracting Committee determined the following alternatives for the Street Sweeping Services program:

1. Retain existing service level at existing cost.
2. Retain existing service level at lower cost by reorganization.
3. Lower level of service at a lesser cost.
4. Eliminate some or all of the service provided to the City and Community.
5. Contract with a private provider.
6. Contract with another public entity.

On September 20, 2011 and September 29, 2011, the Contracting Committee met to discuss, clarify and finalize the alternatives/options and the draft RFP. The following is an explanation of the attachments.

Attachment 1, a memo from the Contracting Committee to the City CEO, Tom Hatch, provides identification and analysis of each alternative and survey information provided by other agencies.

Attachment 2, a memo from the Interim Public Services Director, Ernesto Munoz, to the City CEO, Tom Hatch, provides a written evaluation (including pros and cons) of each option addressed by the Contracting Committee.

Attachment 3, the draft RFP for Street Sweeping Services, prepared by the Public Services Department and reviewed and finalized by the Contracting Committee.

Based on the attached information it appears that the most viable alternatives are to retain the existing service level but at a lower cost through reorganization or contracting with either a public entity or private company for services. It is difficult to determine which of these alternatives would provide the highest level of service at the lowest cost without issuing an RFP so that appropriate cost analysis and comparisons in level of service can be made.

A few items should be noted with regard to the draft RFP. While we have identified in the draft RFP the current level of expected service, we have done so on the assumption that the Council wishes to retain the existing level of service, whoever provides it. However, the draft also includes a specific request to proposers to identify "innovative and/or creative approaches for providing the service that will maximize efficient, cost-effective operations or increase performance capabilities." This would allow the Council to evaluate either a different level of service, method of delivery, or other alternative that could maintain or enhance service levels at a lower overall cost. The RFP also requests proposers to offer information about hiring existing City employees and possible acquisition of City equipment currently used to perform the service.

Also note, that employees or groups of employees, who wish to submit a proposal in response to the RFP, will be permitted to do so. Staff recommends that employees, who wish to submit bids or responses to RFPs as contract providers, should be advised to do so in compliance with the RFP requirements and at the same time as other bidders.

As directed under Council Policy 100-6, the above is an analysis addressing the available alternatives for service delivery as outlined by the Street Sweeping Services Contracting Committee.

#### **ALTERNATIVES CONSIDERED:**

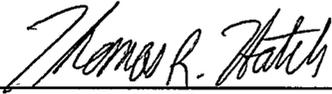
The City Council may decide not to release the RFP and direct the CEO to evaluate other alternatives identified by the Street Sweeping Services Contracting Committee.

#### **FISCAL REVIEW:**

The fiscal impact for outsourcing the identified City service is unknown at this time. If the City Council directs staff to release the RFP a complete analysis of the proposals and the costs for each will be provided to the City Council at that time.

#### **CONCLUSION:**

Staff recommends releasing the RFP for Street Sweeping Services based upon the analysis provided by both the Street Sweeping Services Contracting Committee and the Public Services Department.



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Thomas R. Hatch  
Chief Executive Officer



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Tamara S. Letourneau  
Interim Assistant Chief Executive Officer

Attachment:

Attachment 1  
Attachment 2  
Attachment 3

Contract Committee Analysis Memo  
Departmental Analysis  
Draft Request for Proposal



**CITY OF COSTA MESA  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
INTEROFFICE MEMORANDUM**

**TO: THOMAS R. HATCH, CHIEF EXECUTIVE OFFICER**

**FROM: TAMARA S. LETOURNEAU, INTERIM ASSISTANT CEO**

**DATE: OCTOBER 10, 2011**

**SUBJECT: STREET SWEEPING CONTRACTING COMMITTEE**

Council Policy 100-6 provides guidelines for evaluating the potential contracting of on-going City services on a long-term or permanent basis. As set forth in the policy, a committee should be formed and comprised of three segments: Project Responsibility, Department Representative and Employee Representative. The committee is tasked with the following:

- Hearing a presentation from department representatives and asking questions about the specific proposal under consideration;
- Working together to outline how to evaluate a comparable City effort to provide the same or similar service;
- Having the project facilitator draft analysis addressing the available alternatives for service delivery as outlined by the committee; and,
- Determining if outside comparative data would be useful.

On September 13, 2011 the Street Sweeping Contracting Committee met to discuss the duties and responsibilities of the Street Sweeping program and determine “the available alternatives for service delivery”. After hearing a presentation about the draft RFP by department staff and asking questions, the Committee determined alternatives for the Street Sweeping program.

On September 20, 2011 the Committee met to further discuss and clarify the draft RFP and alternatives/options. On September 29, 2011 the Committee met to further discuss and clarify the draft RFP and alternatives/options.

The following alternatives for contracting street sweeping are described below.

**1. Retain existing service level at existing cost.**

In the City of Costa Mesa, street sweeping is provided by City staff in the Public Services Department. Currently, the City sweeps and cleans approximately 400 miles of residential, commercial and arterial roadway lanes in the City. The current services are provided by 3.5 full-time equivalent employees. The FY 2011-12 budget includes approximately \$634,200 for these services.

In the last several years the staffing in this division was reduced by 1.25 positions while the service level remained the same. The Department addressed this staffing reduction through the use of part-time staff from other divisions to maintain the current service level.

**2. Retain existing service level at lower cost by reorganization.**

Described above is the reduction in staffing and reorganization that the Division has implemented to retain the existing services levels at a lower cost over the last several years. Further staffing reductions would result in a decrease in service. Thus, the Committee believes that this is not a viable option at this time.

**3. Lower level of service at a lesser cost.**

Over a year ago the City changed from a weekly sweeping schedule to a bi-weekly sweeping schedule. This resulted in a great deal of complaints from the public as well as a decrease in revenue from street sweeping tickets. As a result of this change and the number of complaints the City resumed the weekly sweeping schedule.

Implementing this bi-weekly schedule would require three (3) full-time equivalent staff instead of four (4). Further, the street sweeping signs in the City would have to be changed to reflect the new schedule. The estimated cost of changing the signs is approximately \$75,000. The complaints generated by the change in service in the past coupled with the minimal net expenditure savings may not make this a viable option.

**4. Eliminate some or all of the service provided to the City and Community.**

Local governments are obligated under the Health and Safety Code to keep the streets free of debris through regular street cleaning programs. Further, the City is also bound by the rules of National Pollutant Discharge Elimination System (NPDES) to keep debris out of the storm drains systems through regular street cleaning. There are numerous fines and regulations that accompany these regulations and the burden of compliance is the City's. Thus, eliminating the service of sweeping the streets is not an option.

**5. Contract with a private provider.**

The City could contract with a private provider for the same level of service as is currently provided. The Committee recognizes that there are other local government agencies across the country which contract for street sweeping services. It is a best practice to maintain in-house staff for contract management. The cost to contract out this entire service area is unknown at this time.

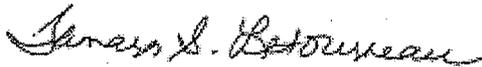
The Committee believes that there is a possibility that implementing this option could result in a decrease in the current level of customer service provided by City staff because City staff currently provides other services when they are in the field (e.g. calling in other issues that they observe such as raised sidewalks, tree issues etc.). In addition, when there is inclement weather and the streets are not being swept the street sweeping crew is utilized to provide other City services. Further, response times to address critical and/or emergency issues could be reduced by utilizing a contractor provider depending upon where the contractor is located at the time of the incident. However, given these issues the Committee believes that contracting out street sweeping services is an option that could be considered.

**6. Contract with another public entity.**

Another option is for the City to explore working with another public agency to provide street sweeping services. The efficiencies in this option will be predicated on the proximity of the other public agency to Costa Mesa. The cost savings that could be achieved with this option is unknown at this time, but the Committee believes that this is an option that could be explored.

As directed under Council Policy 100-6, the above is an analysis addressing the available alternatives for service delivery as outlined by the Street Sweeping Contracting Committee. The Committee has also drafted a Request for Proposal (RFP) should you desire to present this to the City Council.

The Street Sweeping Contract Committee is available should you have any questions or request more information.



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Tamara S. Letourneau  
Interim Assistant Chief Executive Officer

**The following cities currently contract out for part or all of their street sweeping services:**

- Anaheim
- Huntington Beach
- Newport Beach
- San Juan Capistrano
- San Clemente

# CITY OF COSTA MESA

Department of Public Services  
INTER OFFICE MEMORANDUM

TO: Tom Hatch, Chief Executive Officer

FROM:  Ernesto Munoz, Interim Director, Public Services Department

DATE:  October 10, 2011

SUBJECT: Analysis of Alternatives Proposed by the Street Sweeping Contracting Committee

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The Public Services Department has reviewed the alternatives for contracting Street Sweeping Services as outlined in the September 29, 2011 memorandum from the Contracting Committee. The following analysis is provided for the six alternatives as requested.

**Alternative 1: Retain existing service level at existing cost.**

Pros: Service level remains the same. Allows for flexibility to allocate staff accordingly. Preserves institutional knowledge.

Cons: The cost associated with maintaining the current level of service and existing organizational structure is dependent on employment contracts. Further reductions in staffing levels will not sustain the existing level of services.

**Alternative 2. Retain existing service at lower cost by reorganization**

Pros: Reducing level of staff will result in cost savings.

Cons: Reduction in staff level will result in a reduction in level of service, which will increase the level of resident complaints. No flexibility to allocate staff in other areas of service to address priorities. Continuing this service under this alternative will necessitate reducing staffing levels in other maintenance programs to adequately man sweepers.

**Alternative 3. Lower level of service at lesser cost.**

Pros: Reducing the level of service will result in costs savings in staffing and equipment maintenance cost.

Cons: Signage throughout the City would need to be replaced with new signs reflecting the new sweeper schedules, which will result in additional

cost. Increase in debris on streets, which will result in an increase in citizen complaints.

**Alternative 4. Eliminate some or all of the service provided to the City and Community**

Pros: Short term cost savings.

Cons: Local government agencies are obligated under the Health and Safety Code to maintain streets free from debris through regular street cleaning programs. Fines may be assessed if national and state regulations are not followed. May be in violation of Title 40 of the CFR at Part 122 - EPA Administered Permit Programs: The National Pollutant Discharge Elimination System.  
This option is not viable.

**Alternative 5. Contract with a private provider**

Pros: This option could provide the desired levels of service. Contracts may be written to require increased levels of service and responsiveness by the contractor. This alternative will also reduce permanent staffing and equipment costs. Competitiveness will be assured through the annual public bid process, resulting in potentially lower costs.

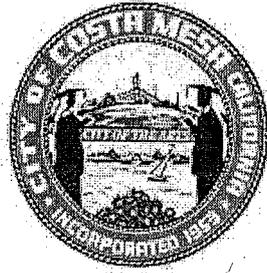
Cons: Lack of institutional knowledge and contract may limit flexibility of contracted staff to address other functions and responsiveness to customer complaints may decrease. Will necessitate appropriate staff to manage and oversee contract, which may reduce cost effectiveness

**Alternative 6. Contract with another public entity**

Pros: This option could provide the desired levels of service. Potential reduction in costs for similar services as provided by current organizational structure. Will reduce permanent staffing and equipment costs.

Cons: Will necessitate appropriate staff to manage and oversee contract, which may reduce cost effectiveness. Limits the ability to allocate staff to other priority areas, and reduce the versatility of having the City's own staff or managing an on-call contractor.

cc: Tamara Le Tourneau, Interim Assistant CEO  
Bobby Young, Finance and IT Director



**REQUEST FOR PROPOSAL**

**FOR**

**STREET SWEEPING SERVICES**

**Public Services Department**

**CITY OF COSTA MESA**

Released on \_\_\_\_\_, 2011.

**STREET SWEEPING SERVICES**

**REQUEST FOR PROPOSAL (RFP)**

Dear Proposers:

The City of Costa Mesa (hereinafter referred to as the "City") is requesting proposals from a qualified public entity or private firm, to establish a contract for Street Sweeping Services. The term is expected to be for five (5) years with up to three (3) one-year options to renew. Longer

initial and extended terms will be considered depending upon the Proposer's submission regarding use of City facilities and equipment.

## 1. BACKGROUND

On March 1, 2011, the City Council agreed to move forward with a comprehensive review and analysis of outsourcing 18 City services, one of which is Street Sweeping Services, as outlined in the *Outsourcing of City Services Council Agenda Report*, dated February 24, 2011.

The City of Costa Mesa is a general law city, which operates under the council/manager form of government with a General Fund budget of over \$94 million and a total of over \$107 million of fiscal year 2010-2011.

The City of Costa Mesa, incorporated in 1953, has an estimated population of 116,479 and has a land area of 16.8 square miles. It is located in the southern coastal area of Orange County, California, and is bordered by the cities of Santa Ana, Newport Beach, Huntington Beach, Fountain Valley and Irvine.

The City is a "full service city" and provides a wide range of services. These services include: police and fire protection; animal control; emergency medical aid; building safety regulation and inspection; street lighting; land use planning and zoning; housing and community development; maintenance and improvement of streets and related structures; traffic safety maintenance and improvement; and full range of recreational and cultural programs.

The City of Costa Mesa is home of the Segerstrom Center for the Arts, Orange County Fairgrounds, South Coast Repertory Theater and the South Coast Plaza Shopping Center, which is the single largest commercial activity center in the City. The volume of sales generated by South Coast Plaza, secures its place as the highest volume regional shopping center in the nation.

The City of Costa Mesa is dedicated to providing quality service regarding the cleaning of its streets

The City prides itself on sustaining full time, dedicated staff working to provide Street Sweeping and related Services. Due to the current fiscal environment, the City recognizes the need to search for alternative solutions while providing and maintaining the quality and expertise necessary to support these services. As such, the City requires a full service street sweeping company or service to provide a quality level of service.

## 2. SCHEDULE OF EVENTS

This request for proposal will be governed by the following schedule:

Release of RFP	_____ 2011
Deadline for Written Questions	_____, 2011

Responses to Questions Posted on Web	_____	, 2011
Proposals are Due	_____	2011
Interview (if held)	_____	, 2011
Approval of Contract	TBD	

All dates are subject to change at the discretion of the City

### 3. SCOPE OF WORK

#### (a) Generally

Furnish all labor, equipment, materials, and supervision to perform maintenance as described herein including, but not limited to, the following:

*Using a modern mechanical or vacuum street sweeper, thoroughly sweep each improved street, alley, public parking lot in the City on a frequency as specified in this scope of work and dispose of collected debris in a legal manner. It is possible for a Proposer to use the City's facilities to store its street sweepers. Naturally any arrangement will involve the payment to City for the lease of such space. If Proposer desires to store its street sweepers in the City's facilities, then that should also be included in the Proposal. See Attachment A for City's Street Sweeping Route Maps. See Attachment B for City's Parking Restriction Locations.*

#### (b) Definitions

- a. Curb Mile – measurement of curbing of streets and medians
- b. Linear Mile – measurement of actual miles driven in order to satisfactorily clean streets to the City standard, which may require multiple passes depending on condition and width of street
- c. Curb-to-Curb – area within the curb limits of the street including medians, intersections, and street ends
- d. Holiday – all days observed by the City as holidays including: New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving (including the following Friday), Christmas Eve & Christmas Day, New Year's Eve.
- e. Inclement Weather – weather conditions that prohibit the effective operation of sweeping operations, such as heavy rain or winds
- f. Debris – litter, rubbish, leaves, sand, dirt, garbage, and other foreign material
- g. Street – all paved dedicated public rights-of-way within the existing or future corporate limits of the City

- h. Re-sweep – sweep required when previous sweeps are deemed by the City to be below standard or when a street or sections of a street are missed during regularly scheduled operation
- i. Special Sweep – sweep involving unusual conditions such as traffic hazards, parades, and similar events billed at an hourly rate including travel time. If appropriate, prior approval from Street Superintendent, Traffic Operations Supervisor or other assigned agent.
- j. Travel Speed – sweeper operator must maintain a speed of no more than seven miles per hour while the sweeping head is lowered in the operating position.
- k. City Representative – The administering officer of the City of Costa Mesa.

(c) Working Hours

Working hours for the sweeping of residential areas shall be between the hours of 8:00 AM and 3:30 PM, Monday through Friday. Working hours for arterial routes and commercial routes shall be between the hours of 11:00 PM and 6:00 AM, Monday through Friday. Some 'specialty routes' may be swept between 6:00 AM and 8:00 AM if so posted. No street sweeping shall be required or permitted on weekends or City holidays.

(d) Level of Maintenance

All work shall be performed in accordance with the highest maintenance standard.

Standards, schedules, and frequencies may be modified as deemed necessary by the City for the proper maintenance of the sites. Due to various street widths throughout the City, street sweeping may require slower travel speed and/or multiple passes by the sweeper in many cases, to ensure curb-to-curb coverage of the street. Streets with raised medians (commercial and residential) shall have the curb-gutter perimeters of each raised median swept, including turnouts. Street-grade striped medians shall be swept in their entirety. All deposits within intersections shall be removed as part of the sweeping operations. Each street shall be swept clean to the adjacent property line. Swept clean shall mean minimal debris residual or tailings left on the swept surface following the completion of a pass of the street sweeping machine. No sweeper shall blow debris onto private property. All dust suppression systems shall be as mandated by AQMD.

A significant number of City streets are posted no parking for street sweeping or have alternate side postings during designated hours on various days of the week. Proposer shall adhere to established schedules for sweeping posted streets. The Proposer shall coordinate sweeping operations with Parking Control Officers from the City of Costa Mesa Police Department.

The Proposer is required to sweep City owned parking lots, including those for City facilities, parks and parking districts, adjacent to streets along the scheduled route.

Alternative means to sweep locations such as street ends and inaccessible portions of parking lots will be considered. Alternatives must be included in this proposal and approved by the Street Superintendent, Traffic Operations Supervisor or other City representative prior to the start of the contract. Because of existing parking restrictions posted to accommodate existing sweeping routes, if you would plan to change the established routes or schedules, you must include such proposed changes in your proposals so that the City may evaluate costs of implementing such changes. All proposed changes must be reviewed and approved by the Transportation Manager and if needed, City Council prior to implementation.

The Proposer is required to correct deficiencies within the time specified by the City. Re-sweeps of the deficient area will be at no additional cost to the City. If noted deficient work has not been completed, payment for subject deficiency shall be withheld for current billing period and shall continue to be withheld until deficiency is corrected, without right to retroactive payments.

The Proposer shall perform **200 curb miles of special sweeping requests** in support of City events for each contract year at the request of the City. These sweeps are not re-sweeps of an area not swept properly but rather an additional sweep that is not part of the regular schedule. These may be used to clean before and after a traffic hazards, parades, and similar events, or for other City needs.

The Proposer shall perform **250 curb miles of inclement weather sweeps** for each contract year at the request of the City. These sweeps are not re-sweeps of an area not swept properly but are additional sweeps that are not part of the regular schedule.

**If, in the judgment of the City, the level of maintenance is less than specified herein, the City shall, at its option, in addition to or in lieu of other remedies provided herein, withhold appropriate payment from the Proposer until services are rendered in accordance with specifications set forth within this document and providing no other arrangements have been made between the Proposer and the City. Failure to notify of a change and/or failure to perform an item or work on a scheduled day may result in deduction of payment for that date or week. Payment will be retained for work not performed until such time as the work is performed to City standards.**

Proposer shall be required to comply with all NPDES Permit requirements, AQMD requirements (including but not limited to those set out in Attachment C), and all other applicable federal, state, county or city ordinances dealing with sweeping of streets, water quality, air quality, hazardous wastes and rubbish disposal.

(e) Term of Contract

Unless earlier terminated as allowed for in the approved Agreement, contract term shall be for a period of five (5) years. The term of the Agreement shall automatically be extended for up to three (3) additional one (1) year terms with the extensions to automatically commence

upon the expiration of the initial term or any extended term, unless the City notifies Proposer in writing at least thirty (30) days before the end of the initial term or any extended term, of its intent to terminate the Agreement at the conclusion of the initial term or any extension. Time is of the essence in the performance of services under the approved Agreement.

(f) Supervision of Contract

All work shall meet with the approval of the Director of Public Services or his designee. There shall be a minimum of one monthly meeting with the Proposer and the City representative to determine progress. A status report of activities performed and maintenance issues addressed by the Proposer shall be submitted in writing to the Street Superintendent, Traffic Operations Supervisor or other assigned City Representative on weekly basis.

Any specific problem area which does not meet the conditions of the specifications set forth herein and in an approved Agreement shall be called to the attention of the Proposer and if not corrected, payment to the Proposer will not be made for the deficient or disputed work until condition is corrected in a satisfactory manner as set forth in the specifications.

(g) Specifications

This Description of the Scope of Work is intended to cover all labor, material and standards of workmanship, including compliance with all AQMD and NPDES standards, to be employed in the work called for in the Proposal and in any approved Agreement or reasonably implied by terms of same. Work or materials of a minor nature which may not be specifically mentioned, but which may be reasonably assumed as necessary for the completion of this work, shall be performed by the Proposer as if described in the specifications.

(h) Correspondence

All written correspondence shall be addressed to Richard Simons, Street Superintendent, City of Costa Mesa, and PO Box 1200, Costa Mesa CA 92628-1200.

(i) Provisions for Extras

No new work of any kind shall be considered an extra unless a separate estimate is given for said work and the estimate is approved by the City in writing before the work is commenced. The Proposer will be required in the approved Agreement to provide before and after photographs of safety items or emergency repairs required by the City. Documentation of contract compliance may be required at the discretion of the City.

(j) Water

The successful Proposer shall contact the Mesa Consolidated Water District and the Irvine Ranch Water District (Districts) to obtain legal access to water to meet the contract requirements. The Proposer shall be responsible for all costs associated with the access to and continued use of water provided by the Districts.

(k) Disposal

The collection, transfer, and/or disposal of all debris collected during the course of all street sweeping services as specified in this Proposal and an approved Agreement shall be the responsibility of the Proposer to dispose of in a legal manner that meets all City, State, County of Orange and Federal laws, regulations, or other applicable statutes. The City of Costa Mesa assumes no responsibility for any violations, fines, fees or other liability that may arise from improper debris disposal practices. Disposal at the City Corporation Yard will not be permitted. The cleaning and maintenance of any street sweeping machine may not take place on City property or public streets, except as may be included in an approved Agreement allowing use of the City Yard facilities.

(l) Records and Schedule

The Proposer shall keep accurate records concerning all of his/her employees or agents and provide the City with names and telephone numbers of emergency contact employees.

The Proposer shall complete a monthly maintenance report indicating work performed and submit this completed report to the Street Superintendent, Traffic Operations Supervisor or other assigned City Representative. This report should also contain a description of work performed, including man-hours, equipment, and any additional work, which the Proposer deems to be beyond the scope of the contract. Payment for this work will not be authorized unless the additional work and the costs thereof are first approved by the City. **A telephone log will be submitted monthly of all calls from the City of Costa Mesa Public Services Department and the City of Costa Mesa Police Department to the Proposer, whether or not those calls require a request for service, and a description of the action taken from the City call.**

The Proposer shall utilize the City's established street sweeping routes and schedules for all regularly scheduled street sweeping operations, unless otherwise directed. If at the request of the Proposer, the public or a City department it is necessary to make revisions to any schedule, the City shall provide a modified schedule to the Proposer a minimum of ten (10) working days prior to the effective date of the change. This is intended for long-term schedule changes and not for 'special sweeps' or emergencies. The Street Superintendent, Traffic Operations Supervisor or other authorized City Representative shall approve any changes.

The Proposer shall permit the City to inspect and audit its books and records regarding City-provided services at any time with reasonable notice.

(m) Emergency Services

The Proposer shall provide the City with a 24-hour emergency telephone number to contact a Proposer representative authorized to dispatch appropriate equipment and operators when emergency maintenance conditions occur during hours when the Proposer's normal work force is not present in the City of City of Costa Mesa. The Proposer shall dispatch equipment to said emergency within thirty (30) minutes from receiving notification. Failure to do so will result in a penalty of \$200 per occurrence.

(n) Proposer Office

Proposer is required to maintain an office within a one (1) hour response time of the city limits and provide the office with phone service during normal working hours. During all other times, a telephone answering service shall be utilized and the answering service shall be capable of contacting the Proposer by radio or pager. Proposer shall have a maximum response time of thirty (30) minutes to all emergencies. There will be no storage of equipment or materials on City property, except as may be expressly provided in any approved Agreement.

(o) Schedules

The Proposer must sweep according to the established schedules and posted parking restriction unless otherwise approved by the City. Street sweeping must be at an effectiveness level of 90% or above. The effectiveness level is determined by what percentage of the route is missed on an annual basis, for any reason. An overall annual effectiveness rating of less than 90% for any route is considered unacceptable and may result in non-renewal of the contract or a reduction in payment.

**A. Annual Schedule**

1. Utilizing route information provided by the City, the Proposer shall provide an annual schedule indicating the time frames when items of work shall be accomplished per the performance requirements.
2. The Proposer shall complete the schedule for each functional area in a manner which shall correspond to the weekly sweeping schedule.
3. The annual schedule shall be submitted for City approval within fifteen (15) calendar days after effective date of the contract.
4. The Proposer shall submit revised schedules when actual performance differs substantially from planned performance.

**B. Monthly Schedule**

1. Monthly schedule forms shall be provided by the Proposer indicating the major items of work to be performed in accordance with the performance requirements and further delineate the time frames for accomplishment by day of the week and by morning, afternoon and evening.
2. The Proposer shall complete the schedule for each item of work and each area of work.
3. The initial schedule shall be submitted one week prior to the effective date of the contract. Thereafter, it shall be submitted monthly on the first Monday of the month for City approval, prior to scheduling work for the upcoming month.

4. Changes to the schedule shall be received by the Street Superintendent, Traffic Operations Supervisor or other assigned agent at least twenty-four (24) hours prior to the scheduled time for the work.
5. Failure to notify of a change and/or failure to perform an item of work on a scheduled day may result in deduction of payment for that date or week.

The Proposer shall adjust his/her schedule to compensate for all holidays and rainy days. Maintenance and litter removal shall be scheduled for all holidays.

(p) Performance During Inclement Weather

1. During the periods when inclement weather or Santa Ana wind conditions prevents normal operations, the Proposer shall adjust his/her work force as directed by the City Representative and shall only be paid for sweeping actually done.
2. Failure to adjust the work force to show good progress on the work shall result in deduction of payments to reflect only the work actually accomplished.
3. The Proposer shall immediately notify the Street Superintendent, Traffic Operations Supervisor or other assigned agent when the work force has been removed from the job site due to inclement weather or other reasons.

**Attachment 'A'**

**STREET SWEEPING ROUTE Maps**

**Insert Route Maps**

**Attachment 'B'**

**PARKING RESTRICTION LOCATIONS**

**INSERT PARKING RESTRICTIONS**

**Attachment 'C': AQMD Rule 1186.1****Rule 1186.1 - Less-Polluting Sweepers**

(Adopted August 18, 2000)(Amended June 4, 2004)

(Amended September 9, 2005)(Amended May 5, 2006)

**RULE 1186.1. LESS-POLLUTING SWEEPERS****(a) Purpose**

To reduce air toxic and criteria pollutant emissions, this rule requires certain public and private sweeper fleet operators to acquire alternative-fuel or otherwise less-polluting sweepers when purchasing or leasing these vehicles for sweeping operations undertaken by or for governments or governmental agencies in the jurisdiction of the South Coast Air Quality Management District (District).

**(b) Applicability**

(1) This rule applies to any federal, state, county, city or governmental department or agency, any special district such as water, air, sanitation, transit, and school districts, or private individual firm, association, franchise, contractor, user or owner who provides sweeping services to a governmental agency that owns or leases 15 or more vehicles, including passenger cars, light-duty trucks, and medium- and heavy-duty on-road vehicles, but excluding those vehicles exempt as defined by Rule 1191 paragraph (f) (1).

(2) Sweepers having a gross vehicle weight of 14,000 pounds or more are subject to this rule.

**(c) Definitions**

For purposes of this rule, the following definitions shall apply:

(1) **AFFECTED GOVERNMENTAL AGENCY** means any governmental agency in the District's jurisdiction that owns or leases 15 or more vehicles, including passenger cars, light-duty trucks, and medium- and heavy-duty on-road vehicles, excluding those exempt as defined by Rule 1191 paragraph (f) (1).

(2) **ALTERNATIVE-FUEL SWEEPER** means a sweeper with engine(s) that use compressed or liquefied natural gas, liquefied petroleum gas (propane), methanol, electricity, or fuel cells. Hybrid-electric and dual-fuel technologies that use diesel fuel are not considered alternative-fuel technologies for the purposes of this rule.

(3) **APPROVED CONTROL DEVICE(S)** is a California Air Resources Board

(CARB)-certified exhaust control device(s) that reduces particulates and possibly other precursor emissions. To be considered fitted with approved control device(s), all diesel exhaust from the sweeper, including the auxiliary engine (if applicable) must be vented through such a device(s) that have been certified by CARB at the time of vehicle purchase.

(4) FLEET OPERATOR is any federal, state, county, city, or governmental department or agency, any special district such as water, air, sanitation, transit, and school districts, or private individual firm, association, franchise, contractor, user or owner who provides sweeping services to a governmental agency that owns or leases 15 or more vehicles, including passenger cars, light-duty trucks, and medium- and heavy-duty on-road vehicles, excluding those exempt as defined by Rule 1191 paragraph (f)(1).

(5) GOVERNMENTAL AGENCY include any federal, state, regional, county, city, or governmental department and agency, and any special district such as water, air, sanitation, transit, and school districts. See AFFECTED GOVERNMENTAL AGENCY.

(6) LOW-SULFUR DIESEL FUEL means diesel fuel that has a maximum sulfur content of 15 parts per million (ppm). The use of low-sulfur diesel fuel improves the performance of and may be necessary for the use of advanced exhaust control devices.

(7) PURCHASE OR LEASE means that a purchase or lease contract has been signed by both parties for a sweeper to be delivered within 1 year of the purchase or lease contract date, which is the date the contract, is signed by both parties.

(8) SWEEPER means any heavy-duty vehicle with a gross vehicle weight of 14,000 pounds or more that is permitted to operate on public roads through California Department of Motor Vehicle registration or the federal government and used for the express purpose of removing material from paved surfaces, by mechanical means through the action of one or more brooms, or by suction through a vacuum or regenerative air system or any combination of the above.

(9) SWEEPING OPERATIONS means operations to remove material from paved surfaces using sweeper(s), as defined by this rule.

#### (d) Requirements

##### **For Fleet Operators:**

(1) Beginning July 1, 2002, a fleet operator shall meet the following conditions for each individual purchase or lease of a replacement or additional sweeper:

(A) Purchase or lease an alternative-fuel sweeper, OR

(B) Before July 1, 2008, if the fleet operator has an approved Technical Infeasibility Certification for this individual purchase or lease, as described in subdivision (e),

(i) purchase or lease a non-alternative fueled sweeper with all applicable approved control device(s), and

- (ii) maintain the approved control device(s) per manufacturer's specifications, and
- (iii) if using diesel fuel, fuel the sweeper with low-sulfur diesel fuel only, and
- (iv) comply with Rule 1186 without invoking the exemption provision in Rule 1186 paragraph (i) (3), unless a demonstration is made to the Executive Officer that for solely technical reasons no certified sweeper, as defined in Rule 1186 paragraph (c) (2) is commercially available.

**For Affected Governmental Agencies Contracting for Sweeping Services:**

(2) Any affected governmental agency that signs a contract after July 1, 2002 for sweeping services must:

(A) Contract for sweeping services that use alternative-fuel sweeper(s),

OR

(B) Solicit bids for sweeping operations using alternative-fuel sweepers and if no bids are submitted:

(i) Contract for non-alternate fueled sweeper(s) and ensure that the sweeper(s) are only fueled with low-sulfur diesel and outfitted with approved control device(s) that are installed and maintained per the manufacturer's specifications, and

(ii) Contract for sweeper(s) that comply with Rule 1186 without invoking the exemption provision in Rule 1186 paragraph (i) (3), unless a demonstration is made to the Executive Officer that for solely technical reasons no certified sweeper, as defined in Rule 1186 paragraph (c) (2), is commercially available.

(3) After January 1, 2003, any renewal or extension option of a contract is considered a new contract that must meet the requirements of paragraph (d)(2).

(e) Technical Infeasibility Certification Criteria and Procedures

(1) Six months prior to the date of purchase or lease of a replacement or additional sweeper, any fleet operator seeking to comply with subdivision

(d) without purchasing or leasing an alternate-fuel sweeper [i.e., opting to comply with paragraph (d) (2)], shall demonstrate the technical infeasibility of complying with paragraph (d) (1) requirements by submitting a signed and dated Technical Infeasibility Certification Request to the Executive Officer and attest to the accuracy of all statements therein, that shall include:

(A) the name and address of the fleet operator; and

(B) current sweeper fleet composition, including make, model, and a complete description of the sweepers' dust suppression systems; and

(C) demonstration that no alternative-fuel engine and chassis configuration is commercially available from any manufacturer for sweeping operations conducted by the fleet operator (only technical reasons for choosing a given chassis configuration are acceptable),

OR

(D) demonstration that a fueling station for alternative-fuel sweepers

commercially available from any manufacturer for sweeping operations conducted by the fleet operator is not available within five miles of the vehicle storage or maintenance yards.

(2) Within 90 calendar days of receipt of a completed Technical Infeasibility Certification Request submitted pursuant to paragraph (e) (1), the Executive Officer will either approve or disapprove the Request, in writing.

(3) The Executive Officer shall disapprove a Technical Infeasibility Certification Request if it does not meet the requirements of paragraph (e)(1). If a Technical Infeasibility Certification Request is disapproved by the Executive Officer:

(A) The reasons for disapproval shall be given to the applicant in writing.

(B) Upon receipt of a notice of a disapproved Technical Infeasibility Certification Request, the fleet operator shall comply with paragraph (d) (1).

(C) The fleet operator may resubmit a Technical Infeasibility Certification Request at any time after receiving disapproval notification, but must still comply with paragraph (d) (1) until such time as the Executive Officer approves a Technical Infeasibility Certification Request under paragraph (e) (1).

(4) A Technical Infeasibility Certification Request is subject to plan filing and evaluation fees as described in Rule 306.

(f) Exemptions

(1) The provisions of this rule shall not apply to fleets consisting of evaluation/test vehicles, provided by or operated by the vehicle manufacturer or manufacturer representative for testing or evaluation, exclusively.

(2) The provisions of subdivision (d) shall not apply to a sweeper purchase by a fleet operator that is solely dedicated to serving governmental agencies that are not subject to this rule, upon demonstration to and approval of the Executive Officer.

(g) Compliance Auditing and Enforcement

(1) At the request of the Executive Officer, the fleet operator shall provide the purchase, lease, or contract records for their sweepers to demonstrate compliance with subdivision (d).

(2) At the request of the Executive Officer, any fleet operator claiming an exemption under subdivision (f) shall supply proof that their sweeper or fleet is exempted from this rule.

(h) Severability

If any provision of this rule is held by judicial order to be invalid, or invalid or inapplicable to any person or circumstance, such order shall not affect the validity of the remainder of this rule, or the validity or applicability of such provision to other persons or circumstances. In the event any of the exceptions to this rule is held by judicial order to be invalid, the persons or circumstances covered by the exception shall instead be required to comply with the remainder of this rule.

**AQMD Incentive Funding Programs**

- Summary of Co-funding Sources

<http://www.aqmd.gov/tao/FleetRules/AFVFFundingSources.htm>

- Mobile Source Emission Reduction Review Committee

<http://www.cleantransportationfunding.org/>

- Carl Moyer Memorial Program Incentives for Purchasing Lower-Emission Heavy-Duty Engines (ARB website)

<http://www.arb.ca.gov/msprog/moyer/moyer.htm>

Other Links for Finding Fueling Stations

<http://www.aqmd.gov/tao/FleetRules/Fuelguides.htm>

For more information on the fleet rules, call the FLEET RULE IMPLEMENTATION HOTLINE at (909) 396-3044 or e-mail [fleetrules@aqmd.gov](mailto:fleetrules@aqmd.gov).

Source: <http://www.aqmd.gov/tao/FleetRules/1186.1Sweepers/index.htm>

#### 4. PROPOSAL FORMAT GUIDELINES

Interested Proposers are to provide the City of Costa Mesa with a thorough proposal using the following guidelines:

Proposal should be typed and should contain no more than 20 typed pages using a 12-point font size, including transmittal letter and resumes of key people, but excluding Index/Table of Contents, tables, charts, and graphic exhibits. Each proposal will adhere to the following order and content of sections. Proposal should be straightforward, concise and provide "layman" explanations of technical terms that are used. Emphasis should be concentrated on conforming to the RFP instructions, responding to the RFP requirements, and on providing a complete and clear description of the offer. Proposals which appear unrealistic in terms of technical commitments, lack of technical competence or are indicative of failure to comprehend the complexity and risk of this contract, may be rejected. The following proposal sections are to be included in the Proposer's response:

- **Vendor Application Form and Cover Letter**

Complete Appendix A, "Request for Proposal-Vendor Application Form" and attach this form to the cover letter. A cover letter, not to exceed three pages in length, should summarize key elements of the proposal. An individual authorized to bind the consultant must sign the letter. The letter must stipulate that the proposal price will be valid for a period of at least 180 days. Indicate the address and telephone number of the Proposer's office located nearest to Costa Mesa, California and the office from which the project will be managed.

- **Background and Project Summary Section**

The Background and Project Summary Section should describe your understanding of the City, the work to be done, and the objectives to be accomplished. Refer to Scope of Work of this RFP.

- **Methodology Section**

Provide a detailed description of the approach and methodology to be used to accomplish the Scope of Work of this RFP. The Methodology Section should include:

1. An implementation plan that describes in detail (i) the methods, including controls by which the Proposer manages projects of the type sought by this RFP; (ii) methodology for soliciting and documenting views of internal and external stakeholders; (iii) and any other project management or implementation strategies or techniques that the respondent intends to employ in carrying out the work.
2. Detailed description of efforts the Proposer will undertake to achieve client satisfaction and to satisfy the requirements of the "Scope of Work" section.

3. Detailed project schedule, identifying all tasks and deliverables to be performed, durations for each task, and overall time of completion, including a complete transition plan. Include your plan to deal with fluctuation in service needs and any associated price adjustments.
4. Detailed description of specific tasks you will require from City staff. Explain what the respective roles of City staff and your staff would be to complete the tasks specified in the Scope of Work.
5. Proposers are encouraged to provide additional innovative and/or creative approaches for providing the service that will maximize efficient, cost-effective operations or increased performance capabilities. In addition, the City will consider proposals that offer alternative service delivery means and methods for the services desired.
6. Firms, public entities and individuals wishing to be considered shall include in their submissions the steps they will, if selected, implement and adhere to for the recruitment, hiring and retention of former employees of the City who have been or may be displaced due to layoff or outsourcing of functions and services formerly provided by the City.
7. Proposers are also requested to identify any City owned facilities or property which Proposer would propose to use or lease, purchase, or rent from the City in connection with the services to be performed, including information about the terms of any proposed lease, purchase or use of such equipment and facilities, and how this proposed structure affects the overall cost proposal to the City. In the case of use of the City Yard property, facilities or equipment, the Proposer must identify how such use would integrate with and not interfere with City's use of such facilities or equipment, how Proposer will provide insurance for operations conducted at the City Yard or using City equipment, how waste streams, water usage and other operations of Proposer will be separately accounted for.

- **Staffing**

Provide a list of individual(s) who will be working on this project and indicate the functions that each will perform and anticipated hours of service of each individual.<sup>1</sup> Include a resume for each designated individual.

Upon award and during the contract period, if the Proposer chooses to assign different personnel to the project, the Proposer must submit their names and qualifications including information listed above to the City for approval before they begin work.

- **Qualifications**

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<sup>1</sup> Hourly rates for the proposed personnel shall be set forth on Appendix D.

The information requested in this section should describe the qualifications of the Proposer, key staff and sub-contractors performing projects within the past five years that are similar in size and scope to demonstrate competence to perform these services. Information shall include:

Names of key staff that participated on named projects and their specific responsibilities with respect to this scope of work.

A summary of the Proposer's demonstrated capability, including length of time that the Proposer has provided the services being requested in this Request for Proposal.

For private Proposers, provide at least three references that received similar services from the Proposer. The City of Costa Mesa reserves the right to contact any of the organizations or individuals listed. Information provided shall include:

- Client Name
- Project Description
- Project start and end dates
- Client project manager name, telephone number, and e-mail address.

Any public entity which submits a proposal should describe in detail how it currently performs services like those identified in the scope of work within its or other jurisdictions, including photographs, written policies and/or video of services provided. If you have performed these services under contract for another public entity, please provide references for those entities as set forth above for private Proposers.

- **Financial Capacity**

Provide the Proposer's latest audited financial statement or other pertinent information such as internal unaudited financial statements and financial references to allow the City to reasonably formulate a determination about the financial capacity of the Proposer. Describe any administrative proceedings, claims, lawsuits, or other exposures pending against the Proposer.

- **Fee Proposal**

All Proposers are required to use the form in Appendix D to be submitted with their proposal. Pricing instructions should be clearly defined to ensure fees proposed can be compared and evaluated. Proposals shall be valid for a minimum of 180 days following submission.

- **Disclosure**

Please disclose any and all past or current business and personal relationships with any current Costa Mesa elected official, appointed official, City employee, or family member of any current Costa Mesa elected official, appointed official, or City employee. *Any past or current business relationship may not necessarily disqualify the firm from consideration.*

- **Sample Agreement**

The firm selected by the City will be required to execute an Agreement for Services (Agreement) with the City. The form of the Agreement is enclosed as Appendix B, but may be modified to suit the specific services and needs of the City. If a Proposer has any exceptions or conditions to the Agreement, these must be submitted for consideration with the proposal. Otherwise, the Proposer will be deemed to have accepted the form of Agreement. See Section 13, below.

- **Checklist of Forms to Accompany Proposal**

As a convenience to Proposers, following is a list of the forms, included as appendices to this RFP, which should be included with proposals

- (1) Vendor Application Form
- (2) Ex Parte Communications Certificate
- (2) Price Proposal Form
- (3) Disclosure of Government Positions
- (4) Disqualifications Questionnaire

## 5. **PROCESS FOR SUBMITTING PROPOSALS**

- **Content of Proposal**

The proposal must be submitted using the format as indicated in the proposal format guidelines.

- **Preparation of Proposal**

Each proposal shall be prepared simply and economically, avoiding the use of elaborate promotional material beyond those sufficient to provide a complete, accurate and reliable presentation.

- **Number of Proposals**

Submit one original, Five (5) hard copies plus one disk copy of your proposal in sufficient detail to allow for thorough evaluation and comparative analysis. In the event of a conflict between the original and any hard copy or disk copy, the original shall control.

- **Submission of Proposals**

*Complete written proposals must be submitted in sealed envelopes marked and received no later than 4:00 p.m. (P.S.T) on \_\_\_\_\_, 2011 to the address below.*

***Proposals will not be accepted after this deadline. Faxed or e-mailed proposals will not be accepted.***

City of Costa Mesa  
Kimberly Hall Barlow  
City Attorney's Office  
77 Fair Drive  
Costa Mesa, CA 92626  
RE: Street Sweeping Services

- **Inquiries**

***Questions about this RFP must be directed in writing, via e-mail to:***

Richard Amadril, RFP Facilitator  
[ramadril@ci.costa-mesa.ca.us](mailto:ramadril@ci.costa-mesa.ca.us)

The City reserves the right to amend or supplement this RFP prior to the proposal due date. All amendments, responses to questions received, and additional information will be posted to the Costa Mesa Procurement Registry, Costa Mesa - Official City Web Site - Business - Bids & RFP's; Proposers should check this web page daily for new information. The City will endeavor to answer all written questions timely received no later than \_\_\_\_\_, 2011. The City reserves the right not to answer all questions.

From the date that this RFP is issued until a Proposer is selected and the selection is announced, firms or public entities are not allowed to communicate outside the process set forth in this RFP with any City employee other than the contracting officer listed above regarding this RFP. The City reserves the right to reject any proposal for violation of this provision. No questions other than written will be accepted, and no response other than written will be binding upon the City.

- **Conditions for Proposal Acceptance**

This RFP does not commit the City to award a contract or to pay any costs incurred for any services, including costs of responding to this RFP. The City, at its sole discretion, reserves the right to accept or reject any or all proposals received as a result of this RFP, to negotiate with any qualified source(s), or to cancel this RFP in part or in its entirety. The City may waive any irregularity in any proposal. All proposals will become the property of the City of Costa Mesa, USA. If any proprietary information is contained in the proposal, it should be clearly identified.

## 6. EVALUATION CRITERIA

The City's evaluation and selection process will be conducted in accordance with Chapter V, Article 2 of the City's Municipal Code (Code). In accordance with the Code, the lowest responsible bidder will be determined based on evaluation of qualitative factors in addition to price. At all times during the evaluation process, the following criteria will be used. Sub-criteria are not necessarily listed in order of importance. Additional sub criteria that logically fit within a particular evaluation criteria may also be considered even if not specified below.

### 1. Qualifications of Proposer and Key Personnel-----25%

Includes ability to provide the requested scope of services, the Proposer's financial capacity, recent experience conducting work of similar scope, complexity, and magnitude for other public agencies of similar size, references.

### 2. Approach to Providing the Requested Scope of Services-----10%

Includes an understanding of the RFP and of the project's scope of services, knowledge of applicable laws and regulations related to the scope of services.

### 3. Price Proposal-----50%

Price Proposals will be evaluated on the basis of the Total Estimated Annual Price submitted in Appendix D.

### 4. Innovative and/or creative approaches to providing the services that provide additional efficiencies or increased performance capabilities. ----15%

## 7. EVALUATION OF PROPOSALS AND SELECTION PROCESS

In accordance with its Municipal Code, the City will adhere to the following procedures in evaluating proposals. An Evaluation/Selection Committee (Committee), which may include members of the City's staff and possibly one or more outside experts, will screen and review all proposals according to the weighted criteria set forth above. While price is one basic factor for award, it is not the sole consideration.

### A. Responsiveness Screening

Proposals will first be screened to ensure responsiveness to the RFP. The City may reject as non-responsive any proposal that does not include the documents required to be submitted by this RFP. At any time during the evaluation process, the City reserves the right to request clarifications or additional information from any or all Proposers regarding their proposals.

### B. Initial Proposal Review

The Committee will initially review and score all responsive written proposals based upon the Evaluation Criteria set forth above. The Committee may also contact Proposer's references. Proposals that receive the highest evaluation scores may be invited to the next stage of the evaluation process. The City may reject any proposal in which a Proposer's approach, qualifications, or price is not considered acceptable by the City. An unacceptable proposal is one that would have to be substantially rewritten to make it acceptable. The City may conclude the evaluation process at this point and recommend award to the lowest responsible bidder. Alternatively, the City may elect to negotiate directly with one or more Proposers to obtain the best result for the City prior to making a recommendation or selection.

C. **Interviews, Reference Checks, Revised Proposals, Discussions**

Following the initial screening and review of proposals, the Proposers included in this stage of the evaluation process may be invited to participate in an oral interview. Interviews, if held, are tentatively scheduled for \_\_\_\_\_, 2011 and will be conducted at City of Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, CA 92626. This date is subject to change. The individual(s) from Proposer that will be directly responsible for carrying out the contract, if awarded, should be present at the oral interview. The oral interview may, but is not required to, use a written question/answer format for the purpose of clarifying the intent of any portions of the proposal.

In addition to conducting an oral interview, the City may during this stage of the evaluation process also contact and evaluate the Proposer's references, contact any Proposer to clarify any response or request revised or additional information, contact any current users of a Proposer's services, solicit information from any available source concerning any aspect of a proposal, and seek and review any other information deemed pertinent to the evaluation process.

Following conclusion of this stage of the evaluation process, the Committee will again rank all Proposers according to the evaluation criteria set forth above. The Committee may conclude the evaluation process at this point, and make a recommendation for award, or it may request Best and Final Offers from Proposers. The City may accept the proposal or negotiate the terms and conditions of the agreement with the highest ranked firm, which shall be determined to be the lowest responsible bidder. The City may recommend award without Best and Final Offers, so Proposers should include their best proposal with their initial submission.

Recommendation for award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing Proposers unless an agreement is reached. If contract negotiations cannot be concluded successfully within a time period determined by the City, the City may

terminate negotiations and commence negotiations with the next highest scoring Proposer or withdraw the RFP.

## **8. PROTEST PROCEDURES**

Failure to comply with the rules set forth herein may result in rejection of the protest. Protests based upon restrictive specifications or alleged improprieties in the proposal procedure which are apparent or reasonably should have been discovered prior to receipt of proposals shall be filed in writing with the RFP Facilitator at least 10 calendar days prior to the deadline for receipt of proposals. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Protests based upon alleged improprieties that are not apparent or which could not reasonably have been discovered prior to submission date of the proposals, such as disputes over the staff recommendation for contract award, shall be submitted in writing to the RFP Facilitator, within forty-eight hours from receipt of the notice from the City advising of staff's recommendation for award of contract. The protest must clearly specify in writing the grounds and evidence on which the protest is based. The RFP Facilitator will respond to the protest in writing at least three days prior to the meeting at which staff's recommendation to the City Council will be considered. Should Proposer decide to appeal the response of the RFP Facilitator, and pursue its protest at the Council meeting, it will notify the RFP Facilitator of its intention at least two days prior to the scheduled meeting.

## **9. CONFIDENTIALITY**

The California Public Records Act (Cal. Govt. Code Sections 6250 et seq.) mandates public access to government records. Therefore, unless information is exempt from disclosure by law, the content of any request for explanation, exception, or substitution, response to this RFP, protest, or any other written communication between the City and Proposer, shall be available to the public. The City intends to release all public portions of the proposals following the evaluation process at such time as a recommendation is made to the City Council.

If Proposer believes any communication contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer shall request that the City withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. Proposer may not designate its entire proposal as confidential nor designate its Price Proposal as confidential.

Submission of a proposal shall indicate that, if Proposer requests that the City withhold from disclosure information identified as confidential, and the City complies with the Proposer's request, Proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless the City from and against all damages (including but not limited to attorney's fees that may be awarded to the party requesting the Proposer information), and pay any and all costs and expenses related to the withholding of Proposer information. Proposer shall not make a claim, sue, or maintain any legal action against the City or its directors, officers, employees, or agents concerning the disclosure, or withholding from

disclosure, of any Proposer information. If Proposer does not request that the City withhold from disclosure information identified as confidential, the City shall have no obligation to withhold the information from disclosure and may release the information sought without any liability to the City.

#### **10. EX PARTE COMMUNICATIONS**

Proposers and Proposers' representatives should not communicate with the City Council members about this RFP. In addition, Proposers and Proposers' representatives should not communicate outside the procedures set forth in this RFP with an officer, employee or agent of the City, including any member of the evaluation panel, with the exception of the RFP Facilitator, regarding this RFP until after Contract Award. Proposers and their representatives are not prohibited, however, from making oral statements or presentations in public to one or more representatives of the City during a public meeting.

A "Proposer" or "Proposer's representative" includes all of the Proposer's employees, officers, directors, consultants and agents, any subcontractors or suppliers listed in the Proposer's proposal, and any individual or entity who has been requested by the Proposer to contact the City on the Proposer's behalf. Proposers shall include the Ex Parte Communications form (Appendix C) with their proposals certifying that they have not had or directed prohibited communications as described in this section.

#### **11. CONFLICT OF INTEREST**

The Proposer warrants and represents that it presently has no interest and agrees that it will not acquire any interest which would present a conflict of interest under California Government Code sections 1090 et seq., or sections 87100 et seq., during the performance of services under any Agreement awarded. The Proposer further covenants that it will not knowingly employ any person having such an interest in the performance of any Agreement awarded. Violation of this provision may result in any Agreement awarded being deemed void and unenforceable.

#### **12. DISCLOSURE OF GOVERNMENTAL POSITION**

In order to analyze possible conflicts that might prevent a Proposer from acting on behalf of the City, the City requires that all Proposers disclose in their proposals any positions that they hold as directors, officers, or employees of any governmental entity. Additional disclosure may be required prior to contract award or during the term of the contract. Each Proposer shall disclose whether any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months using the attached "Disclosure of Government Positions Form." (See Appendix F.)

#### **13. CONDITIONS TO AGREEMENT, IF ANY.**

The selected Proposer will execute an Agreement for Services with the City describing the Scope of Services to be performed, the schedule for completion of the services, compensation, and other pertinent provisions. The contract shall follow the sample form of Agreement provided as

Appendix B to this RFP, which may be modified by City. All Proposers are directed to particularly review the indemnification and insurance requirements set forth in the sample Agreement.

*The terms of the agreement, including insurance requirements have been mandated by the City and can be modified only if extraordinary circumstances exist.* Submittal of a proposal shall be deemed acceptance of all the terms set forth in this RFP and the sample Agreement for Services unless the Proposer includes with its proposal, in writing, any conditions or exceptions requested by the Proposer to the proposed Agreement. In accordance with the Municipal Code, the City may consider the scope and number of conditions in evaluation proposals and determining the lowest responsible bidder.

#### 14. DISQUALIFICATION QUESTIONNAIRE

Proposers shall complete and submit, under penalty of perjury, a standard form of questionnaire inquiring whether a Proposer, any officer of a proposer, or any employee of a Proposer who has a proprietary interest in the Proposer, has ever been disqualified, removed, or otherwise prevented from proposing on, or completing a federal, state, or local government project because of a violation of law or safety regulation and if so, to explain the circumstances. A proposal may be rejected on the basis of a Proposer, any officer or employee of such Proposer, having been disqualified, removed, or otherwise prevented from proposing on, or completing a federal, state, or local project because of a violation of law or a safety regulation. See Appendix E.

#### 15. STANDARD TERMS AND CONDITIONS

##### Amendments

The City reserves the right to amend or supplement this RFP prior to the proposal due date. All amendments and additional information will be posted to the Costa Mesa Procurement Registry, Costa Mesa - Official City Web Site - Business - Bids & RFP's; Proposers should check this web page daily for new information.

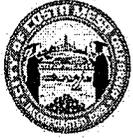
##### Cost for Preparing Proposal

The cost for developing the proposal is the sole responsibility of the Proposer. All proposals submitted become the property of the City.

##### Insurance Requirements

City requires that licensees, lessees, and vendors have an *approved* Certificate of Insurance (not a declaration or policy) or proof of legal self-insurance on file with the City for the issuance of a permit or contract. Within ten (10) consecutive calendar days of award of contract, successful Proposer must furnish the City with the Certificates of Insurance proving coverage as specified within Appendix B.

# APPENDIX A



**REQUEST FOR PROPOSAL**

*Street Sweeping Services*

**VENDOR APPLICATION FORM**

TYPE OF APPLICANT:                     NEW             CURRENT VENDOR

Legal Contractual Name of Corporation: \_\_\_\_\_

Contact Person for Agreement: \_\_\_\_\_

Corporate Mailing Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Contact Person for Proposals: \_\_\_\_\_

Title: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Business Telephone: \_\_\_\_\_

Business Fax: \_\_\_\_\_

Is your business: (check one)

NON PROFIT CORPORATION

FOR PROFIT CORPORATION

Is your business: (check one)

CORPORATION

LIMITED LIABILITY PARTNERSHIP

INDIVIDUAL

SOLE PROPRIETORSHIP

PARTNERSHIP

UNINCORPORATED ASSOCIATION

**Names & Titles of Corporate Board Members**

(Also list Names & Titles of persons with written authorization/resolution to sign contracts)

Names	Title	Phone
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Federal Tax Identification Number: \_\_\_\_\_

City of Costa Mesa Business License Number: \_\_\_\_\_

(If none, you must obtain a Costa Mesa Business License upon award of contract.)

City of Costa Mesa Business License Expiration Date: \_\_\_\_\_

# APPENDIX B

PROFESSIONAL SERVICES AGREEMENT

CITY OF COSTA MESA

THIS AGREEMENT is made and entered into this \_\_\_ day of \_\_\_\_, 2011 (“Effective Date”), by and between the CITY OF COSTA MESA, a municipal corporation (“City”), and consultant, a California corporation (“Consultant”).

**WITNESSETH:**

- A. WHEREAS, City proposes to have Consultant \_\_\_\_\_ as described herein below; and
- B. WHEREAS, Consultant represents that it has that degree of specialized expertise necessary to practice and perform the services herein contemplated; and
- C. WHEREAS, City and Consultant desire to contract for specific services in connection with the project described below (the “Project”) and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and
- D. WHEREAS, no official or employee of City has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

**1.0. SERVICES PROVIDED BY CONSULTANT**

1.1. Scope of Services. Consultant shall provide the professional services described in Consultant’s Proposal (the “Proposal”). A copy of said Proposal is attached hereto as Exhibit “A” and incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. It is understood that in the exercise of every aspect of its role, within the scope of work, consultant will be representing the City, and all of its actions, communications, or other work, during its employment, under this contract is under the direction of the City. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant’s performance of this Agreement.

1.3. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.4. Performance Bond. A performance bonds shall be required to be issued to ensure Consultant's performance under this Agreement. The amount of the performance bond shall be \$\_\_\_\_\_ and shall be issued by an admitted surety insurer as defined by the Code of Civil Procedure Section 995.120.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code. Violation of this provision may result in the imposition of penalties referred to in Labor Code, Section 1735.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

## **2.0. COMPENSATION AND BILLING**

2.1. Compensation. [TBD]

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Proposal unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to City's affected supervisor for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultants' services which have been completed to City's sole

satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

### 3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Said services shall be performed in strict compliance with the Project Schedule approved by City as set forth in Exhibit "D," attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

### 4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of three year, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. At the end of the term period, the City may determine, in its sole discretion, to exercise an option to renew the contract for up to two periods of one (1) year each. The City shall give notice to Consultant of its intention to exercise such option at least 30 days prior to expiration of the base, or option, term.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination.

4.4 Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, inmate intake reports and logs shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

## 5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverages:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than Three Million Dollars (\$3,000,000.00), combined single limits, per occurrence and aggregate.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving, subrogation rights under its workers' compensation insurance policy against the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The comprehensive general liability insurance policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to this subject project and contract with City."

- (b) Notice: "Said policy shall not terminate, nor shall it be cancelled, nor the coverage reduced, until thirty (30) days after written notice is given to City."
- (c) Other insurance: "Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."

5.3 If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance: Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.5. Non-limiting: Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

## 6.0. GENERAL PROVISIONS

6.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Consultant

12345 Jefferson Rd.

Costa Mesa, CA 92626

Tel: 555-555-5555

Fax: 555-555-5555

Attn:

IF TO CITY:

City of Costa Mesa

77 Fair Drive

Costa Mesa, CA 92626

Tel: 714-754-5156

Fax: 714-754-5330

Attn: Purchasing

6.5. Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "B" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto

agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless:

To the fullest extent permitted by law, the Consultant assumes liability for and shall save and protect, hold harmless, indemnify, and defend the City and its elected and appointed officials, officers, and employees (all the foregoing, hereinafter collectively, "Indemnitees") from and against all claims, suits, demands, damages, losses, expenses, and liabilities of any kind whatsoever (all the foregoing, hereinafter collectively "Claims") including, without limitation, attorneys' fees, arising out of, resulting from, relating to, or claimed to have arisen out of, resulted from or related to the engagement of Consultant or the performance of this Agreement by the Consultant (including its subcontractors and suppliers)

It is expressly intended by the parties that Consultant's indemnity and defense obligations shall apply, and Indemnitees shall be fully indemnified without offset, deduction or contribution, regardless of any negligence or other fault of Indemnitees, or any of them, and whether or not such Indemnitee negligence or other fault caused or contributed to the arising of the Claims.

"Claims" as used in this section shall include, without limitation, those for personal injuries, wrongful death, mental or emotional distress, loss of consortium, damage to or loss of use of real, personal or intangible property of any kind, loss of income, loss of earning capacity, and business, financial, commercial or pecuniary losses of any kind whatsoever, and attorneys fees, and costs and expenses of any kind whatsoever.

Consultant's indemnity and defense obligations shall cover the acts or omissions of any of Consultant's subcontractors, and suppliers, and the employees of any of the foregoing.

The Consultant's indemnity and defense obligation under this Section includes, without limitation, any claims, suits, demands, damages, losses, expenses, and liabilities arising from allegations of violations of any federal, State, or local law or regulation, and from allegations of violations of Consultant's or its subcontractor's personnel practices or from any allegation of an injury to an employee of the Consultant or subcontractor performing work or labor necessary to carry out the provisions of this Contract.

The indemnification obligations in this Section shall not be construed to negate, abridge or otherwise reduce any other obligation of indemnity the Consultant may have with respect to the City which may otherwise exist. If any judgment is rendered against the City or any of the other individuals enumerated above in any such action, the Consultant shall, at its expense, satisfy and

discharge the same. This indemnification shall survive termination or expiration of this Agreement.

6.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder.

6.11 PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.12. Ownership of Documents: All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.13. Confidentiality: Any City materials to which the Consultant has access, information that reasonably might be construed as private or containing personal identifiable information, or materials prepared by the Consultant during the course of this Agreement (collectively referred to as "confidential information") shall be held in confidence by the Consultant, who shall exercise all reasonable precautions to prevent the disclosure of

confidential information to anyone except the officers, employees and agents of the Consultant as necessary to accomplish the rendition of services set forth in this Agreement. Consultant shall not release any reports, information, private or promotional information or materials, whether deemed confidential or not, to any third party without the approval of the City.

6.14. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.15. Prohibited Employment: Consultant will not employ any regular employee of City while this Agreement is in effect.

6.16. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the Proposal, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the Proposal.

6.17. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.18. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.19 Headings: Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.20. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.21. Amendments: Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.22. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.23. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.24. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.25. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,

A municipal corporation

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

\_\_\_\_\_  
City Manager of Costa Mesa

CONSULTANT

\_\_\_\_\_

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

Signature

\_\_\_\_\_

Name and Title

\_\_\_\_\_

Social Security or Taxpayer ID Number

APPROVED AS TO FORM:

\_\_\_\_\_

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

City Attorney

APPROVED AS TO INSURANCE:

\_\_\_\_\_

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

Risk Management

APPROVED AS TO CONTENT:

\_\_\_\_\_

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

Project Manager

**EXHIBIT A**

**CONSULTANT'S PROPOSAL**

**EXHIBIT B**

CITY COUNCIL POLICY 100-5

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

### BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

### PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

### POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;
  - b. Establishing a Drug-Free Awareness Program to inform employees about:

1. The dangers of drug abuse in the workplace;

SUBJECT	POLICY	EFFECTIVE	PAGE
	NUMBER	DATE	
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
  3. Any available drug counseling, rehabilitation and employee assistance programs; and
  4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
1. Abide by the terms of the statement; and
  2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
1. Taking appropriate personnel action against such an employee, up to and including termination; or
  2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

3. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.

SUBJECT	POLICY	EFFECTIVE	PAGE
	NUMBER	DATE	
DRUG-FREE WORKPLACE	100-5	8-8-89	3 of 3

- g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
    - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
    - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
    - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
  3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.

**EXHIBIT C**

**CERTIFICATES OF INSURANCE**

# APPENDIX C

**EX PARTE COMMUNICATIONS CERTIFICATION**

Please indicate by signing below one of the following two statements. **Only sign one statement.**

I certify that Proposer and Proposer's representatives have not had any communication with a City Councilmember concerning the Street Sweeping Services RFP at any time after \_\_\_\_\_, 2011

\_\_\_\_\_

**OR**

I certify that Proposer or Proposer's representatives have communicated after August 15, 2011 with a City Councilmember concerning the Street Sweeping Services RFP. A copy of all such communications is attached to this form for public distribution.

\_\_\_\_\_

# APPENDIX D

# PRICING PROPOSAL FORM

## STREET SWEEPING SERVICES

Provide hourly rates, along with estimated annual pricing in accordance with the City's current requirements, as set forth in section 3 Scope of Work. Also provide the Proposer's proposed Staffing Plan on a separate sheet of paper. Proposer should use a separate form to state pricing for any added value.

Pricing shall remain firm for a minimum of two (2) years. Any and all requests for pricing adjustments for follow-on contract renewal periods shall be provided no later than sixty (60) days prior to the end of the contract period. Any such proposed price adjustments shall not exceed The Bureau of Labor Statistics Consumer Price Index (CPI) data for Los Angeles-Riverside-Orange County, CA, All Items, Not Seasonally Adjusted, "annualized change comparing the original proposal month and the same month in the subsequent year. (This information may be found on the U.S. Department of Labor's website at [www.bls.gov](http://www.bls.gov).)

ROUTE:	Total Annual Cost (Weekly)	Total Annual Cost (Twice monthly)
Weekly Route 1 Total (211 Curb & Linear miles):	\$ _____	\$ _____
Weekly Route 2 Total (206 Curb & Linear Miles):	\$ _____	\$ _____
Weekly Route 3 Total (208 Curb & Linear Miles):	\$ _____	\$ _____
Weekly Route 4 Total (214 Curb & Linear Miles):	\$ _____	\$ _____
Weekly Extra Sweeps/Call Outs (12 miles):	\$ _____	\$ _____

<i>Total Annual Cost</i>	\$ _____	\$ _____

The Proposer agrees that for requested and/or required changes in the scope of work, including additions and deletions on work not performed, the Contract Sum shall be adjusted in accordance with the following unit prices, where the City elects to use this method in determining costs.

Proposer is advised that the unit prices will enter into the determination of the contract award. Unreasonable prices may result in rejection of the entire bid proposal. Unit prices listed below refer to all items installed and the Construction Documents and include all costs connected with such items; including but not limited to, materials, labor, overhead, and profit for the Proposer.

The unit prices quoted by the Proposer shall be those unit prices that will be charged or credited for labor and materials to be provided regardless of the total number units and/or amount of labor required for added or deleted items of work.

All work shall be performed in accordance with the specifications.

WORK DESCRIPTION	Unit Price
Cost Per Curb Mile	\$ _____
Hourly rate for special sweeps	\$ _____

\_\_\_\_\_  
Proposer's Initials

**C. Proposal Schedule**

(Please Type or Print)

Total Bid Amount:

• In written words \_\_\_\_\_

• In figures \$ \_\_\_\_\_

CONTRACTOR Lawful Name: \_\_\_\_\_

Proposer's Name: \_\_\_\_\_ Proposer's Initials: \_\_\_\_\_

PROPOSER License No. \_\_\_\_\_ Expiration: \_\_\_\_\_

PROPOSER Taxpayer I.D. Number: \_\_\_\_\_

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

PROPOSER Address: \_\_\_\_\_

Telephone Number: ( ) \_\_\_\_\_

Fax Number: ( ) \_\_\_\_\_

24-Hour Emergency Contacts:

\_\_\_\_\_ Telephone No.: ( ) \_\_\_\_\_

Name

\_\_\_\_\_ Telephone No.: ( ) \_\_\_\_\_

Name

\_\_\_\_\_ Telephone No.: ( ) \_\_\_\_\_

Name

\_\_\_\_\_

Proposer's Initials

The Proposer agrees that the City will not be held responsible if any of the approximate quantities shown in the foregoing proposal shall be found incorrect, and he shall not make any claim for damages or for loss of profits because of a difference between the quantities of the various classes of work as estimated and the work actually done. If any error, omission or misstatements shall be discovered in the estimated quantities, it shall not invalidate this contract or release the Proposer from the execution and completion of the whole or part of the work herein specified, in accordance with the specifications and the plans herein mentioned and the prices herein agreed upon and fixed therefore, or excuse him from any of the obligations or liabilities hereunder, or entitle him to any damages or compensation otherwise than as provided for in this contract.

The Proposer agrees that the City shall have the right to increase or decrease the quantity of any item or portion of the work or to omit portions of the work as may be deemed necessary or expedient, and that the payment for incidental items or work, not separately provided in the proposal shall be considered included in the price bid for other various items or work.

\_\_\_\_\_  
 Proposer's Initials

Respectfully submitted,

_____	_____
_____	_____
_____	_____
_____	_____

City	State	Zip	Residence Phone
Number			

If the proposal is by a corporation, state the names of the officers who can sign an agreement on behalf of the corporation and whether more than one officer must sign.

Corporation

Taxpayer I.D. Number: \_\_\_\_\_

	Can Sign	Must Sign
Name _____	<input type="checkbox"/>	<input type="checkbox"/>
Name _____	<input type="checkbox"/>	<input type="checkbox"/>
Name _____	<input type="checkbox"/>	<input type="checkbox"/>

If the proposal is by a partnership or a joint venture, state the names and addresses of all general partners and joint ventures.

Partnership or Joint Ventures

Taxpayer I.D. Number: \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

If the Proposer is a sole proprietorship or another entity that does business under a fictitious name, the Proposer shall be in the real name of the Proposer with a designation following showing "DBA (the fictitious name)"; provided, however, no fictitious name shall be used unless there is a current registration with the Orange County Recorder.

The full names and residences of all persons and parties interested in the foregoing proposal, as principals, are as follows:

NOTE: Give first and last names in full; in case of corporation, give names of President, Secretary, Treasurer and Manager, and affix corporate seal; in case of partnerships and joint ventures, give names of all the individual members.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Proposer's Initials

Proposer shall signify receipt of all Addenda here, if any:

<u>Addendum No.</u>	<u>Date Received</u>	<u>Proposer's Signature</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

# APPENDIX E

DISQUALIFICATION QUESTIONNAIRE

The Contractor shall complete the following questionnaire:

Has the Contractor, any officer of the Contractor, or any employee of the Contractor who has proprietary interest in the Contractor, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer is yes, explain the circumstances in the following space.

# APPENDIX F

DISCLOSURE OF GOVERNMENT POSITIONS

Each Proposer shall disclose below whether any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months. List below or state "None."