

## **AGREEMENT FOR CONTRACTOR SERVICES**

**THIS AGREEMENT** ("AGREEMENT") is entered into by and between the CITY OF POMONA VEHICLE PARKING DISTRICT ("the CITY") and DOWNTOWN POMONA OWNERS ASSOCIATION ("CONCRATOR"), collectively referred to hereinafter as the Parties.

### **RECITALS**

**WHEREAS**, the CITY desires to engage CONTRACTOR to provide parking lot sweeping services for all City of Pomona Vehicle Parking District parking lots; and

**WHEREAS**, CONTRACTOR is willing to perform the services defined herein; and

**WHEREAS**, CONTRACTOR represents that the principal representative stated below is authorized to act as such on behalf of CONTRACTOR.

**NOW, THEREFORE**, the Parties agree as follows:

1. **TERM.** The term of this AGREEMENT shall commence on \_\_\_\_\_, 2018, and continue until the third year anniversary (3 years) from the commencement date with two (2) additional one-year extensions upon administrative approval by the City Manager or her/his designee.

### **2. REPRESENTATIVES OF THE PARTIES AND SERVICE OF NOTICE.**

The representatives of the Parties who are primarily responsible for the administration and performance of the AGREEMENT, and to whom formal notice, demands and communications shall be given, are as follows:

A. The principal representative of the CITY shall be:

Linda C. Lowry, City Manager  
City of Pomona  
Vehicle Parking District  
505 South Garey Avenue  
Pomona, CA 91766  
(909) 620-2410

The principal representative of the CONTRACTOR shall be:

Larry Egan, Executive Director  
Downtown Pomona Owners Association  
119 West Second Street  
Pomona, CA 91766  
(909) 469-1121

B. Formal notices, demands and communications to be given hereunder by either party shall be made in writing and may be effected by personal delivery or by mail. Formal notices and demands sent by E-mail or facsimile shall not be acknowledged.

C. If the name of the principal representative designated to receive the notices, demands or communications, or the address of such person, is changed, written notice shall be given within five (5) working days of said changes.

3. **RETENTION.** The CITY retains CONTRACTOR to provide Vehicle Parking District parking lot sweeping services pursuant to this AGREEMENT. CONTRACTOR agrees to render such services on the terms and conditions stated herein.

4. **SCOPE OF SERVICES.** The scope of services to be provided is set forth in the attached Proposal, which is made Exhibit "A" to this AGREEMENT.

5. **COMPENSATION.** The CITY agrees to pay CONTRACTOR for the services set forth in the aforementioned Scope of Services. CONTRACTOR agrees that the fees for services shall not exceed the authorized amount of **\$40,560** as set forth in the fee schedule, attached hereto as Exhibit "B," unless the CITY has given specific advance approval in writing.

6. **INDEPENDENT CONTRACTOR.**

A. CONTRACTOR is an independent contractor. As such, CONTRACTOR shall have no power or authority to incur any debt, obligation or liability on behalf of the CITY, unless such authority is expressly conferred under this AGREEMENT. Further, CONTRACTOR is not entitled to any benefit typically associated with an employee such as medical, sick leave, retirement, or vacation benefit. CONTRACTOR expressly waives any claim to any such rights.

B. The personnel performing services pursuant to this AGREEMENT on behalf of CONTRACTOR shall, at all times, be under CONTRACTOR's exclusive direction and control. Neither the CITY, nor any of its employees, shall have any control over the manner, mode, or means by which CONTRACTOR, its agents, or its employees, perform the services required herein, except as otherwise set forth herein. The CITY shall have no voice in the selection, discharge, supervision or control of CONTRACTOR's employees, representatives, or agents, or in fixing their number, compensation, or hours of service.

C. CONTRACTOR shall perform services pursuant to this AGREEMENT as an independent contractor and shall, at all times, remain a wholly independent contractor. The CITY shall not in any way or for any purpose become or be deemed to be a partner of CONTRACTOR in its business or

otherwise a joint venture or member of any joint enterprise with CONTRACTOR.

**7. PERS INDEMNITY.** In the event that CONTRACTOR or any employee, agent, or subcontractor of CONTRACTOR 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, CONTRACTOR shall indemnify, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of CONTRACTOR 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 CITY, state or federal policy, rule, regulation, law or ordinance to the contrary, CONTRACTOR 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 the CITY, including but not limited to eligibility to enroll in PERS as an employee of the CITY and entitlement to any contribution to be paid by the CITY for employer contribution and/or employee contributions for PERS benefits.

CONTRACTOR is solely responsible for compliance with PERS restrictions applicable to any of CONTRACTOR's employees, agents, or subcontractors.

**8. ECONOMIC INTEREST STATEMENT.** CONTRACTOR hereby acknowledges that pursuant to Government Code Section 87300 and the Conflict of Interest Code adopted by the CITY hereunder, CONTRACTOR is designated in said Conflict of Interest Code and is therefore required to file an Economic Interest Statement (Form 700) with the City Clerk, for each employee providing advise under this Agreement, prior to the commencement of work. The extent of CONTRACTORS disclosure requirements is set forth in the Written Determination of the City Manager of the CITY, attached hereto as Exhibit "C."

## **9. INDEMNITY AND INSURANCE**

**A. INDEMNITY.** CONTRACTOR hereby agrees to protect, indemnify and hold the CITY, City of Pomona, and its employees, officers and servants free and harmless from any and all losses, claims, liens, demands and causes of action of every kind and character including, but not limited to, the amounts of judgment, interests, court costs, legal fees, expert costs, expert fees and all other expenses incurred by the CITY and/or City of Pomona to the maximum extent allowed by law arising in favor of any party, including claims, liens, debts, personal injuries, including employees of the CITY and City of Pomona, death or damages to property (including property of the CITY and City of Pomona) and without limitation by enumeration, all other claims or demands of every character occurring or arising directly out of or as a consequence of the performance of the work performed hereunder, except only such injury to persons or damage to property due or claimed to be due to the sole negligence of the CITY. This provision is not intended to create any cause of action in favor of any third party against CONTRACTOR or the CITY or to enlarge in any

way the CONTRACTOR's liability but is intended solely to provide for indemnification of the CITY and City of Pomona for liability for damages or injuries to third persons or property arising from CONTRACTOR's negligent performance hereunder.

B. **INSURANCE.** CONTRACTOR shall procure and maintain at all times during the term of this Agreement insurance as set forth in Exhibit "D" attached hereto.

10. **OWNERSHIP OF WORK PRODUCT (where applicable).** All reports, documents or other written material developed by CONTRACTOR in the performance of this AGREEMENT shall be and remain the property of the CITY and/or City of Pomona without restriction or limitation upon its use or dissemination by the CITY. Such material shall not be the subject of a copyright application by CONTRACTOR. Any re-use by CITY of any such materials on any project other than the project for which they were prepared shall be at the sole risk of CITY unless CITY compensates CONTRACTOR for such use.

11. **CONFIDENTIALITY.** Employees of CONTRACTOR, in the course of their duties, may have access to financial, accounting, statistical, and personnel data of private individuals and employees of the CITY. CONTRACTOR covenants that all data, documents, discussion, or other information developed or received by CONTRACTOR or provided for performance of this AGREEMENT are deemed confidential and shall not be disclosed by CONTRACTOR without written authorization by the CITY. The CITY shall grant such authorization if disclosure is required by law. All CITY data shall be returned to the CITY upon the termination of this AGREEMENT. CONTRACTOR's covenant under this Section shall survive the termination of this AGREEMENT.

12. **TERMINATION FOR CONVENIENCE.** The CITY may terminate this AGREEMENT at any time without cause by giving thirty (30) calendar days written notice to CONTRACTOR of such termination and specifying the effective date thereof. If this AGREEMENT is terminated as provided herein, CONTRACTOR shall be paid only the total amount equal to the service CONTRACTOR has provided, to the CITY satisfaction, as determined solely by the CITY, as of the termination date. In no event shall the amount payable upon termination exceed the total maximum compensation provided for in this AGREEMENT or the value of services provided as of date of termination.

13. **TERMINATION FOR CAUSE.** If for any reason, CONTRACTOR shall fail to fulfill in a timely and proper manner its obligation under this AGREEMENT, or if CONTRACTOR shall violate any of the covenants or stipulations of this AGREEMENT, the CITY shall then have the right to terminate this AGREEMENT by giving a five (5) calendar day written notice to CONTRACTOR. The notice shall refer to this clause, shall specify the nature of the alleged default, and shall specify the effective date of the termination. The CONTRACTOR will be paid a total amount equal to the service CONTRACTOR has provided, to the CITY's satisfaction, as determined solely by the CITY, as of the termination date. In no event shall the amount payable upon termination exceed the total maximum compensation provided for in this AGREEMENT.

14. **ASSIGNMENT AND SUBCONTRACTING.** Neither party shall assign or subcontract the rights or responsibilities under this agreement without the express, written consent of the other party, which may be withheld for any reason or for no reason.

15. **STANDARD.** CONTRACTOR agrees that the services to be rendered pursuant to this Agreement shall be performed in accordance with the standards customarily provided by an experienced and competent professional organization rendering the same or similar services. CONTRACTOR shall re-perform any of said services, which are not in conformity with standards as determined by the CITY. CONTRACTOR will be relieved of its obligation to re-perform said services if the CITY does not notify CONTRACTOR within 180 days after the completion of the non-conforming service. Compensation for CONTRACTOR to re-perform said services shall be subject to the approval of the CITY, but in no event shall such compensation exceed the actual cost of said services. Except as hereinafter provided in respect of personal injury or property damage, the foregoing are CONTRACTOR's entire responsibilities and the CITY's exclusive remedies for service rendered or to be rendered hereunder, and no other warranties, guarantees, liabilities, or obligations are to be implied.

16. **RESOLUTION OF DISPUTES.**

- A. Disputes regarding the interpretation or application of any provisions of this AGREEMENT shall, to the extent reasonably feasible, be resolved through good faith negotiations between the Parties.
- B. If any action, at law or in equity, is brought to enforce or to interpret any provisions of this AGREEMENT, the prevailing party in such action shall be entitled to recover reasonable attorney's fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded.

17. **FORCE MAJEURE.** The respective duties and obligations of the Parties hereunder shall be suspended while and so long as performance hereto is prevented or impeded by strikes, disturbances, riots, fire, severe weather, government action, war acts, acts of God, or any other cause similar or dissimilar to the foregoing which are beyond the control of the party from whom the affected performance was due.

18. **NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY.** In the performance of this AGREEMENT, CONTRACTOR shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age physical or mental handicap, medical condition, or sexual orientation. CONTRACTOR will take affirmative action to ensure that subcontractors and applicants are employed without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.

19. **SEVERABILITY.** If any provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions



nevertheless will continue in full force and effect without being impaired or invalidated in any way.

20. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Los Angeles. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Central District of California.

21. **ENTIRE AGREEMENT.** This AGREEMENT, together with Exhibits "A," "B," "C" and "D" supersede any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this AGREEMENT acknowledges that no representation by any party, which is not embodied herein, nor any other agreement; statement or promise not contained in this AGREEMENT shall be valid and binding. Any modification of the AGREEMENT shall be effective only if it is in writing and signed by all Parties.

**IN WITNESS WHEREOF** this Agreement is entered into by the Parties hereto on the dates set forth below.

ATTEST:

CITY OF POMONA VEHICLE  
PARKING DISTRICT

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Linda C. Lowry, City Manager

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

APPROVED AS TO FORM:

CONTRACTOR

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

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

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

## Exhibit "A"

### SCOPE OF SERVICES

#### PARKING LOT SWEEPING

The following specifications establish the level of service for the maintenance of 26 parking lots located in the City of Pomona's downtown Vehicle Parking District (VPD). The City of Pomona and/or the City of Pomona's Vehicle Parking District (VPD) reserves the right to eliminate and/or add VPD Lots to this contract at any time by giving the contractor a 30 day notice. Such amendments in the Scope of Service shall be prorated, or compensated at the rate provide "EXHIBIT B". Potential costs for additional services shall be subject to prior authorization by the VPD Representative, or as necessary, the City Manager or City Council.

#### A. STANDARD OF SERVICE

1. Parking lot vacuum or conventional sweepers shall operate at manufacturer's suggested sweeping speeds, in accordance with local conditions.
2. The Contractor shall so conduct its operations as to cause the least possible obstruction and inconvenience to public traffic.
3. As-Needed Maintenance. Various entities host public and private events downtown that affect the VPD areas. These events generate the need for parking lot maintenance on an as-needed basis beyond the following specified routine maintenance schedule. The Contractor shall inspect all lots on a daily basis to ensure that all lots are maintained in accordance with the minimum standards specified herein.

#### B. WORK TO BE PERFORMED

On a weekly basis, the Contractor shall furnish all labor, material and services required to perform the maintenance set forth in these specifications. At a minimum, this shall be understood to mean the following:

1. Hours for sweeping: Shall be early in the mornings, adjusted per parking lot and/or area, in order to allow the public the maximum and most efficient use of the parking lots. A work schedule will be determined between City staff and the Contractor following the award of contract. The use of leaf blowers before 7:00 a.m. is expressly prohibited. This is a requirement of the contract. Any use of leaf blowers before 7:00 a.m. shall be cause for immediate termination of the contract by the City.
2. VPD Lots 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 20, 22, and 23 shall be swept clean five (5) times per week on Friday, Saturday, Sunday, Monday and Wednesday mornings. On national holidays that are observed on Monday, the Contractor shall provide sweeping services on Tuesday. VPD Lots 1, 2, 3, 4, 5, 18, 19, 21, 24, 25 and 26 shall be swept clean four (4) times a week on Saturday, Sunday, Monday and Wednesday mornings. Lot 16 will be swept once a month or on Monday as needed per VPD staff.
3. Each sweeper shall contain small tools needed to clean up small piles of debris that are out of reach of the sweeper (this includes areas such as landscape



## **Exhibit "A"**

### **SCOPE OF SERVICES**

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planters, trash enclosures, trash receptacles, utility vaults, wheel stops, curbs, light posts, sign posts and any other structures and/or improvements that may obstruct the clean-up of debris and/or dead fallen landscape materials) including, but not limited to, bottles, broken glass, cans, leaves, small branches, twigs, trash or other small debris including paper, gravel and dirt.

4. All debris must be removed from behind, on, and within (as applicable) fences, walls, sign posts, meter posts, utility vaults, light posts, trash receptacles, trash enclosures, bumper stops, landscape planters, landscaping, curbs and corners throughout all parking lots within the VPD as detailed herein, and shall be picked up each time lots are swept.
5. All debris resulting from sweeping parking lots must be disposed of off-site at the Contractor's expense on a daily basis.
6. Disposal of large items shall be required on an as-needed basis. Cost to be based upon cubic yards and shall be invoiced in accordance with the fees in "EXHIBIT B – OPTIONAL AS-NEEDED SERVICES".

#### **C. EQUIPMENT**

1. All equipment used for the performance of this contract shall be standard heavy-duty vacuum or conventional sweeping equipment necessary to properly remove and clean bottles, broken glass, cans, leaves, trash or other small debris including dirt. Equipment shall be properly maintained both as to condition and appearance so as to insure a high level of parking lot sweeping services.
2. Contractor shall make available for the City's inspection the actual equipment to be used for the performance outlined in these specifications.

#### **D. INSPECTION**

Inspection shall be made by the VPD Representative with the Contractor on a weekly basis and/or at the request of either party. Once a month, the VPD Representative and the Contractor shall meet for the purpose of discussing specific performance deficiencies.



# EXHIBIT "B"

## COMPENSATION

"VPD PARKING LOT SWEEPING"				
ITEM	DESCRIPTION	QTY & UOM	SWEEPING UNIT PRICE	
			MONTHLY	ANNUALLY
1.	Parking Lot No. 1	1 EA	145-	1740-
2.	Parking Lot No. 2	1 EA	105-	1260-
3.	Parking Lot No. 3	1 EA	145-	1740-
4.	Parking Lot No. 4	1 EA	115-	1380-
5.	Parking Lot No. 5	1 EA	115-	1380-
6.	Parking Lot No. 6	1 EA	145-	1740-
7.	Parking Lot No. 7	1 EA	145-	1740-
8.	Parking Lot No. 8	1 EA	115-	1380-
9.	Parking Lot No. 9	1 EA	115-	1380-
10.	Parking Lot No. 10	1 EA	165-	1980-
11.	Parking Lot No. 11	1 EA	115-	1380-
12.	Parking Lot No. 12	1 EA	165-	1980-
13.	Parking Lot No. 13	1 EA	115-	1380-
14.	Parking Lot No. 14	1 EA	115-	1380-
15.	Parking Lot No. 15	1 EA	145-	1740-
16.	Parking Lot No. 16	1 EA	75-	900-
17.	Parking Lot No. 17	1 EA	165-	1980-
18.	Parking Lot No. 18	1 EA	85-	1020-
19.	Parking Lot No. 19	1 EA	115-	1380-
20.	Parking Lot No. 20	1 EA	115-	1380-
21.	Parking Lot No. 21	1 EA	115-	1380-
22.	Parking Lot No. 22	1 EA	145-	1740-
23.	Parking Lot No. 23	1 EA	145-	1740-
24.	Parking Lot No. 24	1 EA	165-	1980-
25.	Parking Lot No. 25	1 EA	145-	1740-
26.	Parking Lot No. 26	1 EA	145-	1740-
TOTALS			3380-	40,560-

### OPTIONAL AS-NEEDED SERVICES

At the City's discretion, optional services shall be provided by the Contractor on an "as-needed" basis, and shall be invoiced in accordance with the following fee schedule. Optional services will not be included in the base bid as criteria for award.

ITEM	DESCRIPTION	QTY & UOM	UNIT PRICE
1.	Disposal of Large Items per Cubic Yard	1 CY	35-

**EXHIBIT "C"**

**WRITTEN DETERMINATION**

I, Linda Lowry, City Manager of the City of Pomona ("CITY") have made the following determination with regard to economic interest disclosure requirements for the Downtown Pomona Owners Association, pursuant to the Conflict of Interest Code adopted by CITY:

☒ CONTRACTOR shall disclose its economic interest pursuant to the broadest disclosure category in the Code\*.

☒ CATEGORY I: Business interests and Investments

☐ CONTRACTOR has been hired to perform a range of duties that are limited in scope and thus CONTRACTOR is not required to comply with the broadest disclosure category requirements. Based on the Scope of Services set forth in Exhibit "A," of the Agreement, CONTRACTOR/ CONTRACTOR/ VENDOR need only provide economic interest disclosure under the following categories\*:

☐ CATEGORY II: Supply Sources

☐ CATEGORY III: Contractors

☐ CATEGORY IV: Geographic location

\*A full explanation of each of these disclosure categories is found on page 2 of this Exhibit.

☐ CONTRACTOR/ CONTRACTOR/ VENDOR is not required to comply with Disclosure requirements based on the following:

☐ Duties of CONTRACTOR/ CONTRACTOR/ VENDOR under this AGREEMENT are not applicable to Conflict of Interest Code

☐ Other: \_\_\_\_\_

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

\_\_\_\_\_  
Linda Lowry, City Manager

## DESIGNATED CATEGORIES

- I. This category applies to individuals that make, or participate in making, decisions that may have a material effect on their financial interest(s) in:
- a. businesses in which the individual holds an investment or business position<sup>1</sup>;
  - b. sources of income; or
  - c. real property.

*Individuals subject to this category need not disclose under Category II or III. Individuals subject to this category must disclose any of the following financial interests within the City and within two miles of City boundaries:*

- a. investments in business entities<sup>2</sup>;
- b. business positions held;
- c. sources of income; and
- d. interests in real property.

- II. This category applies to individuals that make, or participate in making, decisions that involve the purchase of services, supplies, materials, machinery or equipment.

Individuals subject to this category must disclose any of the following financial interests in business entities which provide services, supplies, materials, machinery, equipment, or technology of the type utilized by the City:

- a. investments in business entities;
- b. business positions held; and
- c. sources of income.

- III. This category applies to individuals that make, or participate in making, decisions that involve contracting for services including, but not limited to:

- a. professional services;
- b. vendor services;
- c. consulting services; and
- d. contractor services.

Individuals subject to this category must disclose any of the following financial interests in business entities which provide contract services, of the type utilized by the City:

- a. investments in business entities;
- b. business positions held; and
- c. sources of income.

- IV. This category applies, as applicable, to commissioners. Individuals subject to this category must disclose:

- a. all investments in, interest in, or income from, real property located within the jurisdiction of the respective board or commission and five hundred feet contiguous thereto; and
- b. all investments in, interest in, or income from, any business entity:
  - i. in which the person holds a business position; and
  - ii. that is either: A) within the jurisdiction of the respective board or commission and five hundred feet contiguous thereto; or B) conducted business within the jurisdiction of the respective board or commission and five hundred feet contiguous thereto, at any time during the two years prior to the date of filing the Statements of Economic Interest.

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<sup>1</sup> "Business positions" shall include, but not be limited to, a role as a director, officers, partner, trustee, employee, or any management position.

<sup>2</sup> "Business entities" shall include, but not be limited to, sole proprietorships, partnerships, and corporations.

## EXHIBIT "D"

CONTRACTOR shall maintain throughout the duration of the term of the Agreement, liability insurance covering CONTRACTOR and designating CITY including its elected or appointed officials, directors, officers, agents, employees, volunteers, or CONTRACTORS, as additional insured against any and all claims resulting in injury or damage to persons or property (both real and personal) caused by any aspect of CONTRACTOR's work, in amounts no less than the following and with such deductibles as are ordinary and reasonable in keeping with industry standards. It shall be stated, in the Additional Insured Endorsement, that CONTRACTOR's insurance policies shall be primary as respects any claims related to or as the result of CONTRACTOR's work. Any insurance, pooled coverage, or self-insurance maintained by the CITY, its elected or appointed officials, directors, officers, agents, employees, volunteers, or CONTRACTORS shall be non-contributory. The Additional Insured Endorsement shall not apply to the Professional Liability Insurance.

### Professional Liability Insurance:

- |                      |             |
|----------------------|-------------|
| a. General Aggregate | \$2,000,000 |
|----------------------|-------------|

### General Liability:

- |                                     |             |
|-------------------------------------|-------------|
| a. General Aggregate                | \$2,000,000 |
| b. Products Comp/Op Aggregate       | \$2,000,000 |
| c. Personal & Advertising Injury    | \$1,000,000 |
| d. Each Occurrence                  | \$1,000,000 |
| e. Fire Damage (any one fire)       | \$ 50,000   |
| f. Medical Expense (any one person) | \$ 5,000    |

### Workers' Compensation:

- |                               |                  |
|-------------------------------|------------------|
| a. Workers' Compensation      | Statutory Limits |
| b. EL Each Accident           | \$1,000,000      |
| c. EL Disease - Policy Limit  | \$1,000,000      |
| d. EL Disease - Each Employee | \$1,000,000      |

### Automobile Liability

- |                                       |             |
|---------------------------------------|-------------|
| a. Any vehicle, combined single limit | \$1,000,000 |
|---------------------------------------|-------------|

CONTRACTOR shall provide thirty (30) days advance notice to CITY in the event of material changes or cancellation of any coverage. Certificates of insurance and additional insured endorsements shall be furnished to CITY thirty (30) days prior to the effective date of this Agreement. Refusal to submit such certificates shall constitute a material breach of this Agreement entitling CITY to any and all remedies at law or in equity, including termination of this Agreement. If proof of insurance required under this Agreement is not delivered as required or if such insurance is canceled and not adequately replaced, CITY shall have the right but not the duty to obtain replacement insurance and to charge CONTRACTOR for any premium due for such coverage. CITY has the option to deduct any such premium from the sums due to CONTRACTOR.

Insurance is to be placed with insurers authorized and admitted to write insurance in California and with a current A.M. Best's rating of A-:VII or better. Acceptance of insurance from a carrier with a rating lower than A-:VII is subject to approval by CITY's Risk Manager. CONTRACTOR shall immediately advise CITY of any litigation that may affect these insurance policies.