

CITY OF RANCHO MIRAGE

**69825 HIGHWAY 111
RANCHO MIRAGE, CA 92270
(760) 324-4511**

**REQUEST FOR PROPOSALS
FOR
STREET SWEEPING SERVICES**

Issued:

MARCH 1, 2021

**FOR PROBLEMS DOWNLOADING RFP OR SUBMITTING FORM,
PLEASE CONTACT THE FOLLOWING PERSONS BY EMAIL OR PHONE:**
Lori Lafond, loril@ranchomirageca.gov or Gloria Griego, gloriag@ranchomirageca.gov
Phone: (760) 324-4511

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CITY OF RANCHO MIRAGE
REQUEST FOR PROPOSALS
FOR
STREET SWEEPING SERVICES

ANNOUNCEMENT:

The City of Rancho Mirage ("City") invites proposals from qualified, competent, knowledgeable, and experienced street sweeping service companies that will provide full-service street sweeping services and administer the duties and responsibilities set forth in this Request for Proposals ("RFP"), in compliance with all applicable laws, regulations, policies and procedures. Firms submitting proposals must be prepared to immediately enter into a contract ("Agreement") for the services and duties as set forth in this RFP.

The work to be accomplished includes, in general terms, all aspects of street sweeping services.

PROPOSALS/OFFER SUBMITTAL:

Proposals will be accepted until **4:00 p.m. on MARCH 22, 2021**, and each must be submitted in a sealed envelope plainly marked on the outside "**SEALED BID FOR STREET SWEEPING SERVICES - DO NOT OPEN WITH REGULAR MAIL**" to:

The City of Rancho Mirage
Attn: Justin Ruberg, Streets Supervisor
69825 Highway 111
Rancho Mirage, California 92270

Or if by Email one (1) Proposal copy to:

EMAIL: justinr@ranchomirageca.gov

All electronic submittals shall include in the subject line "**RFP FOR STREET SWEEPING SERVICES.**" It shall be the responsibility of proposer to ensure the electronic delivery is successful prior to deadline for submissions.

SCOPE OF SERVICES:

The selected firm shall provide to the City all the necessary services to fulfill its duties and obligations under the Agreement which duties and obligations include but are not limited to, the following:

Bids will be made on a unit basis. The curb mile shall be the basis for the contract unit price. A recent inventory of the streets involved indicate there are approximately 75.7

curb miles to be swept on a biweekly basis (once every two weeks) on Wednesdays. Throughout the year, streets may be added or deleted, as new public developments arise or as streets become incorporated into other programs.

Full compensation for direct and indirect costs (i.e., labor, tools, materials, equipment, fuel, water, and incidentals) required to perform the work and complete the required documentation and reporting shall be considered included in the contract bid price-per-item as listed in the Contractor's Proposal Submission.

At City's sole discretion, the Sweeping Schedule may be amended to increase or reduce the scope of services. Such increase may require up to fifty percent (50%) additional sweeping services be provided by the Contractor without change in the unit price to be paid to the Contractor. A reduction in sweeping services up to twenty-five percent (25%) may be made without change in the unit price to be paid to the Contractor. Unless the parties agree on an adjustment of the per-curb-mile price, Contractor may terminate the Agreement in the event that City requires an increase in services in excess of fifty percent (50%), or a reduction of more than twenty-five percent (25%).

CONTRACT LOCATIONS

Attached and made part of the contract documents are attachments including street names, maps, and curb feet to be swept.

SCHEDULING OF WORK

Street sweeping in the City of Rancho Mirage shall be performed on Wednesdays only. The Director of Public Works or Streets Supervisor shall approve the sweeping schedule and any changes. Operation of equipment shall be performed only during the time periods allowed, as follows:

1. On residential streets or areas adjacent to residential areas, sweeping will not begin before 7:00 AM and will end by 5:00 PM.
2. In commercial areas, sweeping may start at 5:00 AM.
3. Contractor shall notify City at least 24 hours in advance of any request to work outside the hours defined above.
4. Contractor shall notify City at least 24 hours in advance of any requested changes to the sweeping schedule.
5. Emergency work directed by City is not impacted by these restrictions.

EQUIPMENT AND LABOR

Contractor shall use and furnish, at its expense, all labor, equipment, and materials necessary for the satisfactory performance of the work set forth herein. Contractor shall clean the streets of paper, sand, and other debris. Machinery and equipment used in the furtherance of the Agreement shall be modern, clean, and maintained in proper working condition at all times. All drivers shall have the necessary commercial license to operate the equipment on public streets.

Equipment used shall meet all requirements as set forth by the Air Quality Management District (AQMD) Rule 1186.1-Less Polluting Sweepers for alternative-fuel or less-polluting sweepers. Award shall not be made to bidders who do not meet this requirement.

All sweepers used on this contract shall be of the regenerative air type.

Any sweeper used on this contract shall be equipped with a full-width amber LED light bar on the back of the vehicle.

SWEEPING PERFORMANCE

Contractor is obligated to perform and uphold good paved-surface sweeping practices such as are considered the industry standard. Sweeping performance standards shall be subject to the approval of the Director of Public Works or Streets Supervisor.

Contractor shall comply with the following requirements:

1. Contractor shall remove all visible dust and debris from curb, gutter, and roadway surfaces. Contractor shall sweep each intersection, corner radius, and turn pocket with the special attention needed to remove all sand and debris.
2. Contractor shall sweep areas where the depth of sand and debris are less than three inches at the curb face and less than four feet concentrated width from the curb face. Any accumulation of sand or debris outside of the above parameters will be handled outside this contract as a PM-10 post-event project.
3. Painted and curbed medians are included in the curb-mile calculation for this contract. Contractor shall sweep painted medians in such a manner as to produce a clean, well-maintained appearance across the width of the median. Contractor shall sweep raised, curbed medians to the same standards as other curbed surfaces.
4. Sweeping operations shall be conducted at a speed not to exceed eight miles per hour.

5. Contractor shall be notified of complaints received by City and shall take corrective action for each valid complaint within 24 hours of notification. Contractor shall notify the City after mitigation of each complaint, within 24 hours.

WATER

Contractor shall make arrangements for the use of fire hydrants with respective water providers and shall pay for all water used.

DISPOSAL OF SWEEPING DEBRIS AND REFUSE

Contractor shall dispose of all refuse collected by hauling the same to legally established disposal areas at its expense or by utilizing other disposal methods approved by City.

SAFETY PRACTICES AND CAL-OSHA

Contractor shall comply with OSHA, Cal-OSHA, and ANSI (American National Standards Institute) standards for the type of work being performed. Contractor shall plan and conduct work in a manner safeguarding all persons from injury and shall take all precautions required by applicable regulations of the State Department of Industrial Relations. Contractor staff shall wear OSHA-approved safety equipment at all times during contract work.

Contractor shall supply all delineation, signing and clothing as required by the State of California Department of Transportation.

If work along a public right-of-way will require the closure of a traffic lane, Contractor shall notify City at least 24 hours in advance and comply with the procedure outlined in the WATCH Manual.

Any traffic control such as furnishing, placing, and maintaining traffic cones, advance warning signs, flagmen, etc., shall be considered included in the contractor's fee, and no additional compensation will be made therefor. No road closures will be permitted.

Contractor shall ensure that the public right-of-way is maintained at all times as needed to allow for the safe passage of vehicles, pedestrians and/or the general public.

RESPONSIBILITY FOR JOB SITE CONDITIONS

Contractor agrees that, in accordance with generally accepted ANSI practices, Contractor will be required to assume sole and complete responsibility for job site conditions during the course of the work, including safety of all persons and property, and that this requirement shall be made to apply continuously and shall not be limited to normal working hours.

DAMAGE TO PUBLIC OR PRIVATE PROPERTY

Should any structure or property, including landscape, be damaged during operations the persons conducting the work shall immediately notify the property owners and the Director of Public Works or his designee. Repairs to property damaged by the responsible party shall be made within twenty-four (24) hours, excepting utility lines, which shall be repaired the same working day. Repairs on private property shall be made in accordance with the appropriate building code under permits issued by the City. Any damage caused by contractor shall be repaired or restored contractor at its sole expense to a condition similar or equal to that existing before such damage or injury, or they shall repair such damage in a manner acceptable to City. Special attention is drawn to sprinkler systems on all City property and the need to repair damage within twenty-four (24) hours. In the event contractor fails to timely cure such repairs, City may perform such repairs and charge contractor all costs and expenses incurred in making such repairs (which may include prevailing wage rates), whether by force account and/or hiring a third-party, which shall be determined at City's sole and absolute discretion.

WORK PERFORMED ON PRIVATE PROPERTY

No permitted or City-contracted worker shall perform work on private property without the consent of the property owner.

DEBRIS REMOVAL & COMPOSTING OF GREEN WASTE

Contractor shall remove all debris from the work area on a daily basis. Stockpiling of debris will not be permitted unless prior approval has been obtained from City. All dump and disposal fees shall be included in the bid proposal price.

Contractor is responsible for the proper disposal of all waste materials generated in the performance of this Agreement. All hazardous material will be disposed of in accordance with applicable laws and appropriate records maintained.

MEASUREMENT, INVOICING, AND PAYMENT

Payment will not be made for any work that has been incorrectly or incompletely performed as determined by the Director of Public Works or his designee and contract specifications. Contractor will be responsible for correcting any insufficiency prior to payment.

The City reserves the right to increase or decrease the amount of work as may be deemed necessary or expedient to the Street Maintenance Supervisor.

City will pay Contractor within thirty (30) calendar days of receipt of a correct invoice, provided such services are performed to the reasonable satisfaction of City. At the end of each month Contractor shall submit invoice(s) to City for contract work completed.

GENERAL COMPLIANCE WITH LAWS

Contractor will keep fully informed of federal, state, and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the contract. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances, and regulations.

LICENSES

Without limiting the generality of any other requirements herein, Contractor is required to have and maintain applicable state Contractor's license for work performed during the term of the agreement, where required. Contractor must acquire and maintain a City Business License during the contract period.

CONTRACT INITIATION CONFERENCE

A pre-contract (pre-con) initiation conference shall be conducted at the Rancho Mirage City Hall, 69825 Hwy 111, Rancho Mirage, California, 92270 after the award of the contract and prior to commencement of the contract. The job site foreman or superintendent assigned by Contractor for this project shall be present at the pre-contract meeting. At the pre-contract meeting Contractor will submit a preliminary schedule of work activities for review and approval.

RFP ATTACHMENTS

RFP Attachment 1

Street Sweeping Curb Mile Summary

2021-2022 Street Sweeping Curb Mile Summary

AREA 1	33.9 CM
AREA 2	41.8 CM
	<hr/>
Total for all Areas	75.7 CM

RFP ATTACHMENT 2

City Map with Color-Coded Street Sweeping Areas

See Attached Map

RFP ATTACHMENT 3
Street Sweeping Schedule
Locations by Street Name
See Attached List

GENERAL INSTRUCTIONS FOR SUBMITTAL:

A. Proposal Submittal:

The proposer shall submit one (1) original and three (3) copies by **4:00 p.m.** (Pacific Standard Time), **MARCH 22, 2021**, to:

The City of Rancho Mirage
Attn: Justin Ruberg, Streets Supervisor
69825 Highway 111
Rancho Mirage, California 92270

Or if by Email one (1) Proposal copy to:

EMAIL: justinr@ranchomirageca.gov

All electronic submittals shall include in the subject line **“RFP FOR STREET SWEEPING SERVICES.”** It shall be the responsibility of proposer to ensure the electronic delivery is successful prior to deadline for submissions.

B. Due Date and Time:

Proposals submitted after **4:00 p.m. on MARCH 22, 2021**, may, at the sole discretion of the City, be rejected as non-responsive and returned without review. For a proposal to be considered on time, it must be date stamped by City staff upon receipt. At the discretion of the City, a “late” proposal may be considered only if a selection cannot be determined from among proposals received on time. The City shall not be responsible for, nor accept any as a valid excuse, any delay in mail service, or any other method of delivery used by the proposer. All proposals shall be enclosed in a sealed envelope with the words clearly written on the front, **“SEALED BID FOR STREET SWEEPING SERVICES - DO NOT OPEN WITH REGULAR MAIL,” OR WHEN DELIVERED BY EMAIL, SUBJECT LINE MUST INCLUDE “RFP FOR STREET SWEEPING SERVICES,”** or in accordance with submittal guidelines outlined herein for electronic submittals. Failure of the proposer to properly identify the sealed envelope proposal or email subject line as described may result in the proposal being considered non-responsive. All proposals shall be firm offers subject to acceptance by the City and may not be withdrawn for a period of 180 calendar days following the last day to accept proposals. Proposals may not be amended after the due date except by consent of the City. All proposals must clearly address all of the requirements outlined in this RFP. Each proposal shall be limited to twenty (20) pages and must include a minimum of three (3) references, which include the address, telephone number, and email address of each reference. Resumes and brochures may be added to the proposal, provided they are located in an appendix at the back of the proposal. Should the proposer have concerns about meeting any noted requirements, the proposer shall include a clearly labeled subsection with individual statements specifically identifying the concerns and exceptions.

C. RFP Addenda and Clarifications in Written Comments

All comments and questions from proposers must be submitted in writing and received by no later than 4:00 P.M. on THURSDAY, MARCH 11, 2021 (“Addendum Due Date”), and must be submitted via the following approved written methods addressed to Justin Ruberg, Streets Supervisor:

1. At justinr@ranchomirageca.gov, or
2. Via mail (to the address listed in General Instructions for Submittal, Proposal Submittal), as long as the correspondence is received, and date stamped by the City on or prior to the Addenda Due Date.

Any verbal questions shall not be addressed by the City. Submittal of written comments or questions shall not be considered by the City unless submitted in an approved method on or before the Addenda Due Date. Written comments or questions received via approved method and within the time prescribed herein will be addressed by the City’s issuance of an addendum. Notwithstanding anything else herein, if it becomes necessary for the City to revise any part of this RFP, or to provide clarification or additional information after this RFP has been issued, a written addendum will be posted and published on the City’s website, <http://www.ranchomirageca.gov>. All addenda shall become part of the RFP.

D. Pre-contractual Expenses:

The City shall not be responsible for, under any circumstances, any claims of expenses necessary for the proposer to receive, evaluate, complete, and deliver the proposal. The proposer should also not include any pre-contractual expenses or fees in the proposal.

E. Conflicts of Interest:

The proposer affirms that to the best of his or her knowledge, there exists no actual or potential conflict between the firm’s business or financial interests, and either the services to be provided under the Agreement, or any commissioner, officer, employee, or agent of the City. For the duration of the Agreement, the proposer shall refrain from undertaking any work for any individual, business, or legal entity, in which direct conflicts of interest regarding the services to be provided thereunder or herein may arise.

F. Proposed Contract:

The proposer selected through this RFP shall be required to enter into the Agreement with the City, a form of which is attached hereto as **Exhibit “A.”** By submitting a proposal, each proposer thereby acknowledges and agrees they have reviewed such agreement and shall voluntarily enter into such agreement without request for any revisions to any terms and conditions set forth therein, or in this RFP. All such terms and conditions are incorporated herein by this reference.

G. Insurance and Acknowledgement:

Each proposal shall include a breakdown of all costs associated with issuance of the insurance endorsements described in and pertaining to Section 7 and its subsections of the Agreement (“Insurance Provisions”). Each proposal shall also include signed acknowledgement(s) in substantially the same form as the form attached hereto as **Exhibit “B,”** through which each insurance carrier that will issue any policy required in the Insurance Provisions, shall acknowledge, warrant, and represent that it possesses the ability to and shall furnish all the insurance endorsements prescribed in the Insurance Provisions.

H. California Public Records Act

Each proposer is hereby informed, and by submitting a proposal acknowledges, that proposals and their contents are subject to disclosure in accordance with the California Public Records Act (California Government Code Sections 6250 et seq.).

I. Term of Services

Contract shall enter into an agreement with an initial one (1) year term, which shall be automatically extended for two additional one (1) year successive terms unless either party provides written notification of cancellation to the other party at least thirty (30) days prior to the end of the current or then current term. In the event that any funding source for the services should be withdrawn or reduced, City may terminate the Agreement upon thirty (30) days written notice to Contractor.

PROPOSAL FORMAT AND CONTENT:

A. Presentation

1. Proposals shall be submitted in an 8 ½” x 11” format, fastened with an effective method.

B. Proposal Content

1. Transmittal Letter

a. Contact information, identification of firm, name and email address and telephone number

b. A statement to the effect that the proposal will remain valid for 180 days from the due date for the proposals

c. Acknowledgement of receipt of addenda, if any

d. Signature of the person authorized to bind the terms of the proposal

2. Table of Contents

a. Following the transmittal, provide a table of contents for the proposal

C. Qualifications, Related Experience and References

1. This section shall establish the ability of the proposer to satisfy all aspects of the required work with current or recently completed street sweeping services work, similar to the work required in this RFP.

2. Background information of the firm, including the date of founding, legal form, number and location of offices, number of employees, days and hours of operation and any other pertinent information.

3. Disclose any conditions (e.g., bankruptcy, pending litigation, planned office closures, mergers) and organizational conflicts of interest that may affect the ability of the proposer to perform the required duties.

4. Certify that the firm is not debarred, suspended, or otherwise declared ineligible to contract with any other federal, state, or local public agency.

5. Provide a list of business clients to which your firm is currently providing, or has recently provided, street sweeping services similar to those required in this RFP. Include company names, beginning/end dates of contracts, and names, titles, and telephone numbers the City can contact as references for your firm.

6. Furnish as an appendix, your firm's financial information (last year's Income Statement and Balance Sheet) that accurately describes the financial stability of your firm (financial statements will remain confidential and will be revealed only to individuals involved in the evaluation process and award of contract).

7. If successfully awarded a contract, upon entering the agreement and during the entire term of the agreement, contractor shall be an independent contractor, and not an employee of the City, under California Labor Code Section 2775 et seq. and other applicable laws, rules and regulations. Contractor shall take not actions which may render itself or its employees, employees of the City.

D. Proposed Staffing and Project Organization

1. Discuss the staffing of the proposing firm who would be assigned to work on the City's project.

2. Identify the key personnel that would be assigned to the project, in hours per week. Include a brief description of their qualifications and experience in performing the type of work being assigned.

3. Designate an administrator who would serve as a day-to-day contact for the City.

4. Provide any necessary organizational chart of the firm as it relates to this RFP.

E. Work Plan / Technical Approach

1. Establish the proposer's understanding of the City's objectives and requirements, demonstrate the proper ability to meet those objectives and requirements, and clearly identify the method (plan) of accomplishing the described work.

2. Describe what information, documentation, or staff assistance from the City your firm would request from the City in order to complete the work described.

F. Cost and Price

1. This section shall disclose all charges to be assessed the City for the required services and declare the proposer's preferences for method and timing of payment.

2. Quote a total price for completing all services; include all costs associated with the operating budget, including all street sweeping service fees. The total cost should also include the cost associated with all required insurance coverages.

3. For all staff declared in the organizational chart, provide a schedule of hourly labor rates.

G. Appendices

Furnish as appendices, supporting documentation as requested, such as financial information and staff resumes.

PROPOSAL EVALUATION AND CONTRACT AWARD:

A. Evaluation Panel

An evaluation panel consisting of City staff will be responsible for reviewing, analyzing, and evaluating the proposals received. The panel may also conduct contract negotiations with the highest rated proposer(s). The evaluation panel will either select the successful proposer or make recommendations to the City Council regarding selection.

B. Evaluation Criteria

Proposals will be evaluated by the panel, considering the factors which are listed below.

1. Cost and price
2. Work plan
3. Qualification and experience of proposer
4. Staffing and organization
5. Conformance with this RFP
6. References of performance including such factors as control of costs, quality of work, ability to meet schedules, cooperation, responsiveness, compliance with the requirements, and other considerations
7. Any other criteria determined by the City

Upon selection of the most qualified proposer, the City may require the finalist to make an oral presentation to the evaluation panel and/or the City Council or City Manager. The City expressly reserves the right to reject any or all proposals, with or without providing a reason and to waive any irregularities or informalities in the offers received. In the event of any such rejection, or in the event a proposer's offer is not rejected but does not result in contract award, the City shall not be liable for any costs incurred by the proposer in connection with the preparation and submittal of the proposal.

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EXHIBIT "A"

AGREEMENT

CITY OF RANCHO MIRAGE

STREET SWEEPING SERVICE AGREEMENT

THIS AGREEMENT (hereinafter, the "Agreement"), by and between the City of Rancho Mirage, a municipal corporation, herein referred to as "City," and _____, a _____, herein referred to as "Contractor," is entered into as of the date of the last signature set out below.

WITNESSETH:

In consideration of their mutual covenants, the parties hereto agree as follows:

1. Scope of Services. Contractor shall furnish all necessary labor, material, equipment, transportation, and services for the Street Sweeping Services Program, in the City of Rancho Mirage pursuant to this Agreement and in accordance with the Scope of Services, attached hereto and incorporated herein by this reference as Exhibit "A" (the "Services"). At City's sole discretion, the Sweeping Schedule may be amended to increase or reduce the scope of services. Such increase may require up to fifty percent (50%) additional sweeping services be provided by the Contractor without change in the unit price to be paid to the Contractor. A reduction in sweeping services up to twenty-five percent (25%) may be made without change in the unit price to be paid to the Contractor. Unless the parties agree on an adjustment of the per-curb-mile price, Contractor may terminate this Agreement in the event that City requires an increase in services in excess of fifty percent (50%), or a reduction of more than twenty-five percent (25%).

2. Compliance with Laws. Contractor shall comply with all federal, state, county, local and other governmental laws, rules and regulations, including without limitation the City's Municipal Code.

3. Quality of Work; Warranty. All work shall be performed in a manner satisfactory to City's Director of Public Works or designee. Contractor warrants that all Services will be performed in a competent, professional, and satisfactory manner in accordance with the standards prevalent in the industry for such services.

4. Term. The term of this Agreement shall begin on _____, 2021, with Services to begin on _____, 2021, and end on June 30, _____. The Agreement shall be automatically extended for two additional one (1) year successive terms unless either party provides written notification of cancellation to the other party at least thirty (30) days prior to the end of the current or then current term. In the event that any funding source for this Agreement should be withdrawn or reduced, City may terminate this Agreement upon thirty (30) days written notice to Contractor.

4.1 Termination Prior to Expiration of Term. In addition to the right to terminate set out in Section 4 above, City reserves the further right to terminate this Agreement at any time without cause, upon sixty (60) days written notice to Contractor. Contractor shall be entitled to compensation for all services rendered prior to the effective date of the termination and for any services authorized by the City's Public Works Director thereafter in accordance with the Scope of Services.

4.2 Termination for Default of Contractor. Upon receipt of any notice of termination for cause, Contractor shall cease all services hereunder except for those specifically described in said Notice of Termination. Said notice shall include grounds for cause, including description of all prior notices of breach and Contractor's insufficient response thereto. If termination is due to the failure of Contractor to fulfill its obligations under this Agreement, City may take over work and prosecute the same to completion by contract or otherwise, and Contractor shall be liable to the extent that the total cost for completion of the services required hereunder (including staff's time to procure replacement services, as may be needed) exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments and/or retention to Contractor for the purpose of setoff or partial payment of the amounts owed City in the form of liquidated damages. The parties hereto acknowledge and agree that if Contractor delays or fails to timely perform as specified in herein, such delay or failure would result in damages to the City in an amount not readily ascertainable by the parties, and being that it is impracticable and difficult to fix the amount of such damages, the parties hereby agree that such damage would be approximately equal to amounts incurred by City and that Contractor shall pay this amount as liquidated damages for each and every delay or failure, as more particularly set forth in the Scope of Services, and that such amount is reasonable and not a penalty. Such liquidated damages may be deducted from any payments due or to become due to the Contractor.

5. Compensation. In consideration of faithful performance of Services during the term of the Agreement, City agrees to pay Contractor such sums as shall be approved by City's Public Works Director at the unit price rate of _____ Dollars and _____ (\$_____.____) per curb mile swept, with total payments not to exceed _____ Dollars and _____ Cents (\$_____). There will be no CPI increases or other compensation escalators during the term of this Agreement, as may be extended, unless prior express consent is provided by City in writing in accordance with provisions set forth herein regarding amendment procedures.

5.1 Invoices. On or before the twenty-fifth (25th) day of each month, Contractor shall submit invoices to City for payment at the per-curb-mile unit price set out in the Scope of Services for all curb miles swept during the previous month. A monthly performance report demonstrating the services performed, including reports from the VDO Management System and a description of all equipment maintenance shall be submitted with each invoice in a form acceptable to City. Within thirty (30) business days of receipt of an undisputed and properly submitted invoice, City shall pay all invoiced

amounts; except that, City shall withhold payment of any sums that are disputed. Written notice of the grounds of the dispute shall be provided with the partial payment. The withholding of disputed sums shall not be a ground for the Contractor to cease work. The parties shall attempt to resolve all such disputes within thirty (30) days. If the parties cannot reach a mutually acceptable resolution within thirty (30) days, the dispute shall be submitted to City Manager for resolution.

6. Indemnification. Without regard to any insurance coverage or requirements, Contractor agrees to indemnify, hold harmless, release and defend (even if the allegations are false, fraudulent or groundless), to the maximum extent permitted by law, the City, its officers, employees, council members, officials, agents, employees, volunteers and representatives, from any and all, loss, suits, demands, actions, claims, damages, costs, penalties, judgments and expenses (including any and all costs, expenses, and attorney's fees in connection therewith), and liability (direct or indirect) which in whole or in part are claimed to result from or to arise out of the performance of this Agreement, including without limitation the usage or operation, (including the malfunctioning of) or, any injury caused by, any equipment or product utilized for or material related to the services provided herein; or any acts, errors or omissions (including, without limitation, professional negligence) of Contractor, its employees, representatives, subcontractors, or agents in connection with the performance of this Agreement. This Agreement to indemnify includes, but is not limited to, personal injury (including death at any time) and damage to property (including, but without limitation, contract or tort or patent, copyright, trade secret or trademark infringement) sustained by any person or persons (including, but not limited to, companies, or corporations, Contractor and its employees or agents, and members of the general public). Damages and claims within the scope of Contractor's obligation to indemnify, hold harmless, release and defend City pursuant to this Section shall include, but not be limited to, any demand, claim, notice, order or lawsuit asserting liability, responsibility or any obligation to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup any hazardous contaminant, substance, waste, cancer causing or reproductive toxic, as defined by state and federal law, and includes any claims brought pursuant to or based on any state, federal, regional or local environmental statutory or regulatory provision applicable to the services to be performed hereunder including but not limited to the collection, transport, recycling, processing, treatment, use, sale, storage or disposal of any material. This indemnity, hold harmless, release and defense provision shall apply irrespective of the negligence or willful misconduct of Contractor; shall not terminate or expire; shall be given the broadest possible interpretation and shall survive the expiration or earlier termination of the Agreement. The City does not, and shall not, waive any rights that it may have against Contractor under this Section because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless, indemnification and duty to defend provisions of this Section shall apply regardless of whether or not said insurance policies are determined to be applicable to the claim, demand, action, damage, liability, loss, cost or expense described herein. As set forth in and without limiting the generality of Section 7, any applicable insurance policy limits do not act as a limitation upon the amount of indemnification to be provided by Contractor.

7. Insurance.

a. Policies. Contractor, at Contractor's own cost and expense, shall procure and maintain, for the duration of this Agreement, the following insurance policies:

(1) Worker's Compensation Coverage. Contractor shall maintain Worker's Compensation Insurance and Employer's Liability Insurance for its employees in accordance with the laws of the State of California. In addition, Contractor shall require each subcontractor to similarly maintain Worker's Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees. If any class of employees employed by Contractor pursuant to this Agreement is not protected by the California State Worker's Compensation Law, Contractor shall provide adequate insurance for the protection of such employees to the satisfaction of the City. This provision shall not apply if Contractor has no employees performing work under this Agreement. If the Contractor has no employees for the purposes of this Agreement, Contractor shall sign and attach the Certificate of Exemption from Worker's Compensation Insurance, attached hereto and incorporated herein by this reference as Exhibit "B." Contractor agrees to waive its statutory immunity under any worker's compensation or similar statute, as respecting the City, and to require any and all subcontractors and any other person or entity involved in the Services to do the same.

(2) Commercial General Liability. Consultant shall maintain commercial general liability insurance in an amount not less than five million dollars (\$5,000,000) combined single limit per occurrence including products and completed operations, property damage, bodily injury, personal and advertising injury and property damage. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project or the general aggregate limit shall be twice the required occurrence limit. Consultant shall provide insurance on an occurrence, not claims-made basis. Consultant acknowledges and agrees that, for purposes of clarification with the intention of avoiding gaps in coverage with any umbrella or excess coverage, personal and advertising injury coverage shall be triggered by an "offense" while bodily injury and property damage coverage shall be triggered by an "occurrence" during the policy period.

(3) Automobile Liability Coverage. Consultant shall maintain commercial automobile liability insurance covering bodily injury, personal injury and property damage for all activities of the Consultant arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than five million dollars (\$5,000,000) combined single limit per accident.

b. Endorsements. Unless otherwise specified hereunder, each insurance policy required herein shall be with insurers possessing a Best's rating of no less than A:VII and shall be endorsed with the following specific language:

(1) Notwithstanding any inconsistent statement in any required insurance policies or any subsequent endorsements attached thereto, the protection offered by commercial general liability and commercial vehicle liability coverages, shall bear an endorsement whereby it is provided that, the City and its officers, employees, servants, volunteers and agents and independent contractors, including without limitation, the City Manager and City Attorney, are named as additional insureds with respect to liability arising out of work performed by or on behalf of the Contractor, including materials, parts or equipment furnished in connection with such work or operations. Additional insureds shall be entitled to the full benefit of all insurance policies in the same manner and to the same extent as any other insureds and there shall be no limitation to the benefits conferred upon them other than policy limits to coverages.

(2) With the exception of workers' compensation and professional liability insurance, this policy shall be considered primary insurance as respects the City, its elected or appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the City, including any self-insured retention the City may have shall be considered excess insurance only and shall not contribute with it.

(3) This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

(4) The insurer waives all rights of subrogation against the City, its elected or appointed officials, officers, employees or agents.

(5) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents or volunteers.

(6) The insurance provided by this policy shall not be canceled except after thirty (30) days written notice has been mailed to the City and ten (10) days notice if cancellation is for nonpayment of premium.

c. Deductibles and Self-Insured Retentions. Contractor shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the City's option, Contractor shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

d. Certificates of Insurance. Contractor shall provide certificates of insurance with original endorsements to the City as evidence of the insurance coverage required

herein. Certificates of such insurance shall be filed with the City on or before commencement of performance of this Agreement. Contractor agrees to ensure that the most current certification of insurance is on file with the City at all times during the term of this Agreement.

e. Imposition of Insurance Requirements. Provided the City gives its written consent for any persons other than Contractor to perform any part of the Services, Contractor agrees to require that all parties, including but not limited to subcontractors, architects, engineers or others with whom Contractor enters into contracts or whom Contractor hires or retains pursuant to or in any way related to the performance of this Agreement, provide the insurance coverage required herein, at minimum, and name as additional insureds the parties to this Agreement. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Section.

f. Maintain Coverages. In the event this Agreement is terminated for any reason prior to the completion of all obligations and requirements of this Agreement, Contractor agrees to maintain all coverages required herein until the City provides written authorization to terminate the coverages following the City's review and determination that all liability posed under this Agreement as to the party providing insurance has been eliminated.

g. Failure to Obtain Coverages. Without limiting the generality of the forgoing, Contractor agrees and acknowledges that if it fails to obtain all of the insurance required in this Agreement in accordance with the requirements herein, or to obtain and ensure that the coverage required herein is maintained by any subcontractors or others involved in any way with the performance of Services, to the extent such is permissible under this Agreement, Contractor shall be responsible for any losses, claims, suits, damages, defense obligations, or liability of any kind or nature attributable to the City or its officers, employees, servants, volunteers, agents and independent contractors; and all Services under this Agreement shall be discontinued immediately until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefor have been paid for a period satisfactory to City. Any failure to maintain the required insurance, including insurance required of any subcontractors or others involved in any way with the Services, shall be sufficient cause for City to terminate this Agreement.

h. Broader Existing Coverage. In the event Contractor maintains insurance with broader coverage and/or limits of liability greater than those required herein, City requires and shall be entitled to the broader coverage and/or higher limits of liability maintained by Contractor. Any insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

i. Separate Obligation from Indemnity. The fact that insurance is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to

indemnify and hold the City harmless shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Contractor. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Contractor, its principals, officers, agents, employees, persons under the supervision of Contractor, vendors, suppliers, invitees, sub-contractors, or anyone employed directly or indirectly by any of them.

j. Survival. The requirements set forth in Section *7f shall survive termination of this Agreement.

8. Civil Code Section 1542 Waiver.

Contractor expressly waives any and all rights and benefits conferred upon it by the provisions of section 1542 of the California Civil Code which reads as follows:

“A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”

This waiver shall be effective as a bar to any and all actions, fees, damages, losses, claims, liabilities and demands of whatsoever character, nature and kind, that are known or unknown, or suspected or unsuspected, including, without limitation, claims of entitlements under the California Public Employees’ Retirement System (CalPERS) that are only afforded to employees and not independent contractors. Contractor further represents and warrants that it understands this waiver and that if it does not understand this waiver, it shall seek the advice of a qualified attorney before executing this Agreement.

Initials

9. No Discrimination. Contractor represents that it is an equal opportunity employer and shall not discriminate against any subcontractor, employee, or applicant (“person”) for employment because of race; denial of family and medical care leave; religious creed (including religious dress and grooming practices); color; national origin (including language use restrictions); ancestry; physical disability or mental disability (including HIV and Aids); medical condition (cancer and genetic characteristics); genetic information; military or veteran status; marital status; gender, gender identity, and gender expression; sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding); age or sexual orientation. Unless otherwise permitted under the law, Contractor shall not refuse to hire or employ any such person or refuse to select any such person for a training program leading to employment, or bar or discharge any such person from employment or from a training program leading to employment, or otherwise discriminate against any such person in

compensation or in terms, conditions, or privileges of employment. Contractor agrees that a finding by the State Fair Employment Practices Commission that Contractor has engaged during the term of this Agreement in any unlawful employment practice shall be deemed a breach of this Agreement and Contractor shall pay to City Five Hundred Dollars (\$500.00) liquidated damages for each such breach committed under this Agreement. The parties hereto acknowledge and agree that such discrimination would result in damages to the City in an amount not readily ascertainable by the parties, and being that it is impracticable and difficult to fix the amount of such damages, the parties hereby agree that such damage would be approximately equal to \$500.00 and that Contractor shall pay this amount as liquidated damages for each and every such breach committed, and that such amount is reasonable and not a penalty. Such liquidated damages may be deducted from any payments due or to become due to the Contractor.

10. Assignments. This Agreement shall not be assignable by Contractor without the prior written consent of City.

11. Officers. In accepting this Agreement, Contractor certifies that no member or officer of the firm or corporation is an officer or employee of City.

12. Professional Ability of Contractor; Warranty; Familiarity With Work; Permits And Licenses.

a. Contractor warrants that all services will be performed in a competent, professional and satisfactory manner in accordance with the standards prevalent in the industry for such services.

b. By executing this Agreement, Contractor warrants that:

(1) it has thoroughly investigated and considered the work to be performed;

(2) it has investigated the issues, regarding the scope of services to be provided;

(3) it has carefully considered how the work should be performed; and

(4) it fully understands the facilities, difficulties and restrictions attending performance of the work under this Agreement.

c. Should Contractor discover any latent or unknown conditions materially differing from those inherent in the work or as represented by the City, it shall immediately inform the City of such fact and shall not proceed except at Contractor's risk until written instructions are received from the City Manager or appropriate City representative.

d. Contractor represents that it has obtained and will maintain at all times during the term of this Agreement all professional and/or business licenses, certifications

and/or permits necessary for performing the services described in this Agreement, including a City of Rancho Mirage business license.

13. Books and Records.

a. Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to the City for a minimum period of three years, or for any longer period required by law, from the date of final payment to Contractor pursuant to this Agreement.

b. Contractor shall maintain all documents and records which demonstrate performance under this Agreement for a minimum of three years, or for any longer period required by law, from the date of termination or completion of this Agreement.

c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Manager, City Attorney, City Auditor or a designated representative of these officers. Copies of such documents shall be provided to the City for inspection at the City's address indicated for receipt of notices in this Agreement when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Contractor's address indicated for receipt of notices in this Agreement.

d. Where the City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Contractor's business, the City may, by written request of any of the above-named officers, require that custody of the records be given to the City and that the records and documents be maintained at the City's address indicated for receipt of notices in this Agreement. Access to such records and documents shall be granted to any party authorized by Contractor, Contractor's representatives, or Contractor's successor-in-interest.

14. Conflict of Interest.

a. Contractor (including principals, associates and professional employees) covenants and represents that it does not have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered by this Agreement or any other source or income, interest in real property or investment which would be affected in any manner or degree by the performance of Contractor's services hereunder. Contractor further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement.

b. Contractor is not a designated employee within the meaning of the Political Reform Act because Contractor:

- (1) Does not make or participate in:
 - (i) the making or any governmental decisions regarding approval of a rate, rule, or regulation, the adoption or enforcement of laws;
 - (ii) the issuance, denial, suspension or revocation of permits, licenses, applications, certificates, approvals, orders, or similar authorization or entitlement;
 - (iii) authorizing the City to enter into, modify, or renew a contract;
 - (iv) granting the City approval to a contract that requires City approval and to which the City is a party, or to the specifications for such a contract;
 - (v) granting the City approval to a plan, design, report, study, or similar item; or
 - (vi) adopting, or granting City approval of, policies, standards, or guidelines for the City or for any subdivision thereof.

(2) Does not serve in a staff capacity with the City and in that capacity participate in making a governmental decision or otherwise perform the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a position specified in the City’s Conflict of Interest Code under Government Code Section 87302.

c. In the event the City officially determines that Contractor must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Contractor shall file the subject Form 700 with the City Clerk’s Office of the City of Rancho Mirage pursuant to the written instructions provided by the Office of the City Clerk.

15. Notices. All notices hereunder and communications with respect to this Agreement shall be in writing, and all such notices shall be delivered by personal service or by deposit in the United States Mail, certified or registered, return receipt requested, with postage prepaid, and such notices, payments and other documents shall be deemed delivered upon receipt by personal service or as of the second (2nd) day after deposit in the United States mail, provided the forgoing requirements are met. Notices shall be addressed as set out below:

If to City: Jesse Eckenroth
 Director of Public Works
 City of Rancho Mirage
 69825 Highway 111
 Rancho Mirage, CA 92270

If to Contractor: _____

16. Independent Contractor. Contractor shall at all times during the term of this Agreement remain, as to the City, a wholly independent contractor and shall perform the services described in this Agreement as an independent contractor and further, hereby waives any claims for any compensation or benefits afforded to City employees and not to independent contractors. Neither the City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as herein set forth. Nothing contained in this Agreement shall be deemed, construed or represented by the City or Contractor or by any third person to create the relationship of principal and agent and Contractor shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the City. Contractor shall have no authority, expressed or implied, to act on behalf of the City in any capacity whatsoever as an agent, nor shall Contractor have any authority, expressed or implied, to bind the City to any obligation whatsoever.

17. Representations and Acknowledgments Regarding Independent Contractor's Status of Contractor.

a. Contractor represents and acknowledges the following:

(1) The City is not required to provide any training or legal counsel to Contractor or its employees in order for Contractor to perform the services described in this Agreement.

(2) Performance of the services described in this Agreement does not have to be integrated into the daily business operations of the City.

(3) The services described in this Agreement can be performed without the use of City equipment, materials, tools or facilities.

(4) Nothing in this Agreement shall be interpreted to imply that the City must maintain any contractual relationship with Contractor on a continuing basis after termination of this Agreement.

(5) The City will not be requested or demanded to assume any liability for the direct payment of any salary, wage or other such compensation to any person employed by Contractor to perform the services described in this Agreement.

(6) Contractor shall not at any time or in any manner represent that it or any of its officers, employees, or agents are employees of the City.

b. The City represents and acknowledges the following:

(1) Contractor is not required to comply with daily instructions from City staff with respect to when, where or how Contractor must perform the services set forth in this Agreement.

(2) Contractor is solely responsible for determining who, under the supervision or direction of Contractor, will perform the services set forth in this Agreement.

(3) The City will not hire, supervise or pay any assistants working for Contractor pursuant to this Agreement.

(4) Nothing in this Agreement shall be interpreted to imply that the Contractor must maintain any contractual relationship with the City on a continuing basis after termination of this Agreement.

(5) It is the sole responsibility of Contractor to set the hours in which Contractor performs or plans to perform the services set forth in this Agreement.

(6) Contractor is not required to devote full time to the business operations of the City in order to perform the services set forth in this Agreement.

(7) Contractor is not required to perform the services set forth in this Agreement at City-owned property.

(8) Nothing in this Agreement shall be interpreted to preclude Contractor from working for other persons or firms, provided that such work does not create a conflict of interest.

(9) Contractor is not required to perform the Services set forth in the Agreement in any particular order or sequence.

18. General Provisions:

18.1 DEFAULT; BREACH

a. Failure or delay by any party to this Agreement to perform any material term or provision of this Agreement shall constitute a default under this Agreement; provided, however, that if the party who is otherwise claimed to be in default by the other party commences to cure, correct or remedy the alleged default within fifteen (15) calendar days after receipt of written notice specifying such default and shall diligently complete such cure, correction or remedy, such party shall not be deemed to be in default hereunder.

b. The party which may claim that a default has occurred shall give written notice of default to the party in default, specifying the alleged default. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of

default; provided, however, the injured party shall have no right to exercise any remedy for a default hereunder without delivering the written default notice, as specified herein.

c. Any failure or delay by a party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any rights or remedies associated with a default.

d. In the event that a default of any party to this Agreement may remain uncured for more than fifteen (15) calendar days following written notice, as provided above, a material "breach" shall be deemed to have occurred. In the event of a material breach, the injured party shall be entitled to seek any appropriate remedy or damages by initiating legal proceedings.

e. In the event Contractor shall be in material breach of this Agreement, the City shall be permitted to suspend all payments to Contractor until such time that Contractor cures the breach to the City's satisfaction. Notwithstanding anything to the contrary, Contractor's failure to provide all insurance documents, certificates of insurance and endorsements required of Contractor and as prescribed in Section 7 of this Agreement, by itself, shall be deemed a material breach of this Agreement without the need for the parties to engage in the notice and opportunity to cure process set forth in Subsections a, b and d of this Section *.

18.2 ENTIRE AGREEMENT

a. This Agreement supersedes any and all other agreements, either oral or written, between the City and Contractor with respect to the subject matter of this Agreement.

b. This Agreement contains all of the covenants and agreements between the parties with respect to the subject matter of this Agreement, and each party to this Agreement acknowledges that no representations, inducements, promises, or agreements have been made by or on behalf of any party except those covenants and agreements embodied in this Agreement.

c. No agreement, statement, or promise not contained in this Agreement shall be valid or binding.

Section 19. MODIFICATIONS AND AMENDMENTS

This Agreement may be modified or amended only by a written instrument signed by both parties.

Section 20. ASSIGNMENT AND SUBCONTRACTING

a. The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this

Agreement. Assignments of any or all rights, duties or obligations of the Contractor under this Agreement will be permitted only with the written consent of the City.

b. Contractor shall not subcontract any portion of the work to be performed under this Agreement without the written consent of the City. If the City consents to such subcontract, Contractor shall be fully responsible to the City for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between the City and subcontractor nor shall it create any obligation on the part of the City to pay or to see to the payment of any monies due to any such subcontractor other than as required by law.

Section 21. WAIVER

a. No waiver shall be binding, unless executed in writing by the party making the waiver.

b. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision.

c. Failure of either party to enforce any provision of this Agreement shall not constitute a waiver of the right to compel enforcement of the remaining provisions of this Agreement.

Section 22. SEVERABILITY

If any one or more of the sentences, clauses, paragraphs or sections contained herein is declared invalid, void or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall not affect, impair or invalidate any of the remaining sentences, clauses, paragraphs or sections contained herein.

Section 23. VENUE

All proceedings involving disputes over the terms, provisions, covenants or conditions contained in this Agreement and all proceedings involving any enforcement action related to this Agreement shall be initiated and conducted in the applicable court or forum in Riverside County, California.

Section 24. LITIGATION EXPENSES AND ATTORNEYS' FEES

In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this Agreement, the prevailing party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable

attorney's fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

Section 25. EXECUTION IN COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Electronic signatures shall be deemed to constitute evidence of the Agreement having been executed.

Section 26. PROHIBITED INTERESTS

Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of the City, during the term of his or her service with the City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

Section 27. TIME OF THE ESSENCE

Time is of the essence in the performance of this Agreement.

Section 28. PRINCIPAL REPRESENTATIVES

a. _____, is designated as Contractor's Principal Representative and is the person responsible for undertaking, managing and supervising the performance of all of the services set forth in the Scope of Services for this Agreement. Contractor's designated Principal Representative's experience, knowledge, capability and reputation were a substantial inducement for the City to enter into this Agreement, and as such, for the purposes of performing the Scope of Services of this Agreement, the duties of Contractor's designated Principal Representative shall not be reassigned, without the express written consent of both parties.

b. _____, _____, shall be the Principal Representative of the City for purposes of communicating with Contractor on any matter associated with the performance of the services set forth in this Agreement.

Section 29. NON-LIABILITY OF CITY’S OFFICERS AND EMPLOYEES

No officer or employee of the City shall be personally liable to Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to Contractor or to its successor, or for any breach of any obligation of the terms of this Agreement.

Section 30. INTERPRETATION

This Agreement shall not be interpreted against either party on the grounds that one of the parties was solely responsible for preparing it or caused it to be prepared as both parties were involved in drafting it.

Section 31. PROTECTION AND CORRECTION OF WORK

a. Contractor shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work performed by Contractor, and the equipment, materials, papers and other components thereof to prevent losses or damages.

b. The performance of services by Contractor shall not relieve Contractor from any obligation to correct any incomplete, inaccurate or defective work at no further cost to the City, when such inaccuracies are due to the fault of Contractor.

Section 32. CAPTIONS AND HEADINGS

The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.

Section 33. GOVERNING LAW

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties under this Agreement, shall be construed pursuant to and in accordance with California law.

Section 34. CUMULATIVE REMEDIES

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

Section 35. NO THIRD PARTY BENEFICIARIES

The parties do not intend the benefits of this Agreement to inure to any third party, nor shall any provision of this Agreement be so construed.

Section 36. REPRESENTATIONS OF PARTIES AND PERSONS EXECUTING AGREEMENT

a. Each of the parties to this Agreement hereby represents that all necessary and appropriate actions of their governing bodies have been taken to make this Agreement a binding obligation of each of the parties hereto.

b. The persons executing this Agreement warrant that they are duly authorized to execute this Agreement on behalf of and bind the parties each purports to represent.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the last date stated below.

CITY OF RANCHO MIRAGE

By: _____
G. Dana Hobart, Mayor

Dated: _____

ATTEST:

Kristie Ramos, City Clerk

Dated: _____

APPROVED AS TO FORM:

Steven B. Quintanilla, City Attorney

Dated: _____

CONTRACTOR NAME

Dated: _____

By: _____

Name: _____

Title: _____

Dated: _____

By: _____

Name: _____

Title: _____

"CONTRACTOR"
(If corporation, affix seal)

AGREEMENT EXHIBIT "A"
SCOPE OF SERVICES

AGREEMENT ATTACHMENT 1

Street Sweeping Curb Mile Summary

AGREEMENT ATTACHMENT 2

City Map with Color-Coded Street Sweeping Areas

AGREEMENT ATTACHMENT 3

Street Sweeping Schedule

Locations by Street Name

See Attached List

RFP EXHIBIT “B”

ACKNOWLEDGEMENT OF INSURANCE ENDORSEMENTS

In recognition of _____ (“Company”) having submitted a proposal to the City of Rancho Mirage **Request for Proposals for Street Sweeping Services, dated MARCH 1, 2021 (“RFP”)**, issued by the City of Rancho Mirage (“City”), and in further recognition that the City requires Company to comply with certain insurance requirements as set forth in Section 7 and its subsections (“Insurance Provisions”) of the Agreement (which Agreement is defined in and made part of the RFP), I represent that I am authorized to sign on behalf of the insurance company listed below (“Insurer”), and by signing below, I acknowledge, warrant and represent that Insurer possesses the ability to, and if requested by Company, shall furnish all the insurance endorsements prescribed in the Insurance Provisions within thirty (30) days of contract award, as respecting worker’s compensation and/or commercial general liability and/or commercial vehicle liability insurance and/or professional liability [PLEASE CHECK ALL THAT APPLY].

Name of Insurer [Print]

Name, Title [Print]

Signature