

## **SECOND AMENDMENT TO CONTRACT SERVICES AGREEMENT TO PROVIDE STREET SWEEPING SERVICES FOR THE CITY OF CARSON, CALIFORNIA**

This SECOND AMENDMENT to that certain CONTRACT SERVICES AGREEMENT ("Second Amendment") is made and entered into this p<sup>t</sup> day of April, 2014, by and between the CITY OF CARSON, a general law city and municipal corporation, ("City") and NATIONWIDE ENVIRONMENTAL SERVICES, a division of JOE'S SWEEPING, INC., a California Corporation ("Contractor"). The term Contractor includes employees performing as drivers, mechanics, supervisors, and other personnel acting to render street sweeping services of any kind.

### **RECITALS**

WHEREAS, City and the Contractor entered into that certain "Contract Services Agreement" ("Agreement") dated July 1, 2008, for street sweeping services within the City; and

WHEREAS, City and the Contractor entered into that certain "First Amendment to Contract Services Agreement" ("First Amendment") dated February 1, 2011, for street sweeping services within the City; and

WHEREAS, the parties now wish to again amend certain provisions of the Agreement and the First Amendment through this Second Amendment.

### **AMENDMENT**

NOW THEREFORE for good and adequate consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

#### **SECTION 1. AMENDMENT TO THE SCOPE OF SERVICES OF CONTRACTOR**

Section 1.1 of the Agreement, Scope of Services, is hereby amended to add to Exhibit "A" the following tasks thereto: "Provide sidewalk sweeping services according to the map and schedule attached hereto as Exhibit 1."

#### **SECTION 2. AMENDMENT TO COMPENSATION OF CONTRACTOR**

Section 2.1 of the Agreement, Contract Sum, Exhibit "C," Schedule of Compensation, is hereby amended to add the following:

"J. The additional annual sum of Fifty-Eight Thousand Dollars (\$58,000.00) for sidewalk sweeping services payable in twelve (12) monthly installments at the time specified in the Agreement. Such sum shall be adjusted annually, in accordance with section 2.0 Compensation of this Agreement."

### **SECTION 3. AMENDMENT TO TERM OF CONTRACT**

Section 3.4 of the Agreement, Term & Extended Term(s), is hereby amended, in its entirety, to read as follows:

The term of this Agreement, as amended, shall continue in full force and effect for ten (10) years commencing on April 1, 2014, and expiring on March 31, 2024; provided, however, commencing on April 1, 2015, and on each anniversary date of every year thereafter, an automatic one-year extension shall be applied to the Agreement, as amended, so that the term of the Agreement shall remain at ten (10) years as of each anniversary date. The anniversary date of this Agreement is April 1 of each year.

### **SECTION 4. AMENDMENT TO SECTION 7 ENFORCEMENT OF AGREEMENT**

Section 7.8 of the Agreement, Termination Prior to Expiration of Term, as amended, is again amended to read, in its entirety, as follows:

"Except for termination due to breach pursuant to Section 7.9, the parties reserve the right, in their sole and absolute discretion, to terminate the automatic one-year extension provision in Section 3.4, above, either Party may do so by giving the other Party written notice of such termination sixty (60) days prior to any anniversary date of any year during which this Agreement, as amended, is in full force and effect. Such notice will terminate the automatic one-year extension provision of Section 3.4, above, and the Agreement, as amended, shall remain in full force and effect for a ten (10) year term thereafter."

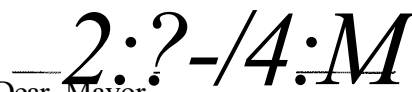
### **SECTION 5. UNDERLYING TERMS AND CONDITIONS OF AGREEMENT, AS AMENDED, TO REMAIN IN FULL FORCE AND EFFECT**

Except as expressly amended in this Second Amendment, all other terms and conditions of the Agreement and First Amendment shall remain in full force and effect.

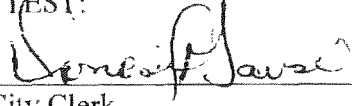
IN WITNESS WHEREOF, the parties have executed and entered into this First Amendment to be effective as of the date first noted above.

"CITY"

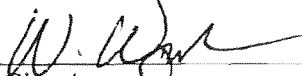
CITY OF CARSON,  
a Municipal Corporation

"    
Jim Dear, Mayor

ATTEST:

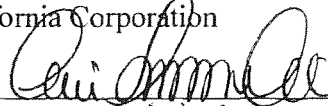
  
City Clerk

APPROVED AS TO FORM:

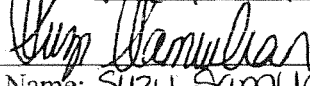
  
City Attorney

**"CONTRACTOR"**

NATIONWIDE ENVIRONMENTAL SERVICES,  
a Division of JOE'S SWEEPING, INC., a  
California Corporation

By:   
Name: Ani Samuelian

Title: Vice President

By:   
Name: Suzy Samuelian

Title: Secretary

Address: 11914 Front St.  
Norwalk, Ct 06050

## **EXHIBIT "A"**

### **SCOPE OF SERVICES**

A.1 The Contractor shall provide the following additional services (to be included within the existing Scope of Services attached to the Agreement) pursuant to this Second Amendment:

5. Provide sidewalk sweeping services according to the map and schedule attached hereto as Exhibit 1.

## Sidewalk Sweeping Schedule

Day

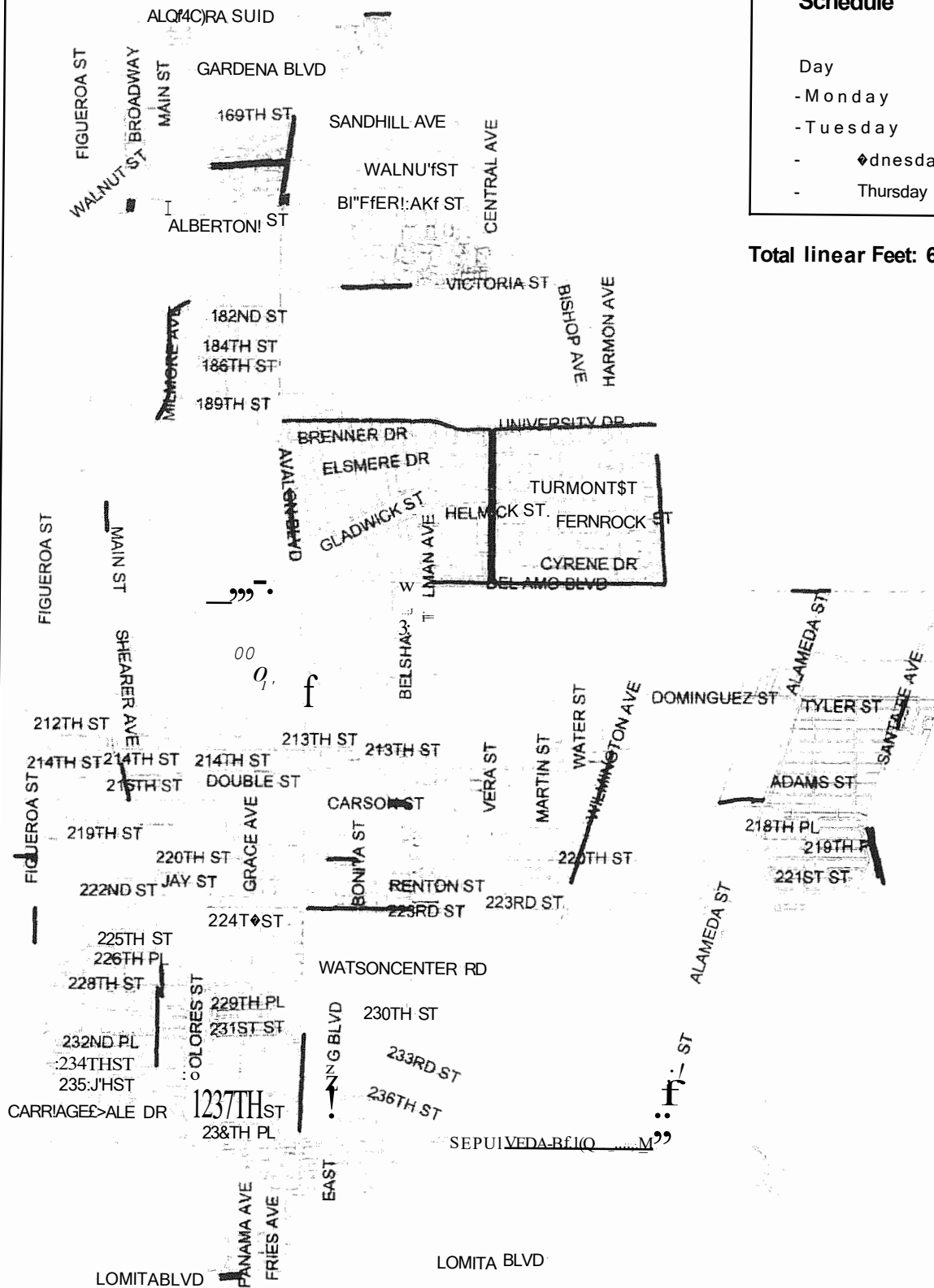
- Monday

- Tuesday

- Wednesday

- Thursday

**Total linear Feet: 69,641**





States Department of Labor, Bureau of Labor Statistics. The Contractor shall submit to the City, each April, beginning in April 2009, information in support of an annual adjustment. This information will include changes in the CPI that have occurred during the preceding calendar year. The City Manager or designee shall review the information submitted by Contractor and will refer the proposed adjustment to the City Council for approval, in its reasonable judgment.

### SECTION 3. AMENDMENT TO COMPENSATION OF CONTRACTOR

Section 2.4 of the Agreement, , is hereby amended, in its entirety, to read as follows:

"There shall be no Contractor entitlement to any Extraordinary Adjustments for Fiscal Years 2011/12 and 2012/13. Thereafter, the Contractor or the City may request an adjustment to the compensation paid to the Contractor at times other than those specified in Section 2.3, based upon unusual changes in the cost of providing service under this agreement. The Contractor may request only one such adjustment during any rate year. Unusual changes may include changes in components of the disposal rate, changes in the disposal site requested by the City, changes in state or local government solid waste fees and charges, and changes in the law. These changes do not include inaccurate estimates by the Contractor of its proposed cost of operations. For each request, the Contractor must prepare a schedule documenting the extraordinary costs. The request shall be prepared in a form acceptable by the City with support for all assumptions made by the Contractor in preparing the estimate. The City shall review the Contractor's request and, in the City's reasonable judgment, make the final determination on the appropriate amount of the adjustment, if any."

### AMENDMENT TO TERM OF CONTRACT

Section 3.4 of the Agreement, , is hereby amended, in its entirety to read as follows:

"Unless earlier terminated in accordance with Section 7.8 of this Agreement, this Agreement shall continue in full force and effect from July 1, 2001 (the "Commencement Date") through June 30, 2011. In addition, the City (in the sole and absolute discretion of the City Council, acting at a duly noticed public meeting) shall have the option of extending the term of this Agreement for one (1) additional three (3) year extended term. The City shall exercise this option, if at all, by the City Council, the City Manager, or signees, to give written notice to Contractor of the City Council's decision to further extend the term of this Agreement not less than thirty (30) calendar days prior to the expiration of

# FIRST AMENDMENT TO CONTRACT SERVICES AGREEMENT TO PROVIDE STREET SWEEPING SERVICES FOR THE CITY OF CARSON, CALIFORNIA

This FIRST AMENDMENT to that certain CONTRACT SERVICES AGREEMENT ("First Amendment") is made and entered into this 1<sup>st</sup> day of February, 2011, by and between the CITY OF CARSON, a general law city and municipal corporation, ("City") and NATIONWIDE ENVIRONMENTAL SERVICES, a California Corporation ("Contractor"). The term Contractor includes employees performing as drivers, mechanics, supervisors, and other personnel acting to render street sweeping services of any kind.

## RECITALS

WHEREAS, City and the Contractor entered into that certain "Contract Services Agreement" ("Agreement") dated July 1, 2008, for street sweeping services within the City and

WHEREAS, the Agreement is due to expire on June 30, 2011, and

WHEREAS, the parties wish to extend the term and to amend certain provisions of the Agreement through this First Amendment.

## AMENDMENT

NOW THEREFORE for good and adequate consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

### - AMENDMENT TO THE SCOPE OF SERVICES OF CONTRACTOR

Section 1.1 of the Agreement, is hereby amended to add to Exhibit "A" the following tasks thereto: "Pressure wash all sidewalks, on a monthly basis, in and around the Carson City Hall and Juanita Jvender-McDonald Community Center at Carson. Waste water will be recovered in accordance with applicable NPDES requirements."

### - AMENDMENT TO COMPENSATION OF CONTRACTOR

Section 2.3 of the Agreement, is hereby amended, in its entirety, to read as follows:

- Effective July 1, 2009, and on each July 1 thereafter, the compensation paid to the Contractor may be adjusted annually to rates that are based upon changes in the Consumer Price Index ("CPI") - All Urban Consumers for Los Angeles Anaheim Riverside Area, as published by the United



the term of this Agreement. Such extension shall be on the same terms and conditions as otherwise set forth herein."

#### SECTION 5. AMENDMENT TO SECTION 7 ENFORCEMENT OF AGREEMENT

Section 7.8 of the Agreement, ~~Termination Prior to Expiration of Term~~ is hereby amended, in its entirety, to read as follows:

"Except as provided herein, this Section shall govern any termination of this Agreement except as specifically provided in the following Section for termination for cause. In consideration of the substantial investment that Contractor has and shall continue to make in the equipment needed to perform the services required by this Agreement, the parties mutually agree that for the period of time commencing July 1, 2011 and for two (2) consecutive calendar years thereafter, neither party may terminate this agreement under this Section 7.8. Thereafter, City reserves the right to terminate this Agreement at any time, with or without cause, upon two (2) years' advance written notice (such notice shall be given only after the same is authorized by City's City Council following consideration of the same at a duly noticed public meeting) to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Agreement at any time, with or without cause, upon one-hundred twenty (120) days' advance written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2. For purposes of this Agreement, cause shall be defined as the failure to abide by all terms and conditions of this agreement, the failure of Contractor to perform its obligations hereunder in a timely and satisfactory manner, or if Contractor ceases performing its Work for ten (10) days during any thirty (30) day period.<sup>1</sup>

III

SECTION 6, UNDERLYING TERMS AND CONDITIONS OF  
AGREEMENT TO REMAIN IN FULL FORCE AND  
EFFECT

Except as expressly amended in this First Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed and entered into this First Amendment to be effective as of the date first noted above

"CITY"

cm OF CARSON,  
a municipal corporation

Jim Dear, Mayor */s/ Jim Dear*

ATTEST:

Helen Kawagoe  
Helen Kawagoe, City Clerk *7/12/14*

APPROVED AS TO FORM!

W. W. W.  
City Attorney

"-+CONTRACTOR"

NATIONWIDE ENVIRONMENTAL  
SERVICES, a California Corporation

By: Never Samuelian  
Name: Never Samuelian  
Title: President

By: Ani Samuelian  
Name: Ani Samuelian  
Title: Vice President

Address: 11914 front Street

[END OF SIGNATURES]

## EXHIBIT "A"

### SCOPE OF SERVICES

A.J. The Contractor shall provide the following additional services (to be included within the existing Scope of Services attached to the Agreement) pursuant to this First Amendment:

Pressure wash all sidewalks, on a monthly basis, in and around the Carson City Hall and Juanita Millender-McDonald Community Center at Carson. Waste water will be recovered in accordance with NPDES requirements.



## CONTRACT SERVICES AGREEMENT TO PROVIDE STREET SWEEPING SERVICES FOR THE CITY OF CARSON, CALIFORNIA

This CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into this 1st day of July, 2008, by and between the CITY OF CARSON, a general law city and municipal corporation, ("City") and Nationwide Environmental Services a division of Joe's Sweepers, Inc., a California corporation ("Contractor"). The term Contractor includes employees performing as drivers, mechanics, supervisors, and other personnel acting to render street sweeping services of any kind. The parties hereto agree as follows:

### JO SERVICES OF CONTRACTOR

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, the Contractor shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that Contractor is a provider of first class work and services and Contractor is experienced in performing the work and services contemplated herein with, in light of such status and experience. Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "Highest Professional Standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.1 Contractor's Proposal. The Scope of Services shall include the Contractor's proposal or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Laws. All services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments. Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest which may be imposed by law and arise from or are necessary for the Contractor's performance of the services required by this Agreement and shall indemnify, defend and hold harmless City against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work. By executing this Contract Contractor warrants that Contractor (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the

facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing prior to commencement of services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at Contractor's risk until written instructions are received from the Contract Officer.

1.6 Care of Work. The Contractor shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, material, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Responsibilities of Parties. Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services. City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to five percent (5%) of the Contract Sum or \$25,000, whichever is less; or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Contractor hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor.

1.9 Social Requirements. Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement the provisions of Exhibit "B" shall govern.

## 2.0 COMPENSATION

2.1 Contract Sum. For the services rendered pursuant to this Agreement, the Contractor shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference, but not exceeding the maximum

contract amount of Seven Hundred Thirty One Thousand Four Hundred Twenty Dollars (\$731,420.00) ("Contract Sum") per annum, except as provided in Section 1.8. The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with the percentage of completion of the services; (iii) payment for time and materials based upon the Contractor's rates as specified in the Schedule of Compensation, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation. Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expense, transportation expense approved by the Contract Officer in advance, and no other expenses and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City; Contractor shall not be entitled to any additional compensation for attending said meetings.

2.2 Method of Payment. Unless some other method of payment is specified in the Schedule of Compensation, in any month in which Contractor wishes to receive payment no later than the first (1st) working day of such month. Contractor shall submit to the City in the form approved by the City's Administrative Services General Manager, an invoice for services rendered prior to the date of the invoice. Except as provided in Section 7.3, City shall pay Contractor for all expenses stated thereon which are approved by City pursuant to this Agreement no later than the last working day of the month.

2.3 Future Adjustments. Effective July 1, 2009, and on each July 1 thereafter, the compensation paid to the Contractor shall be adjusted annually to rates that are based upon changes in the Consumer Price Index (CPI), All Urban Consumers, for Los Angeles-Anaheim-Riverside Area as published by the United States Department of Labor, Bureau of Labor Statistics. The Contractor shall submit to the City, each April beginning in April 2009, information in support of an annual adjustment. This information will include changes in the CPI that have occurred during the preceding calendar year. The City Manager or his designee shall review the information submitted by Contractor and approve the rate adjustment if the information submitted is determined to be accurate. As an alternative, the City Manager may refer the proposed adjustment to the City Council for approval in its reasonable judgment.

2.4 Extraordinary Adjustments. The Contractor or the City may request an adjustment to the compensation paid to the Contractor at times other than those specified in Section 2.3, based upon unusual changes in the cost of providing service under this agreement. The Contractor may request only one such adjustment during any rate year. Unusual changes may include changes in components of the disposal rate, changes in the disposal site requested by the City, changes in state or local government solid waste fees and charges, and changes in the law. These changes do not include inaccurate estimates by the Contractor of its proposed cost of operations. For each request, the Contractor must prepare a schedule documenting the extraordinary costs. The request shall be prepared in a form acceptable by the City with support for all assumptions made by the Contractor in preparing the estimate. The City shall review the Contractor's request and, in the City's reasonable judgment, make the final determination on the appropriate amount of the adjustment, if any.

2.5 Availability of Funds. It is mutually understood between the parties that this Agreement is valid and enforceable only if sufficient funds are made available by the City

Council of the City for the purposes of this Agreement. The availability of funding is affected by matters outside the City's control including other governmental entities. Accordingly, the City has the option to void the whole Agreement or to amend the Agreement to reflect unanticipated reduction in funding, for any reason.

### 3.0 PERFORMANCE SCHEDULE

J.1 Time of Essence. Time is of the essence in the performance of this Agreement.

J.2 Schedule of Performance. All services rendered pursuant to this Agreement shall be performed within the time period established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. Extensions to the time specified in the schedule of Performance may be approved in writing by the Contract Officer.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term & Extended Term(s). Unless earlier terminated in accordance with Section 7.8 of this Agreement, this Agreement shall continue in full force and effect from and after July 1, 2008 and for three (3) consecutive calendar years thereafter. City reserves the right, in its sole and unfettered discretion, to extend the Term of this Agreement for up to a maximum of (2) one-year extended terms (an "Extended Term"). City shall exercise its right to extend the Term of the Agreement by providing Contractor with written notice of its intent to extend the Term or any Extended Term of this Agreement not less than thirty (30) calendar days prior to the expiration of the Term or any Extended Term of this Agreement.

### 4.0 COORDINATION OF WORK

4.1 Representative of Contractor. The following principals of Contractor are hereby designated as being the principals and representatives of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

Joe Samuelian/President  
Joe Samuelian/Vice President  
Ani Samudian/Nice President & Director



It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. For purposes of this Agreement, the foregoing principals may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City.

4.2 Contract Officer. The Contract Officer shall be such person as may be designated by the City Manager of City. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Contractor shall refer all decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.3 Assignment of Contract. The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

4A Independent Contractor. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. 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 or a joint venturer or a member of any joint enterprise with Contractor.

Contractor agrees to pay all required taxes on amounts paid to Contractor under this Agreement and to indemnify and hold City harmless from any and all taxes, assessments, penalties and interest asserted against City by reason of the independent contractor relationship created by the Agreement. Contractor shall fully comply with the workers compensation law regarding Contractor and Contractor's employees. Contractor further agrees to indemnify and

hold harmless City from any failure of Contractor to comply with applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification owing under this Section.

## SJJ INSURANCE AND INDEMNIFICATION

5.1 Insurance Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance:

(a) Commercial General Liability Insurance. A policy of commercial general liability insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01; with an edition date prior to 2004, or the exact equivalent. Coverage for an additional insured shall not be limited to its vicarious liability. Defense costs must be paid in addition to limits. Limits shall be no less than \$2,000,000 general aggregate.

(b) Workers' Compensation Insurance. A policy of workers' compensation insurance on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident for all covered losses.

(c) Automobile Liability Insurance. A policy of comprehensive automobile liability insurance written on a per occurrence basis in an amount not less than \$1,000,000 per accident, combined single limit. Said policy shall include coverage for owned, non-owned, leased and hired cars.

(d) Property Damage Insurance. Property damage insurance with a minimum coverage of \$1,000,000 per claim.

(e) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its officers, employees and agents as additional insureds. The insurer shall waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may be not cancelled without providing ten (10) days prior written notice by registered mail to the City. In the event any of said policies of insurance are cancelled or amended, Contractor shall, prior to the cancellation or amendment date, submit new evidence of insurance in conformance with this Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until Contractor has provided City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by City.

Contractor agrees that the provisions of this Section 5.1 shall not be construed as limiting in any way the extent to which Contractor may be held responsible for the payment of damages

to any persons or property resulting from Contractor's activities or the activities of any person or persons for which Contractor is otherwise responsible.

The insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better; unless such requirements are waived by the Risk Manager of the City due to unique circumstances.

In the event the Contractor subcontracts any portion of the work in compliance with Section 3.3 of this Agreement, the contract between the Contractor and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Contractor is required to maintain pursuant to this Section 5.1

5.1. Indemnification-11. Contractor agrees to indemnify the City, its officers, agents and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work operations or activities of Contractor, its agents, employees, subcontractors, or invitees, provided for herein, or arising from the negligent acts or omissions of Contractor hereunder, or arising from Contractor's negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement whether or not there is concurrent passive or active negligence on the part of the City, its officers, agents or employees but excluding such claims or liabilities arising from the sole negligence or willful misconduct of the City, its officers, agents or employees who are directly responsible to the City, and in connection therewith:

(a) Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operations or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers, agents or employees, and to end all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

## 6J1 RECORDS AND REPORTS

6.1 Reports. Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Contractor is providing design services, the cost of the project being designed, Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Contractor is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.2 Records. Contractor shall keep such books and records as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. The Contract Officer shall have full and free access to such books and records at all times during normal business hours at City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required.

6.3 Ownership of Documents. All reports, records, documents and other materials prepared by Contractor, its employees, subcontractors and/or agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership of the documents and materials hereunder. Any use of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Contractor will be at the City's sole risk and without liability to Contractor, and the City shall indemnify the Contractor for all damages resulting therefrom. Contractor may retain copies of such documents for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom.

6.4 Release of Documents. The reports, records, documents and other materials prepared by Contractor in the performance of services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

## 7.0 ENFORCEMENT OF AGREEMENT

7.1 California Law. This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of

California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

7.2 Disputes. In the event of any dispute arising under this Agreement, the injured party shall notify the injuring party in writing of its contentions by submitting a claim therefor. The injured party shall continue performing its obligations hereunder so long as the injuring party commences to cure such default within ten (10) days of service of such notice and completes the cure of such default within forty-five (45) days after service of the notice, or such longer period as may be permitted by the injured party; provided that if the default is an immediate danger to the health, safety and general welfare, such immediate action may be necessary. Notwithstanding the foregoing, however, City shall be excused from payment if Contractor has for any period failed to perform its work in a satisfactory manner. Compliance with the provisions of this Section shall be a condition precedent to termination of this Agreement for cause and to any legal action, and such compliance shall not be a waiver of any party's right to take legal action in the event that the dispute is not cured, provided that nothing herein shall limit City's or the Contractor's right to terminate this Agreement without cause pursuant to Section 7.8.

7.3 Retention of Funds. Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requires the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative. 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.

7.6 Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for

any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

7.7 Liquidated Damages:- Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City the sum of Zero (\$0.00) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The City may withhold from any monies payable on account of services performed by the Contractor any accrued liquidated damages.

7.8 Termination Prior to Exp. This Section shall govern any termination of this Agreement except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Agreement at any time with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2. For purposes of this Agreement, cause shall be defined as the failure to abide by all terms and conditions of this Agreement, the failure of Contractor to perform its obligations hereunder in a timely and satisfactory manner, or if Contractor ceases performing its work for ten (10) days during any thirty (30) day period.

7.9 Termination for Default of Contractor. If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees. If either party to this Agreement is required to initiate or defend or make a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees

shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

## 8.0 CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the 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 the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest. No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement. When requested by the Contract Officer, prior to the City's execution of this Agreement, Contractor shall provide the City with an executed statement of economic interest.

8.3 Anti-Discrimination. Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

## 9.0 MISCELLANEOUS PROVISIONS

9.1 Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF CARSON, 701 East, Carson Street, CARSON, California 90745, and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Entirety of Agreement: It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

9.4 Severability: In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrase sentences clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

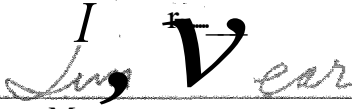
9.5 Authorized Authority: The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the execution into this Agreement does not violate any provision of any other Agreement to which said party is bound.



IN WITNESS WHEREOF, the parties have executed and entered into this Agreement to be effective July 1 2008.

CITY:

CITY OF CARSON,  
a municipal corporation

  
\_\_\_\_\_  
Mayor

ATTEST:


  
\_\_\_\_\_  
City Clerk 9-29-08

APPROVED AS TO FORM:

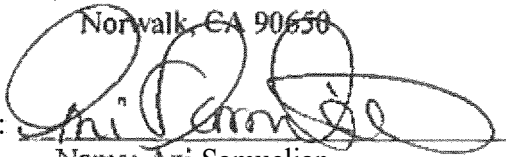
  
\_\_\_\_\_  
City Attorney

CONTRACTOR:

Nationwide Environmental Services div. of Joe's  
Sweeping, Inc., a California Corporation

By:   
\_\_\_\_\_  
Name: Never Samuelian  
Title: President

Address: 11914 Front Street  
Norwalk, CA 90650

By:   
\_\_\_\_\_  
Name: Ani Samuelian  
Title: Vice President

Address: 11914 Front Street  
Norwalk, CA 90650

[END OF SIGNATURES)

## EXHIBIT "A1"<sup>1</sup>

### SCOPE OF SERVICES

A. J• The Contractor shall provide the following services:

1. Sweep all paved streets, medians, alley, cul-de-sacs, municipal public facilities, and parking lots as shown in Exhibit "D" within the corporate limits of the City of Carson at the times provided in the Schedule of Performance (Exhibit "E").

2. The route and time of day of sweeping ("sweeping schedule") shall be similar to the current established Route and Time and shall be reviewed with and approved by the Contract Officer prior to City's issuance of a notice to proceed under this Agreement. The sweeping schedule may be modified by the Contract Officer from time to time upon five (5) working days' advance written notice to the Contractor. City agrees the sweeping schedule shall not be modified by the Contract Officer without prior consultation, in good faith, with Contractor, but City reserves the right to establish or modify the sweeping schedule following consultation with Contractor notwithstanding Contractor's failure to consent to same. The sweeping schedule shall live due regard to the peace and convenience of persons residing or working in Carson, and to any fiscal impact upon the parties to this agreement.

3. No sweeping shall be performed on City-recognized holidays, or when, for the sole and unfettered determination of the Contract Officer, inclement weather prevents effective street sweeping and areas which are not swept on holidays need not be swept until the next regularly scheduled sweeping day for such areas. Contractor shall perform all extra work caused by inclement weather without additional charge to the City.

4. If for any reason other than inclement weather, such as an equipment breakdown, Contractor fails to adhere to the sweeping schedule, Contractor shall perform the missed sweeping services prior to the next sweeping date or give the City a credit in accordance with the rate specified in the Schedule of Compensation (Exhibit "E") of not less than one (1) curb line mile plus one-half of another curb line mile of work not performed.

5. Contractor's services shall be rendered in accordance with the highest professional industry standards for street sweeping services and shall include but not be limited to sweeping through standing water rather than around it and making as many passes on a given portion of street as is necessary to clean it.

## EXHIBIT "B". (AGREEMENT)

### SPECIAL REQUIREMENTS

8.1. The following Special Requirements shall apply to this Agreement:

J. - It shall be the Contractor's responsibility to dispose of all refuse and debris collected by the Contractor. Such refuse and debris shall not be deposited by the Contractor at temporary storage sites on City, State, and Federal properties within the City limits. Contractor shall be responsible for all landfill fees. Furthermore, copies of all records of disposal shall be submitted with monthly billings and any recyclables shall be reported for purposes of compliance with AB 939, Chapter 2, Article I, Section 41000, et. al.

2. Equipment. Contractor shall utilize cumm model vacuum sweepers. All sweepers in conjunction with this contract will be required to follow AQMD Rule 1186.1 for less polluting sweepers. Contractor shall replace any sweeper and permanently discontinue its use within the City of Carson if, during any consecutive three (3) month period, the sweeper experiences two (2) breakdowns. For purposes of the Agreement, 'breakdown' shall be defined as any mechanical malfunction which prevents use of the sweeper for four (4) hours. Contractor shall maintain a monthly log of breakdown occurrences, and shall make said log available to City upon submission of monthly billings to the Contract Officer.

3. Maintenance of Equipment. The equipment used by the Contractor in performance of this Agreement shall be properly maintained, both as condition and appearance, and have sweeping capability so as to ensure the highest level of street sweeping services. The Contractor shall have the ability in-house to perform necessary repairs on such equipment. The Contractor shall have sufficient additional vacuum sweepers so that if any unit breaks down, a replacement unit is immediately available.

4. - Contractor shall affix magnetic door signs approved by the Contract Officer on each Sweeper. The signs shall be visible from both sides of the Sweepers, shall contain the name, address and phone number of the Contractor and shall read "Under Contract with the City of Carson."

S. - Contractor shall coordinate with the Contract Officer in developing procedures for the receipt of complaints by citizens concerning sweeping services. Contractor shall respond promptly to all complaints from citizens and from the City. Contractor shall keep a log of all complaints received. This log shall be available to inspection by the City and the Contractor shall make monthly reports to the Contract Officer as to the status of such complaints.

## EXHIBIT "C" (AGREEMENT)

### SCHEDULE OF COMPENSATION

C.1. For the services required herein the Contractor shall be paid the following:

1. The annual sum of ~~173,142.00~~ <sup>173,142.00</sup> (Contract Sum<sup>1</sup>) in twelve (12) monthly installments at the time specified in this Agreement. The Contract Sum shall be adjusted annually, in accordance with section 2.0 Compensation of this Agreement.

2. Any additional street sweeping services requested by the Contract Officer and not otherwise specified in the Agreement shall be performed by the Contractor at one of the following rates \$95.00 per hour per sweeper, \$30.38 per curb mile. The City shall maintain sole discretion in selecting which rate shall apply when additional services are employed. These hourly or curb mile rates shall be adjusted on the anniversary of the Commencement Date in the manner set forth in this Agreement. The hourly rate shall apply whenever special services are requested by the Contract officer. The mileage rate shall apply to any new streets added or deleted from the sweeping schedule.

# EXHIBIT "D"

## SCHEDULE OF PERFORMANCE

D. I. The frequency of sweeping shall be at least once per week for all streets, alleys and paved medians in the residential, business and industrial areas of the City and for all public facility parking lots as listed below, but not intended to be complete.

### CURRENT SITES


FACILITY/PARK PARKING LOT	MEASUREMENT	TOTAL SQUARE FOOTAGE
City Hall	388x177	68,676
Community Center North	292x251	73,292
Community Center East	481x303	145,743
Mills Park	164x51	8,364
Scott Park West	214x60	12,840
Scott Park East	232x59	15,688
Carson Park West	209x60	12,540
Carson Park East	411x60	24,660
<b>Del Amo Park</b>	112x64	<b>7,168</b>
Stevenson Park West	358x59	21,122
Stevenson Park East	233x43	10,019
Dominguez Park	281x60	<b>16,860</b>
Dolphin Park West	137x64	8,768
Dolphin Park East	137x64	8,768
Carriage: Crest Park	25.5x63	<b>16,065</b>
<b>Anderson Park</b>	322x61	19,642
Calas Park	110x58	6,380
Hemingway Park West	218x64	13,952
Hemingway Park West	221x60	13,320
Hemingway Park North	188x61	11,468
Veterans Park West	663x61	40,443
Veterans park North	219x120	26,280
Total <del>Approximate</del> Square Footage		<b><u>581,058</u></b>



# C-city of carson Report to Mayor and C-city Council

May 6, 2008  
New Business Consent

SUBJECT: AWARD OF CONTRACT FOR STREET SWEEPING SERVICES

  
Submitted by M. Victor Rollinger  
Development Services General Manager

\_\_\_\_\_  
Aw  
City Manager

## L SUMMARY

On October 2, 2007, the City Council authorized staff to advertise for bids for street sweeping services (Exhibit No. 1). Staff has analyzed the bids and is recommending that the lowest responsible bidder, Nationwide Environmental Services (NES), be awarded a three-year contract for Street Sweeping Services with an optional one time three-year renewal.

## n. RECOMMENDATION

TAKE the following actions:

1. AWARD a contract for Street Sweeping Services to the lowest responsible bidder, Nationwide Environmental Services, effective July 1, 2008 through June 30, 2011, in the amount of \$731,420.00 per year with an optional one time three-year renewal.
2. AUTHORIZE the Mayor to execute the contract following approval as to form by the City Attorney.

## m. ALTERNATIVES

TAKE any other action that the City Council deems necessary and appropriate at this time.

## IV. BACKGROUND

On November 27, 2007, three bids were received from NES, Clean Street and the County of Los Angeles Department of Public Works. The City Clerk opened two bids, those from NES and Clean Street (Exhibit No. 2). The County of Los Angeles Department of Public Works bid was received via e-mail. The County indicated that it was unable to provide the required services at this time. The street sweeping services bid provision invited vendors to furnish a comprehensive proposal for sweeping residential, commercial and industrial areas of the city (460 curb miles per week) as well as for weekly sweeping of all city-owned facilities, parking lots.

All sweeping routes will remain as presently established by the city, will continue to be swept on the same weekly schedule and will facilitate the present parking enforcement program.

The bids were evaluated by Public Works and senior management staff, and it was concluded that the bid submitted by NES is the most comprehensive and best meets the city's needs (Exhibit No. 3). NES will provide all necessary labor, equipment and material required for the regular weekly street sweeping program as well as for a composting program for the city of Carson. By selecting NES's composting program, the city of Carson will continue to increase its diversion rate as mandated by the State of California Assembly Bill 939 (AB 939) that requires cities to divert 50% of its waste from landfills. Currently, street sweeping debris is utilized as Alternative Daily Cover (ADC), the last layer of debris placed on the landfill each day. By composting, the city will be credited with diverting approximately 1,700 to 2,200 tons of debris from local landfills annually. This will also serve as a source reduction and elimination program for the city's annual report filed with the California Integrated Waste Management Board (CIWMB). Every year, the CIWMB encourages cities to establish source reduction and elimination programs rather than relying on mathematically meeting their 50% diversion goals. The CIWMB promotes a "Zero Waste California in partnership with local government, industry, and the public. This means managing the estimated 92 million tons of waste generated each year by reducing waste whenever possible, promoting the management of all materials to their highest and best use, regulating the handling, processing and disposal of solid waste, and protecting public health and safety and the environment." The city of Carson has strong programs to "reduce, reuse, and recycle." Now, with composting, we will be able to more fully embrace the zero waste concept.

With this program along with alternative fuel street sweeping vehicles that will be utilized to meet the Air Quality Management District (AQMD) rule 1186.1, and with the reduction of pollutants reaching our local water channels, bays and the ocean, the city will continue to strive for environmental responsibility for the citizens of Carson.

All sweeping vehicles will have global positioning systems (GPS) for route management and monitoring and cellular phones for quick communication with the operators. Staff will utilize the vendor's computer system through the internet, which will display information such as route completion and speed. These tools help provide better service for the city and for more effective contract management by city staff.

The evaluation of the bids received was based on lowest cost services, completeness of bid package, condition of the total fleet and references. The bid

packages revealed that Ocean Street, the lowest bidder for basic sweeping services, utilizes standard landfill disposal of street sweeping waste. Both bidders requested additional information prior to submitting written bids for the composting element of the service required in the bid. After reviewing bids for composting, it was determined that NES was the lowest overall cost provider. Both bidders received good references and NES offered a newer fleet, which is important.

NES has provided street sweeping services for the city of Carson since 1995, and in that time, city staff has received a minimal number of complaints and has found the contractor to be reliable and dependable.

The City Council needs to be cognizant of the fact that by awarding this contract to NES, they are committing to a 1-year, weekly street sweeping program. If in the City Council's meeting, as part of the ongoing budget deliberations, to consider reducing the street sweeping program to a bi-weekly program, then it would be prudent to continue this item to a future date.

V. ASCAL IMPASSE

Funds for this service will be allocated in the FY 2008/09 Gas Tax Fund.

VI. EXHIBITS

1. Minutes from City Council meeting on October 2, 2007. (pg. 5)
2. City of Carson Bid Register. (pg. 6)
3. Bid Summary. (pg. 7)
4. Street Sweeping Services Contract. (pgs. 8-27)

C:\Documents and Settings\Bao\My Documents\AA My Documents\Denny\Agendas-Staff Reports\Sweeping

Prepared by: Denny Bao Public Works Program Administrator

Rev061902



Reviewed by:

City Clerk:	City Treasurer
Administrative Services <i>[Signature]</i>	Development Services
Economic Development Services	Public Services

**Action taken by City Council**

Date - - -

Action - - - - -

rrEM NO. (1')      AUTBOIUZATION TO ADWR.ns:E FOR BIDS fI0II STREET SWEEPING  
SERVICES (DEVELOPMENT SER.VICES)

RECOMMENDATION fur the City Council:

1. INSTRUCT staff to advc.rti,e fOT street sweeping secvices.

ACTION: It wu moved to ApprowNewBus'inea Coruleat Calendar IttmNoa. 6, 7. 9. 10. II  
12, 13, 14. 15, 16, 17 18, 19, 20, 21, and 22 motion ofWiHi      seconded by D•vis-Holmes and  
unanimously carried by the tonowuas

Ayes: Mayor Pear, Council Member Williams. Council Member Gipson, and C.OUocil  
MemberDl.viHJolmes  
Noes: Nooe  
Abstain: None  
Ah\$ent Mayor Pro Tero Santarina



EXHIBIT 1

Carson City Council  
October 2, 2007

RECEIVED  
CITY CLERK

## Citywide Street Sweeping Services

2007 NOV 28 AM 10:

November 28, 2007

TIME: 10:01 pm

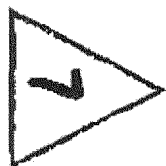
~~CITY OF CARSON~~

[illegible]

G:\Uim11s\Bid. ♦ b11:r-eltyw.ilie 1

STREET SWEEPING (LANDFILL)					
	Curb Mile	L.A. CO	Monthly	Clean Sweep	NES
	\$ 28.6'	\$ 31.00	\$ 31.14	\$ 2.48	CS
	\$ 57,100	\$ 61,793.00	\$ 62,072.00	\$ 4,929.00	CS
	\$ 120,000	\$ 741,520.00	\$ 744,161.00	\$ 59,148.80	CS
STREET SWEEPING (COMPOSTING)					
	Curb Mile		Monthly	Clean Sweep	NES
	\$ 31.35		\$ 30.77	\$ 0.77	NES
	\$ 62,149.50		\$ 60,950.60	\$ 1,545.84	NES
	\$ 149,100		\$ 731,420.00	\$ 18,550.00	NES

EXHIBIT  
y J



**CONTRACT DOCUMENTS**

**CITYWIDE STREET SWEEPING SERVICES**

To be submitted  
AFTER  
AWD of Contract

**EXHIBIT 4**



# CITYWIDE STREET SWEEPING SERVICES

## AGREEMENT

THIS AGREEMENT is made and entered into by and between Owner, consisting of one or both of the following described public entities:

(X) 111 The City of Carson, California  
[-] III The Carson Redevelopment Agency

and \_\_\_\_\_ —hereinafter called Contractor.

The Owner and the Contractor mutually agree as follows;

### ARTICLE I.

#### MAINTENANCE SERVICES

For and in consideration of the mutual promises set forth herein, Contractor agrees with Owner to perform and complete in good and workmanlike manner all work required by the Contract Documents for Owner's Project, which is described as follows:

Title CITYWIDE STREET SWEEPING SERVICES

Said Work shall be performed in accordance with the Plans, Specifications and other Contract Documents, all of which are referenced in Article III hereof and incorporated herein as though fully set forth. Contractor shall furnish at its own expense all labor, materials, equipment and services necessary therefore, except such labor, materials, equipment and services as are provided in the Contract Documents to be furnished by Owner.

### ARTICLE II.

#### CONTRACT SUM AND PAYMENT

For performing and completing the work in accordance with the Contract Documents, Owner shall pay Contractor, in full compensation therefore, the contract sum set forth in the Bidding Schedule. Said sum shall constitute payment in full for all work performed hereunder, including, without limitation all labor, materials, equipment, tools and services used or incorporated in the work, supervision, administration, overhead, expenses and any and all other things required, furnished or incurred for completion of the work as specified in the Contract Documents. Owner shall make payments to Contractor on account of the contract sum at the time, in the number and upon the condition specified in the Contract Documents.

ARTICLE III



## CONTRACT DOCUMENTS

The Contract Documents, which constitute the entire agreement between the Owner and the Contractor, are enumerated as follows: Proposal Documents, including the Notice Inviting Bids, Instructions to Bidders, Bidding Schedule, Bidder's Declaration, Designation of Subcontractors, Bidder's Assurance, and Fair Employment Practices documents; this Agreement; Street Sweeping General Requirements; Scope of Services "Exhibit G"; Special Requirements "Exhibit H"; Schedule of Compensation "Exhibit I"; Schedule of Performance "Exhibit J"; Special/Technical Provisions; and all addenda issued prior to and all modifications issued after the execution of this Agreement. These form the Contract, and all are as fully a part of the Contract as if attached to this Agreement or repeated herein.

### ARTICLE IV.

#### EFFECTIVE DATE

This Agreement shall become effective and commence as of the date set forth below on which the last of the parties, whether Owner or Contractor, executes said Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized.

Attest:

OWNER

By: \_\_\_\_\_  
HELEN S. KAWAGOE, CITY CLERK

BY: \_\_\_\_\_  
IIM DEAR, MAYOR

Dated: \_\_\_\_\_ SEAL

APPROVED AS TO FORM:

By: \_\_\_\_\_  
CITY ATTORNEY

Dated: \_\_\_\_\_

Attest:

CONTRACTOR

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

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

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

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



**CONTRACT  
MAINTENANCE SERVICES  
FAITHFUL PERFORMANCE BOND**

WHEREAS, the Owner, consisting of one or both of the following described public entities:

☒ The City of Carson, California  
☐ The Carson Redevelopment Agency

has awarded to \_\_\_\_\_  
hereinafter designated as the "Principal", a Contract for:

**MAINTENANCE SERVICES**

**TITLE: CITYWIDE STREET SWEEPING SERVICES**

WHEREAS, said Principal, in fulfillment of the terms of said Contract to furnish a bond for the faithful performance of said contract.

NOW, WHEREFORE, we, \_\_\_\_\_

Principal, do hereby

bind and firmly bind unto the Owner in the sum of \_\_\_\_\_

Dollars, (\$-\_\_\_\_\_)

this amount being not less than six hundred percent (100%) of the total Contract price, lawful money of the United States of America, for payment of which I, the Principal, well and truly to be made we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by ourselves. In case suit is brought upon this bond, the Surety will pay a reasonable attorney's fee in the "Owner" in the amount to be noted by the court.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bound Principal, his or its heirs, executors, administrators, or assigns, shall in any thing stand to default by, we shall and truly keep and perform all the terms, conditions, and covenants and all the terms of the said Contract and any amendments thereof, in and as therein provided, and will within the time and in the manner therein directed hold in all respects according to the terms and conditions of the said obligation shall become null and void; otherwise, it shall be and remain in full effect.

FURTHERMORE, the said Surety, for value received, hereby binds itself and its successors, assigns, and its heirs, executors, administrators, or assigns, to the Principal and to the Owner, to the work to be performed thereunder, in any way affecting the obligation of the bond, and it does hereby waive notice of any such change, amendment, or modification of the Contract Documents or of the work to be performed thereunder.

IN WITNESS WHEREOF, three (3) witnesses of this instrument, each of which shall for all purposes be deemed original and thereof have been duly signed by the Principal and Surety hereon, on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and official title of the undersigned representative pursuant to authority of its governing body.

Principal

By \_\_\_\_\_

B 1 - - - - -





CONTRACT  
MAINTENANCE SERVICES  
PAYMENT BOND

WHEREAS, the Owner, consisting of one or both of the following described public entities:

- ☒ II The City of Carson, California  
☐ • The Cam:lnlteCl tiloPl'.1'.I Agency

he I.Wittd to \_\_\_\_\_ as Contractor, a contract  
for tiff work d...ll'ed u follows:

MAINTENANCE SERVICES

TITLE: CITYWIDE STREET SWEEPING SERVICES

AND WHEREAS, said Contractor is ~~equipped~~ to furnish a bond in ~~the~~ said ~~amount~~, to secure  
the payment of claims of laborers, mechanics, ~~and~~ men Md o k pmom, u ~~profit~~ by law;

NOW, THEREFORE, we, the undersigned Contractor and Surety, are held firmly bawd ullo the Owner in  
the sum of \_\_\_\_\_ for  
which payment well and truly to be made we bind ourselves, our heirs, executors and administrators,  
successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, If ~~said Contractor~~, is heirs, executors,  
ldif, initialOH, SUO60M. ~~or~~ mboontfW.Oi illill J211b pay any cl Ue ~~in~~ Mled n CMI  
Code ~~section~~ 3181, or amount due under the Unemployment Insurance Code with respect to work or labor  
performed under this c ~~on~~ my MOISis required to be (clllaea, wtda, and paid over to the  
Employment Development Department from the W.11 of employees of the Contractor and its  
subcontractors pursuant to Section 13020 of the Unemployment Insurance Code, with respect to such work  
and labor, then the Surety or Sureties herein will pay for the same in an amount not exceeding the sum  
specified in this bond, otherwise the above obligation shall be void. In case suit is brought upon this bond,  
the said Surety will pay a reasonable attorney's fee to the plaintiff(s) and Owner in an amount to be fixed by  
the court.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 3181 as to give a  
right ~~of action~~ <sup>to</sup> ~~any~~ <sup>to</sup> persons or their assigns in any suit brought upon this bond.

Said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or  
modification of the Contract Documents or of the work to be performed thereunder shall in any way affect  
its obligations on this bond, and it does hereby waive notice of such change, extension of time, alteration or  
modification of the Contract Documents or of work to be performed thereunder.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 2008

\_\_\_\_\_  
CONTRACTOR

\_\_\_\_\_  
SURETY



CONTRACT

MAINTENANCE SERVICES

**WORKER'S COMPENSATION INSURANCE CERTIFICATE**

The Contractor shall execute the following form as required by the California Labor Code, Sections 1860 and 1851:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of the Contract

DATED: \_\_\_\_\_

\_\_\_\_\_  
CONTRACTOR

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

\_\_\_\_\_  
Title

ATTEST:

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

\_\_\_\_\_  
Title

S

EXHIBIT NO. 2



47

**INDEMNIFICATION AND HOLD HARMLESS AGREEMENT  
AND WAIVER OF SUBROGATION AND CONTRIBUTION**

Contract/Agreement/License/Permit No. or description: \_\_\_\_\_

Indemnitor(s) (list all names): \_\_\_\_\_

To the fullest extent permitted by law, Indemnitor hereby agrees, at its sole cost and expense, to defend, protect, indemnify, and hold harmless the City of Carson and the Carson Redevelopment Agency and their respective elected officials, officers, attorneys, agents, employees, volunteers, successors, and assigns (collectively "Indemnitees") from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith (collectively "Liabilities"), arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to any act, failure to act, error, or omission of Indemnitor or any of its officers, agents, servants, employees, subcontractors, material men, suppliers or their officers, agents, servants or employees, arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to the above-referenced contract, agreement, license, or permit (the "Agreement") or the performance or failure to perform any term, provision, covenant, or condition of the Agreement, including this indemnity provision. This indemnity provision is effective regardless of any prior, concurrent, or subsequent active or passive negligence by Indemnitees and shall operate to fully indemnify Indemnitees against any such negligence. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies which Indemnitees may have under the law. Payment is not required as a condition precedent to an Indemnitee's right to recover under this indemnity provision, and an entry of judgment against an Indemnitee shall be conclusive in favor of the Indemnitee's right to recover under this indemnity provision. Indemnitor shall pay Indemnitees for any attorneys fees and costs incurred in enforcing this indemnification provision. Notwithstanding the foregoing, nothing in this instrument shall be construed to encompass (a) Indemnitees' sole negligence or willful misconduct to the limited extent that the underlying Agreement is subject to Civil Code 2782(a), or (b) the contracting public agency's active negligence to the limited extent that the underlying Agreement is subject to Civil Code 2782(b). This indemnity is effective without reference to the existence or applicability of any insurance coverages which may have been required under the Agreement or any additional insured endorsements which may extend to Indemnitees.

Indemnitor, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to activities or operations performed by or on behalf of the Indemnitor regardless of any prior, concurrent, or subsequent active or passive negligence by the Indemnitor. Accountants, attorneys, or other professionals employed by Indemnitor to defend Indemnitor shall be under no obligation by or subject to the approval of Indemnitees.

In the event there is more than one entity named in the Agreement as an Indemnitor, then all obligations, liabilities, and indemnities under this instrument shall be joint and several.

"Indemnitor"

Name \_\_\_\_\_  
Name \_\_\_\_\_

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



TO BE SIGNED BY THE CONTRACTOR

## STREET SWEEPING

### GENERAL REQUIREMENTS

#### 1.0 SERVICES OF CONTRACTOR

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, the Contractor shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "G" and incorporated herein by this reference, which services may be referred herein as the "services" or "work" hereunder. Contractor warrants and warrants that all services will be performed in a competent, professional and satisfactory manner in accordance with the standards prevalent in the industry.

1.2 - The Scope of Services shall include the Contractor's proposal or bid, a copy of which is attached hereto and is incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 - All services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City of Carson and any Federal, State or local government agency of competent jurisdiction.

1.4 License and Permit. Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement, including a business license from the City of Carson.

1.5 Familiarity with Work. By executing this Contract, Contractor warrants that (a) he/she has thoroughly investigated and considered the work to be performed, (b) he/she has investigated the site of the work and become fully acquainted with the conditions there existing, (c) he/she has carefully considered how the work should be performed, and (d) he/she fully understands the facilities, difficulties and restrictions attending performance of the work under this Agreement. Should the Contractor discover any latent or unknown conditions materially differing from those inherent in the work or as represented by the City, he/she shall immediately inform the City of such fact and shall not proceed except at Contractor's risk until written instructions are received from the Contract Officer (as hereinafter defined).

1.6 Additional Work. In accordance with the terms and conditions of this Agreement, the Contractor shall perform services in addition to those specified in the



Scope of Services (Exhibit "G") when directed to do so by the Contract Officer, provided that Contractor shall receive additional compensation as provided in Section 2 in the Schedule of Compensation (Exhibit "I"). Any addition in compensation less than five percent (5%) of the Contract Sum may be approved by the Contract officer. Any greater increase must be approved by the City Council.

1.7 Special Requirements. Additional terms and conditions of this Agreement are set forth in the "Special Requirements" attached hereto as Exhibit "H" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "H" and any other provisions of this Agreement, the provisions of Exhibit "H" shall govern.

## 2.0 COMPENSATION

2.1 Total Compensation. For the services rendered pursuant to this Agreement, the Contractor shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "I" and incorporated herein by this reference, but not exceeding the maximum contract amount of \$\_\_\_\_\_ per annum (herein "Contract Sum"). The method of compensation is specified in the Schedule of Compensation (Exhibit "I"), and installments thereof shall be paid monthly as provided below.

2.2 Method of Payment. Contractor shall submit to City a request for payment on the form and in the mmcr specified by the Contract Officer. Paymem will be m&de according to city's 1egular accounts payable protocol(s) foUowing receipt and aa:eptance of goods and/or ~~materials~~ and acceptance of the .wne by City

2.3 Periodic Payments. Following compliance with Section 2.2 above, the closure date for periodic progress payments will be the twenty-fifth day of each month. Authorization to pay is commonly received on the tenth day of the following month. However, payments will be withheld pending receipt of any outstanding reports required by the Contract Officer.

2.4 Future Adjustments. Effective July 1, 2009, and on each July 1 thereafter, the compensation paid to the Contractor shall be adjusted annually to rates that are based upon changes in the Consumer Price Index (CPI), All Urban Consumers, for Los Angeles-Anaheim Riverside Area, as published by the United States Department of Labor, Bureau of Labor Statistics. The Contractor shall submit to the City, each April, beginning in April 2009, information in support of an annual adjustment. This information will include changes in the CPI that have occurred during the preceding calendar year. The City Manager or his designee shall review the information submitted by Contractor and approve the rate adjustment if the information submitted is determined to be accurate. As an alternative, the City Manager may refer the proposed adjustment to the City Council for approval, in its reasonable judgment.

2.5 Extraordinary Adjustments. The Contractor or the City may request an adjustment to the compensation paid to the Contractor at times other than those specified



in Section 2.4, based upon unusual changes in the cost of providing service under this agreement. The Contractor may request only one such adjustment during any rate year. Unusual changes may include changes in components of the disposal rate, changes in the disposal site requested by the City, changes in state or local government solid waste fees and charges, and changes in the law. These changes do not include inaccurate estimates by the Contractor of its proposed cost of operations. For each request, the Contractor must prepare a schedule itemizing the extraordinary costs. The request shall be prepared in a form acceptable by the City with support for all assumptions made by the Contractor in preparing the estimate. The City shall review the Contractor's request and, in the City's reasonable judgment, make the final determination on the appropriate amount of the adjustment, if any.

### 3.0 PERFORMANCE SCHEDULE

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

3.2 Schedule of Performance. AB services rendered pursuant to this Agreement shall be performed within the time period established in the "Schedule of Performance" attached hereto as Exhibit "J" and incorporated herein by this reference. Extensions to the time specified in the schedule of Performance may be approved in writing by the Contract Officer.

3.3 Force Majeure. The time period specified in the Schedule of Performance (Exhibit "J") for performance of the services rendered to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God or of the public enemy, acts of the Government, fires, epidemics, floods, earthquakes, quarantine restrictions, riots, strikes, freight embargoes, acts of any governmental agency. If the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer identifying the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in his judgment such delay is justified, and the Contract Officer's determination shall be final and conclusive upon the parties to this Agreement.

3.4 Term. Unless earlier terminated in accordance with Section 7.6 of IUS General Requirements, this Agreement will continue in full force and effect from \_\_\_\_\_ (the commencement Date) through \_\_\_\_\_, with the option to extend the agreement for an additional three years. This Agreement may be renewed or extended as its conclusion, upon terms and conditions agreed to by the City Council of City and Contractor. However, there shall be no obligation on the part of either party to extend or renew this Agreement, and either party may elect not to extend or renew this Agreement without fault of either.

#### 4.0 COORDINATION OF WORK

4.1 Representative of Contractor. The following principals of Contractor are hereby designated as being the principals and representatives of the Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith.

---

---

---

---

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. The foregoing principals may not be changed by Contractor without the express written approval of the City Council of City.

4.2 Contract Officer. The Contract Officer shall be such person as may be designated in writing by the City Administrator of City. If no Contract Officer is so designated, the City Administrator shall be the Contract Officer. It shall be the Contractor's responsibility to ensure that the Contract Officer is kept informed of the progress of the performance of the services and the Contractor shall refer any decisions which must be made by the City to the Contract Officer. ~~Approval of the City Council~~ herein, any ~~approval of the City Council~~ shall mean the approval of the Contract Officer.

4.3 Prohibition Against Subcontracting or Assignment. The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City Council. In addition, neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of the City Council. For the purposes hereof, an assignment shall include a change in any entity that is the controlling shareholder of Contractor, or the merger or dissolution of Contractor.

4.4 Independent Contractor. Contractor is, and shall at all times remain as to City, a wholly independent contractor. Contractor shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. 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 City. Contractor agrees to pay all required taxes on amounts paid to Contractor under this Agreement, and to indemnify and

hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by the Agreement. Contractor shall fully comply with the workers compensation law regarding Contractor and Contractor's employees. Contractor further agrees to indemnify and hold harmless City from any failure of Contractor to comply with applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

## 5.0 INSURANCE INDEMNIFICATION AND BONDS.

5.1 Insurance Contractor shall at all times during the term of this Agreement carry, maintain and keep in full force and effect, with an insurance company admitted to do business in California and approved by the City Attorney (1) a policy or policies of broad-form comprehensive general liability insurance with minimum limits of \$2,000,000.00 combined single coverage against any injury, death, loss or damage as a result of wrongful or negligent acts by Contractor, its officers, employees, agents, and independent contractors in performance under this Agreement; (2) property damage insurance with a minimum coverage of \$1,000,000.00; (3) automotive liability insurance; with the minimum combined single limits coverage of \$1,000,000.00; and (4) worker's compensation insurance with a minimum limit of \$1,000,000.00 or the amount required by law, whichever is greater. City, its officers, employees, attorneys and volunteers shall be named as additional insured on the policy (ies) up to compensation coverage.

(1) All insurance policies shall provide that the insurance coverage shall not be non-renewed, canceled, reduced, or otherwise modified (except through the addition of additional insureds to the policy) by the insurance carrier without the insurance carrier giving City thirty (30) days prior written notice thereof. Contractor agrees that it will not cancel, reduce or otherwise modify said insurance coverage.

(2) Contractor agrees that if it does not keep the aforesaid insurance in full force and effect, and such insurance is available at a reasonable cost, City may take out the necessary insurance and pay the premium thereon and the repayment thereof shall be deemed an obligation of Contractor and the cost of such insurance may be deducted, at the option of City, from payments due Contractor.

(3) At all times during the term of this Agreement, Contractor shall maintain on file with the City Clerk endorsement of the insurance carrier or carrier on City's standard endorsement forms showing that the aforesaid policies are in effect as provided above. Copies of City's standard endorsement forms are attached hereto as Exhibits A, B, C, D and E. Contractor shall file such endorsements with the City Clerk prior to execution of this Agreement.



5.2 Indemnification. Contractor agrees to indemnify, hold harmless and defend City, its officials, officers, and employees, from any and all liability or financial loss, including legal expenses and costs of expert witnesses and consultants, resulting from any suits, claims, losses or actions brought by any person or persons, by reason of injury and arising directly or indirectly from the activities and operations of Contractor, including its officers, agents employees, subcontractors or any person employed by Contractor, in the performance of this Agreement, by executing City's standard Indemnification and Hold Harmless Agreement and Waiver of Subrogation and Contribution attached hereto as (Page 41). Contractor agrees that Contractor's covenant under this section shall survive the termination of this Agreement.

## 6.0 RECORDS AND REPORTS

6.1 Reports. Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require.

6.2 Records. Contractor shall keep such books and records as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. The Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit and make records and transcripts from such records.

6.3 Ownership of Documents. All reports, records, documents and other materials prepared by Contractor in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further compensation as a result of the exercise by City of its full right of ownership of the documents and materials hereunder. Contractor may retain copies of such documents for its own use. It shall have an unrestricted right to use the concepts embodied therein.

6.4 Release of Documents. The specifications, reports, records, documents and other materials prepared by Contractor in the performance of services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

## 7.0 ENFORCEMENTS OF AGREEMENT

7.1 California law. This Agreement shall be constructed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los



Angeles, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

7.2 Disputes. In the event of any dispute arising under this Agreement, the injured party shall notify the injuring party in writing of its contentions by submitting a claim therefore. The injured party shall continue performing its obligations hereunder so long as the injuring party cures any default within ten (10) days after service of the notice, or if the cure of the default is commenced within thirty (30) days after service of said notice and is cured within a reasonable time after commencement; provided that if the default is an immediate actions under Section 7.5. Notwithstanding the foregoing, however, City shall be excused from payment if Contractor has for any period failed to perform its work in a satisfactory manner. Compliance with the provisions of this Section shall be a condition precedent to any legal action, and such compliance shall not be a waiver of any party's right to take legal action in the event that the dispute is not cured.

7.3 Waiver. No delay or omission in the exercise of any right or remedy of a nondefaulting party on any default shall impair such right or remedy, or be constructed as a waiver. City's consent or approval of any act by Contractor requiring City's consent or approval shall not be deemed to waive or render unnecessary City's consent to or approval of any subsequent act of Contractor. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provisions of this Agreement.

7.4 Rights and Remedies are Cumulative. 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 by other party.

7.5 Legal Action. In addition to any other rights or remedies, either party may take legal actions, in law or in equity, to cure, correct or remedy any default to recover damages for any default, to complete performance of this Agreement, to obtain injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

7.6 Termination Prior to Expiration of Term. Notwithstanding the provisions of Section 7.2 hereof to the contrary, City reserves the right to terminate this Agreement at any time, with or without cause, and for the sole convenience of City upon thirty (30) days' advance written notice to Contractor, except that where termination is due to the fault of the Contractor and constitutes an immediate hazard to the health, safety and general welfare, the period of notice shall be such shorter time as may be appropriate. Upon receipt of the notice of termination Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Contractor shall be entitled to compensation for all services satisfactorily rendered prior to receipt of the notice of termination and for any services authorized by the Contractor.

Officer thereafter in accordance with the schedule of Compensation (Exhibit "T"). For purposes of this Agreement, cause shall be defined as the failure to abide by all terms and conditions of this agreement, the failure of Contractor to perform its obligations hereunder in a timely and satisfactory manner, or if Contractor ceases performing its work for ten (10) days during any thirty (30) day period.

### 8.0 CITY OFFICERS AND EMPLOYEES; NON DISCRIMINATION

8.1 Non-liability of City Officer and Employees. No city council member, officer, agent, or employee of the City shall be personally liable to the 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 the Contractor or to its successor, or for any obligation of the terms of this Agreement.

8.2 Conflict of Interest. No officer or employee of the City shall have any personal interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects his personal interest or in the interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Anti-discrimination. Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.

### 9.0 MISCELLANEOUS PROVISIONS.

9.1 Notice. Any notice, demand, request, consent, approval, communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by certified, pre-paid, first-class mail, return receipt requested, to the address set forth below. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated in forty-eight (48) hours from the time of mailing if mailed as provided in this section.

To City:

City Administrator  
CITY OF CARSON  
701 E. Carson Street  
Carson, CA 90745  
Attention: M. Victor Rollinger, P.E.  
Development Services General Manager/ City Engineer

To Contractor:

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

9.2 Integrated Agreement. This Agreement contains all of the agreements of the parties and cannot be amended or modified except by written agreement.

9.3 Amendment. This Agreement may be amended at any time by mutual consent of the parties by an instrument in writing.

9.4 Severability. In the event that any one or more of the provisions, sentences, paragraphs, or sections of this Agreement shall be held to be invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining provisions, sentences, paragraphs, or sections of this Agreement which shall be interpreted to carry out the intent of the parties hereunder.



## EXHIBIT "G" (AGREEMENT)

### SCOPE OF SERVICES

The Contractor shall provide the following services:

1. Sweep all paved streets, medians, alley, cul-de-sacs, municipal public facilities, and parking lots as shown in Exhibit "J", within the corporate limits of the City of Carson at the times provided in the Schedule of Performance (Exhibit "J").

2. The route and time of day of sweeping ("sweeping schedule") shall be similar to the current established Route and Time and shall be reviewed with and approved by the Contract Officer prior to City's issuance of a notice to proceed under this Agreement. The sweeping schedule may be modified by the Contract Officer from time to time upon five (5) working days' advance written notice to the Contractor. City agrees the sweeping schedule shall not be modified by the Contract Officer without prior consultation, in good faith, with Contractor, but City reserves the right to establish or modify the sweeping schedule following consultation with Contractor notwithstanding Contractor's failure to consent to same. The sweeping schedule shall give due regard to the peace and convenience of persons residing or working in Carson, and to any fiscal impact upon the parties to this agreement

3. No sweeping shall be performed on City-recognized holidays, or when, in the sole and ~~and the~~ determination of the Contract Officer, inclement weather prevents effective street sweeping, and which are not swept on holidays need not be swept until the next regularly scheduled sweeping day for such areas. Contractor shall perform all extra work caused by inclement weather without additional charge to the City.

4. If for any reason other than inclement weather, such as an equipment breakdown, Contractor fails to adhere to the sweeping schedule, Contractor shall perform the missed sweeping services prior to the next sweeping date or give the City a credit in accordance with the rate specified in the Schedule of Compensation (Exhibit "I") of not less than one (1) curb line miles plus one-half of another curb line mile of work not performed.

5. Contractor's services shall be rendered in accordance with the highest professional industry standards for street sweeping services and shall include but not be limited to sweeping through standing water rather than around it and making as many passes on a given portion of street as is necessary to clean it.

## EXHIBIT "H" (AGREEMENT)

### SPECIAL REQUIREMENTS

The following Special Requirements shall apply to this Agreement:

1. Disposal of Sweeping. It shall be the Contractor's responsibility to dispose of all refuse and debris collected by the Contractor. Such refuse and debris shall not be deposited by the Contractor at temporary storages sites on City, State, and Federal properties within the City limits. Contractor shall be responsible for all landfill fees. Furthermore, copies of all records of disposal shall be submitted with monthly billings and any recyclables shall be reported for purposes of compliance with AB939, Chapter 2, Article I, Section 41000, et. al.

2. Sweepers. Contractor shall utilize current model vacuum sweepers. All sweepers in conjunction with this contract will be required to follow AQMD Rule 1186.1 for less polluting sweepers. Contractor shall replace any sweeper and discontinue its use within the City of San Jose during any consecutive three (3) month period the sweeper experiences two (2) breakdowns. For purposes of the Agreement, "breakdown" shall be defined as any mechanical malfunction which prevents use of the sweeper for four (4) hours. Contractor shall maintain a monthly log of breakdowns and shall make said log available to City upon submission of monthly billing to the Contract Officer.

3. Maintenance of Equipment. The equipment used by the Contractor in performance of this Agreement shall be properly maintained, both as condition and appearance, and have sufficient spare parts so as to ensure the highest level of street sweeping services. The Contractor shall have the ability in-house to perform all necessary repairs on such equipment. The Contractor shall have sufficient additional vacuum sweepers so that if any unit breaks down, a replacement unit is immediately available.

4. Signs. Contractor shall affix magnetic door signs approved by the Contract Officer on each sweeper. The signs shall be visible to both sides of the sweepers, shall contain the Department name and phone number of the Contractor and shall read "Under Contract with the City of San Jose."

5. Complaint Procedure. Contractor shall cooperate with the Contract Officer in development of a procedure for the receipt of complaints by citizens concerning sweeping services. Contractor shall respond promptly to all complaints from citizens and from the City. Contractor shall keep a log of all complaints received. This log shall be available to inspection by the City and the Contractor shall make monthly reports to the Contract Officer as to the status of any complaints.

EXHIBIT "I" (AGREEMENT)

SCHEDULE OF COMPENSATION

For the services required herein, the Contractor shall be paid the following:

1. The annual sum of \$\_\_\_\_\_ ("Contract Sum") in twelve (12) monthly installments at the time specified in this Agreement. The Contract Sum shall be adjusted annually, in accordance with section 2.0 Compensation of this agreement.

2. Any additional street sweeping services requested by the Contract Officer and not otherwise specified in the Agreement shall be performed by the Contractor at one of the following rates \$\_\_\_\_\_ per hour per sweeper, \$\_\_\_\_\_ per curb mile. The City shall maintain sole discretion in selecting which rate shall apply when additional services are employed. These hourly or curb mile rates shall be adjusted on the anniversary of the Commencement Date in the manner set forth in this Agreement. The hourly rate shall apply whenever special services are requested by the Contract officer. The mileage rate shall apply to any new streets added or deleted from the sweeping schedule.

EXHIBIT "J" (AGREEMENT)



## SCHEDULE OF PERFORMANCE

The frequency of sweepmg shall be at least Mee per week for ell al,Je15 and paved medians in lbe .residential, bu.!iness and industrial areas of the City and for all public facility parkiDg lots as listed below, but not inbmdded to be complete.

### CURRENT SITES

FACILITY/PARK PARK.INOLOT	' MEASUREF . MENT	TOTAL SQUARE FOOTAGE
City Hall	338x177	68,676
Community Center North	292x2S1	73,292
Community Center East	481x303	)45 743
Mills Park	lti4x51	8,364
Scott Parle West	214x60	12,840
Scott Park But	232xS9	15,688
Canon Park West	209:<60	12,540
CISOD Pm: East	411x60	24,660
DclAmoPark	112x64	7,168
Stevenson Park West	358x59	21,122
Stevcmom Park East	233x43	10,019
Dominguez Park	281x60	16,&60
Dolphin Park West	137x64	8,768
Dolpbln Park East	137x64	B.768
Carnage Crest Parle	25Sx63	16,065
Anderson Park	322x61	19.642
Cabs Parle	110x58	6,380
Heminpay Park West	21Sx64	13,952
Hemingway Park West	222x60	13,320
, Hemingway Park North	188x61	11,468
Veterans Park West	663x61	40,443
Vetecans park North	219x120	26,280
Total <u>Approximate</u> Square Footage		<u>582.0SS</u>

