

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

This **THIRD AMENDMENT TO CONTRACT SERVICES AGREEMENT TO PROVIDE STREET SWEEPING SERVICES FOR THE CITY OF CARSON, CALIFORNIA** ("Amendment") by and between the CITY OF CARSON, a California municipal corporation ("City") and Nationwide Environmental Services, a division of Joe's Sweeping, Inc., a California Corporation ("Contractor"), is effective as of July 1, 2019.

RECITALS

A. City and Contractor entered into that certain "Contract Services Agreement" ("Agreement") dated July 1, 2008, for street sweeping services within the City, which provided for an annual contract sum of \$731,420; and

B. City and Contractor entered into that certain "First Amendment to Contract Services Agreement" ("First Amendment") dated February 1, 2011, for street sweeping services within the City, which made modifications to the provisions of the Agreement relating to CPI adjustments, term, and termination; and

C. City and Contractor entered into that certain "Second Amendment to Contract Services Agreement" ("Second Amendment") dated April 1, 2014, for street sweeping services within the City, which made further adjustments to the provisions of the Agreement relating to term and termination, and which amended the contract sum provisions of the Agreement to authorize an additional annual sum of \$58,000 for sidewalk sweeping services (although it inadvertently omitted express amendment of the language of Section 2.1, "Contract Sum"); and

D. Section 2.3 (Future Adjustments) of the Agreement provides, "[e]ffective 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 States Department of Labor, Bureau of Labor Statistics. The Contractor shall submit to the City, each April, beginning in 2009, information in support of an annual adjustment. The 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 City Council for approval, in its reasonable judgment."

E. Between the effective date of the Agreement and the end of 2018, four prior CPI increases requested by Contractor were approved for budgeting purposes by the City Council, and thereafter paid by the City, in the total amount of \$72,958.44, as follows: (1) CPI increase of 2.2%, effective July 1, 2013; (2) CPI increase of 1.3%, effective July 1, 2015; (3) CPI increase of 1.89%, effective July 1, 2017; and (4) CPI increase of 2.79%, effective July 1, 2018 (collectively, the "Prior CPI Increases"). However, none of the Prior CPI Increases were formally authorized or memorialized via an amendment to the Contract. Accordingly, the parties now wish to ratify the Prior CPI Increases and amend the Agreement to reflect said adjustments.

F. On April 2, 2019, Contractor submitted a request to the City for a 3.8% cost of living increase pursuant to Section 2.3 of the Agreement, which based on the annual contract sum as of that date constitutes an increase of \$32,770.32 to the annual contract sum (the “Requested CPI Increase”).

G. The City Council approves of the Requested CPI Increase, and the parties wish to amend the Agreement to reflect the adjustment.

H. In order to authorize the Requested CPI Increase and ratify the Prior CPI Increases, the parties now desire to increase the annual contract sum by \$32,770.32 for the Requested CPI Increase. This increase, in addition to the desired ratification and memorialization of the Prior CPI increases in the amount of \$72,958.44, constitutes a total contract sum adjustment of \$105,728.76, from \$789,420 to \$895,148.76.

I. In addition to the foregoing changes, the parties also desire to amend the Term of the Agreement to provide for its expiration on March 31, 2022, subject to an option of the City to extend the Term for up to two one-year extension periods thereafter, subject to mutual agreement of the parties.

TERMS

1. **Contract Changes.** The Agreement is amended as provided herein.

A. Section 2.1, Contract Sum, is hereby amended to read as follows:

“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 ***Eight Hundred Ninety-Five Thousand One Hundred Forty-Eight Dollars and Seventy-Six Cents (\$895,148.76)*** (“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 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.”

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

“3.4 Term and Extended Term(s).

The term of this Agreement, as amended, shall continue in full force and commencing on April 1, 2014, and expiring on March 31, 2022. *At City’s option, and upon mutual agreement of the parties, the foregoing Term may be extended for up to two (2) one-year extension periods.*”

C. Section 7.8 of the Agreement, Termination Prior to Expiration of Term, is hereby deleted in its entirety and replaced with the following:

“7.8 Termination Prior to Expiration of Term.

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.”

D. Section C.1 of Exhibit “C” (Schedule of Compensation) of the Agreement is hereby amended to read as follows:

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

1. The annual sum of **\$837,148.76** (“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 \$95.00 per hour per

sweeper, \$30.58 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.

3. The additional annual sum of Fifty-Eight Thousand Dollars (\$58,000) 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.”

2. **Continuing Effect of Agreement.** Except as amended by this Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Agreement.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. **Authority.** The persons executing this Amendment 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 Amendment on behalf of said party, (iii) by so executing this Amendment, such party is formally bound to the provisions of this Amendment, and (iv) the entering into this Amendment does not violate any provision of any other agreement to which said party is bound.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date(s) set forth below, with the express intent that this Amendment be effective as of July 1, 2019.

CITY:

CITY OF CARSON, a municipal corporation

Albert Robles, Mayor

Date: _____, 2019

ATTEST:

Donesia Gause-Aldana, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney
[BRJ]

CONTRACTOR:

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

By: _____

Name:

Title:

By: _____

Name:

Title:

Address: 11914 Front St.

Norwalk, CA 90650

Date: _____, 2019

Two corporate officer signatures required when Contractor is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2019 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/> INDIVIDUAL	
<input type="checkbox"/> CORPORATE OFFICER	
<div style="display: flex; align-items: center;"><div style="flex: 1;"><input type="checkbox"/> PARTNER(S)</div><div style="flex: 1; text-align: center;">TITLE(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL</div></div>	_____ TITLE OR TYPE OF DOCUMENT
<input type="checkbox"/> ATTORNEY-IN-FACT	
<input type="checkbox"/> TRUSTEE(S)	
<input type="checkbox"/> GUARDIAN/CONSERVATOR	_____ NUMBER OF PAGES
<input type="checkbox"/> OTHER _____	
SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES)) _____ _____	_____ DATE OF DOCUMENT
	_____ SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2019 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

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<div style="text-align: center;">_____ TITLE(S)</div> <input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> <input type="checkbox"/> GENERAL	<div style="text-align: center;">_____ TITLE OR TYPE OF DOCUMENT</div>
<input type="checkbox"/> ATTORNEY-IN-FACT	
<input type="checkbox"/> TRUSTEE(S)	<div style="text-align: center;">_____ NUMBER OF PAGES</div>
<input type="checkbox"/> GUARDIAN/CONSERVATOR	
<input type="checkbox"/> OTHER _____	
SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES)) _____ _____	<div style="text-align: center;">_____ DATE OF DOCUMENT</div>
	<div style="text-align: center;">_____ SIGNER(S) OTHER THAN NAMED ABOVE</div>