

RESOLUTION NO. 18-59

Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A Maintenance Contract With CleanStreet, Inc., In An Amount Not To Exceed \$50,680 For Street Sweeping Of City Owned Streets For Fiscal Year 2018-19

WHEREAS, the City contracts for the sweeping of all City owned streets; and

WHEREAS, on June 20, 2017, the City Manager entered into a Maintenance Contract with CleanStreet Inc. in an amount not to exceed \$44,917 for street sweeping of City owned streets for FY 2017-18; and

WHEREAS, said contract was approved following a Request for Proposal (RFP) process in June 2017 with the intention of using the selected vendor for five additional fiscal years; and

WHEREAS, the proposed total contract amount for FY 2018-19 is \$50,680 with the inclusion of \$1,000 for on-call and emergency clean-up services; and

WHEREAS, the total contract amount contains a Cost of Living Adjustment based on the local Consumer Price Index of 3.6%, as provided for in the RFP; and

WHEREAS, there is sufficient funding included in the approved Operating Budget for Fiscal Year 2018-19 to cover the cost of street sweeping; now, therefore, be it

RESOLVED, by the City Council of the City of Emeryville that the City Manager to enter into a Maintenance Contract with CleanStreet Inc., attached, in an amount not to exceed \$50,680 for street sweeping of City owned streets for FY 2018-19.

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held June 5, 2018, by the following vote:

AYES:	<u>5</u>	Mayor Bauters, Vice Mayor Medina and Council Members Donahue, Martinez and Patz
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

MAYOR

APPROVED AS TO FORM:

ATTEST:

CITY CLERK

CITY ATTORNEY



CITY OF EMERYVILLE

MAINTENANCE CONTRACT

This Contract is made and entered into this _____ day of _____, 2018,
between **CITY OF EMERYVILLE**, a municipal corporation ("City") and **CleanStreet, Inc.**, a California Corporation, ("Contractor");

W I T N E S S E T H:

WHEREAS, CleanStreet, Inc. of Gardena, California submitted a five-year proposal for designated services in connection with the FY 2017/2018 Citywide Street Sweeping Proposal, Project EPW 17-109, and

WHEREAS, City has determined that Contractor is qualified by training and experience to render such services; and

NOW, THEREFORE, the parties mutually agree as follows:

A. AWARD OF CONTRACT

1. Contract Documents

The Contract Documents shall include this Contract, including Exhibits A and B, and any Plans and Specifications, Notice to Contractors, Contractor's Proposal, Addenda and Change Orders. In the event of any conflict between the printed provisions of this Contract and those of Contractor's offer of acceptance, the provision of this Contract shall prevail.

2. Scope of Work

In conformance with the Contract Documents, Contractor shall perform, or cause to be performed, the Citywide Street Sweeping as described in this Agreement (hereinafter "Work"), to the satisfaction of the City. The Scope of Work is more particularly described in the Bid Documents for Project No. EPW 17-109.

FOR CITY USE ONLY			
Contract #:		CIP #:	
Reso. #:		EPW #:	

In conformance with the Contract Documents, Contractor will furnish all labor, materials, services, transportation, appliances, and mechanical workmanship and disposal required in order to provide scheduled maintenance services as described in Exhibit A, attached hereto.

Any quantities for work are estimates. The City does not guarantee any level of work under this Contract. The City, in its discretion, reserves the right to hire or contract with others to do the work set forth in the Contract.

3. Price

- a. The Contractor shall be compensated for Citywide Street Sweeping in accordance with the lump sum and rates set forth in the Bid Form (Exhibit B) in the Contractor's Proposal. The specified compensation will stay in effect for the duration of this Contract. Should the Contractor fail to perform the work in any of the areas listed in the Proposal and/or identified as defined, it shall be deemed that Routine Maintenance for that area for the month has not been performed. The rate for that location for that month will not be paid.
- b. Overtime rates for Additional Work shall be charged, if any, only on weekdays from 4:30 p.m. to 8:00 a.m., Saturdays, Sundays, and all national holidays. Overtime shall be charged only for the actual time spent at the work site in fifteen (15) minute intervals as approved in advance in writing by the City.
- c. The total amount to be paid under this Contract for all of the work set forth in Section 2 above is **FIFTY THOUSAND SIX HUNDRED AND EIGHTY US DOLLARS (\$50,680)** ("Total Compensation"). An allowance in an amount not to exceed **\$1,000.00** is included in the Total Compensation for extra work as described in the Bid Documents should it be needed. The Contractor shall not perform any extra work unless approved in writing by the City.

4. Payment

Contractor shall invoice City not more frequently than once a month for the services performed. Compensation shall be paid to Contractor upon receipt and approval by City of invoices setting forth in detail the services performed. City shall pay Contractor within forty-five (45) days after approval of the invoice by City staff.

5. Term

This Contract shall be effective from July 1, 2018 and shall terminate on June 30, 2019.

6. Option to Renew Contract

At the option of the City, the City may enter into new contracts with the Contractor for fiscal years, 2019/2020 through 2021/2022 under the terms and conditions of this contract. This option must be exercised by City by providing written notice of the City's intent to exercise said option to Contractor at least 30 days prior to the expiration of the term of this Contract. The Contractor shall be entitled to increase its rates at a percentage no greater than the percent increase in the March to March San Francisco/Oakland Metropolitan Area Consumer Price Index as released by the United States Department of Labor on a yearly basis with a maximum inflation increase of 5% per year.

B. PROSECUTION OF WORK

1. Change Orders

City may, without notice to the sureties, and without invalidating the Contract, at any time: a) make alterations, deviations, additions to or deletions from the Contract Documents; b) increase or decrease the quantity of any item or portion of the work; c) delete any item or portion of the work; or d) require extra work, as determined by City to be necessary or advisable. All such work shall be performed under applicable provisions of the Contract Documents, unless specifically provided otherwise at the time the change is ordered.

Any such changes will be set forth in a written Change Order issued by City. The Change Order will specify:

- a. the work to be done in connection with the change to be made;
- b. the amount of the adjustment of the Contract price, if any, and the basis for compensation for the work ordered; and
- c. the extent of the adjustment in the Contract time, if any.

A Change Order shall not become effective until it has been signed by the Director of Public Works. Upon receipt of an approved Change Order, Contractor shall promptly proceed with the ordered work, unless otherwise provided in the approved Change Order.

No changes or deviations from the Contract Documents shall be made without the authority of an approved Change Order, except that in cases of emergency the Director of Public Works may direct a change in writing. A Change Order increasing the total compensation under the Contract requires a written amendment to the Contract.

Whenever it appears to Contractor that a change is necessary, Contractor shall immediately notify the Director of Public Works of the change it believes necessary and the reasons for such change; however, work in the area affected shall not be discontinued unless ordered by the Director of Public Works.

2. Differing Site Conditions

Contractor shall promptly, and before such conditions are disturbed, notify the Director of Public Works in writing of:

- a material that Contractor believes may be material that is hazardous waste, as defined in California Health and Safety Code Section 25117, that is required to be removed to a Class I, Class II or class III disposal site in accordance with provisions of existing law;
- b subsurface or latent physical conditions differing materially from those indicated in this Contract; or
- c. unknown physical conditions, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract.

The Director of Public Works shall promptly investigate the conditions. If the Director of Public Works finds that such conditions do materially differ and cause an increase or decrease in Contractor's cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the Contract modified in accordance with the change order procedures set forth herein.

In the event of any dispute between City and Contractor over the significance or existence of the changed conditions, Contractor shall not be excused from the scheduled completion date set forth herein, but shall retain such rights it may have as provided in these Contract Documents.

No claim of Contractor under this clause shall be allowed unless Contractor has given the notice required by this section, except that City may extend the prescribed time. No claim by Contractor for an equitable adjustment under this provision shall be allowed if asserted after final payment under this Contract.

3. Public Convenience

Contractor shall so conduct its operations as to offer the least possible obstruction and inconvenience to the public and it shall have under construction no greater length or amount of work than it can prosecute properly with due regard to the rights of the public. Maintenance operations shall be conducted in such a manner as to cause as little inconvenience as possible to owners of abutting property. Convenient access to driveways, houses and buildings along the line of work shall be maintained, and temporary approaches to roads or highways shall be provided and kept in good condition.

4. Traffic Control Measures.

Contractor shall provide appropriate vehicular, pedestrian and bicycle traffic control measures.

a. Where facilities exist, a minimum sidewalk and bikepath width of four (4) feet shall be maintained at all times for safe passage through the work area. At no time shall pedestrians be diverted onto a portion of the street used for vehicular traffic. At locations where adjacent alternate walkways cannot be provided, appropriate signs and barricades shall be installed at the limits of the construction site and in advance of the closure of the nearest crosswalk or intersection to divert pedestrians across the street. Access shall be maintained for persons with disabilities.

b. All work shall be planned and carried out so that there is least possible inconvenience to vehicular traffic, including deliveries to adjacent properties. Warning signs, lights and safety devices and other measures shall conform to the requirements of the Manual of Traffic Controls issued by Caltrans. Traffic control for day or nighttime lane closures (if nighttime work is permitted) shall be in conformance with the Caltrans Standard Plans for Traffic Control Systems. Contractor is authorized to place properly attired flagger(s) to stop and warn traffic. Traffic shall not be unreasonably delayed. Flagging procedures shall be in conformance with the Instructions to Flaggers pamphlet and/or Manual of Traffic Controls for Construction and Maintenance Work Zones issues by Caltrans.

5. Air Pollution Control

Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes which apply to any work performed pursuant to the Contract. Material to be disposed of shall not be burned, either inside or outside the work site.

6. Water Pollution Control

Contractor shall exercise every reasonable precaution to protect streams, lakes, reservoirs, bays and coastal waters from pollution with fuels, oils, bitumens, calcium chloride and other harmful materials and shall conduct and schedule its operations so as to avoid or minimize muddying and silting of said streams, lakes, reservoirs, bays and coastal waters. Care shall be exercised to preserve roadside vegetation beyond the limits of construction.

7. Storm Water Pollution Prevention Standards

Contractor shall comply with City's Storm Water Pollution Prevention standards at all times during operation of this contract by incorporating current Best Management Practices (BMP) for use during the work.

8. Sound Control Requirements

Contractor shall comply with all local sound control and noise level rules, regulations and ordinances which apply to any work performed pursuant to the Contract. Each internal combustion engine, used for any purpose on the job or related to the job, shall be equipped with a muffler of a type recommended by the manufacturer.

9. **Weight Limitations**

Unless expressly permitted by the Director of Public Works, Contractor shall not operate construction equipment or vehicles of any kind which, laden or unladen, exceed the maximum weight limits set forth in Division 15 of the California Vehicle Code over completed or existing base, surfacing, pavement or structures.

10. **Safety Requirements**

Contractor shall comply with all safety requirements prescribed by applicable federal, state and local laws and regulations to ensure the safety and health of those working and the local community. Contractor shall assume all responsibility for public safety during the prosecution of the work and all such costs shall be included in the Contract price. Whenever Contractor's operations create a condition hazardous to traffic or to the public, it shall furnish, erect and maintain, at its expense, such fences, barricades, lights, signs and other devices and take such other protective measures as are necessary to prevent accidents or damage or injury to the public.

11. **Inspection**

All authorized representatives of City shall have access to the work. Work and materials not meeting the requirements of City shall be corrected, and unsuitable work or material may be rejected. Failure on City's part to reject nonconforming work shall not be construed to imply acceptance of such work. Observation by City of the work shall not relieve Contractor of its responsibility to conduct its own comprehensive inspections of the work and to furnish materials and perform work in accordance with the Contract Documents.

12. **Termination**

City shall have the right to terminate Contractor's right to proceed with some or all of the work and may terminate this Contract for default by providing written notice thereof at least five (5) calendar days in advance of the termination date. The term "default" includes, but is not limited to: a) performance of work in violation of the terms of the Contract or other applicable law, order, regulation, permit or requirement; b) abandonment; c) assignment or subletting without City approval; d) bankruptcy or appointment of a receiver for Contractor's property; e) refusal or failure to properly prosecute the work; f) use of materials, supplies, plant or equipment of improper quality or quantity; g) refusal or failure to use an adequate number of properly skilled workers; h) failure to provide proper workmanship; i) failure to take effective steps to end a labor dispute; j) performance of this Contract in bad faith or k) failure to pay subcontractors. Upon such termination, City shall have the right to complete the work, or the portion involved, by whatever means and methods it deems expedient, at the Contractor's expense which the City can deduct from any amounts due Contractor. City at its sole discretion may withhold any payment otherwise due Contractor until completion and final settlement of the work covered by the notice of default.

City may also terminate the Contract for convenience if in the best interests of City upon thirty (30) calendar days' notice in advance. In such event, Contractor shall be paid for all substantiated direct costs of materials furnished and work performed up to the date of termination any additional compensation that City deems reasonable.

Upon receipt of a notice of termination, Contractor shall: a) stop all work unless directed otherwise; b) take such action to protect materials from damage; c) notify all subcontractors and suppliers that Contract is terminated; d) provide City with inventory list of materials previously produced, purchased or ordered and not yet used in the work; e) dispose of all materials not used on the work as directed by City; f) if directed by City, assign all rights and interests of Contractor under subcontracts or orders for the project; g) furnish any required documentation; and h) take any other actions as City may direct.

13. **Subsurface Excavations; Notification [Intentionally Omitted].**

14. **Trench Excavation Safety Plan [Intentionally Omitted].**

C. **CONTRACTOR'S RESPONSIBILITIES**

1. **Responsibility for Damage**

Contractor shall be responsible for any loss or damage that may happen to the work; for any loss or damage to any of the materials of other things used or employed in performing the work; for injury to or death of any person (including but not limited to workers or the public) from any cause whatsoever; or damage to property from any cause whatsoever.

Contractor shall indemnify, defend and save harmless City, and their officials, officers, employees, volunteers and agents against all suits, claims or losses (including attorneys' fees and expenses) that may be based on any injury or damage to, or death of any person or any damage to property that may occur, or that may be alleged to have occurred, arising from the performance of this Contract by Contractor, its subcontractors or employees, whether or not it shall be claimed that the injury was caused through a negligent act or omission of Contractor, its subcontractors, employees or other agents, except for the sole negligence or willful misconduct of City. Contractor shall, at its own expense, pay all charges of attorneys and all cost and other expenses arising or incurred in connection with such suits, claims or losses. If any judgment shall be rendered against City in connection with any such suit, claim or loss, Contractor shall at its own expense satisfy and discharge it.

2. **Insurance**

Contractor shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property of the work hereunder by Contractor, his agents, representatives, and employees.

a. **Minimum Scope and Limits of Insurance.** Coverage shall be placed with insurers admitted in California with a current A.M. Best's rating of not less than A: VII:

(1) Contractor shall maintain general liability insurance with limits no less than \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(2) Contractor shall maintain automobile liability insurance with limits of no less than \$2,000,000 per accident for bodily injury and property damage.

(3) Workers' Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of no less than \$2,000,000 per accident.

b. Other Insurance Provisions.

(1) As to the general liability and automobile liability insurance policies, the City and their officers, officials, employees, agents and volunteers are to be covered as additional insured pursuant to an endorsement to the policy. The coverage shall contain no special limitations on the scope of protection afforded to City, and their officers, officials, employees, agents or volunteers.

(2) For any claims related to this project, Contractor's insurance coverage shall be endorsed to be primary insurance as respects City, and their officers, officials, employees, agents or volunteers. Any insurance or self-insurance maintained by City of Emeryville, and their officers, officials, employees, agents or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

(3) For worker's compensation coverage, the insurer agrees by endorsement to waive all rights of subrogation against City, and their officials, employees, and volunteers for losses arising from the work.

(4) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to City of Emeryville, its officers, officials, employees, agents or volunteers.

(5) Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer's liability.

(6) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested has been given to City.

(7) Any deductibles or self-insured retentions must be declared to and approved by City.

3. **Payment of Taxes**

The Contract prices paid for the work shall include full compensation for all taxes which Contractor is required to pay, whether imposed by Federal, State or local government, including, without being limited to, Federal excise tax. No tax exemption certificate nor any document designed to exempt Contractor from payment of any tax will be furnished to Contractor by City, as to any tax on labor, services, materials, transportation, or any other items furnished pursuant to the Contract. Contractor shall withhold and pay any and all sales and use taxes, withholding taxes, whether State or Federal, Social Security taxes, State Unemployment Insurance charges and all other taxes which are now or hereafter may be required to be paid or withheld under any laws.

To the extent reasonably feasible, Contractor will use sales tax reporting procedures which will provide City of Emeryville the greatest benefit from California sales/use tax revenue. Such procedures may include, when applicable, designating City of Emeryville as the point of sale/use of product where there is no clearly determinable point of sale/use, self-reporting tax on out of state purchases of goods used in City of Emeryville and reporting City of Emeryville as the origin of construction costs as allowed by the State Board of Equalization pursuant to their December 1994, Resolution pertaining to allocation of local tax by construction contractors. Notwithstanding the above, Contractor shall not be obligated to adopt any procedures pursuant to this section if such procedures result in significantly increased costs to Contractor (including loss of profits or risk of liability for taxes in multiple jurisdictions), or if such procedures are contrary to the sales and use tax laws or regulations of California or any other state.

4. **Permits and Licenses**

Contractor covenants and declares that it has obtained all diplomas, certificates, licenses, permits or the like required of Contractor by any and all national, state, regional, county, city or local boards, agencies, commissions, committees or other regulatory bodies in order to perform the services contracted for under this Contract. Contractor shall comply with all permits applicable to the work. Contractor has and shall maintain the appropriate State Contractor's License, pursuant to Chapter 9 of Division 3 of the California Business and Professions Code.

Contractor has and shall maintain a current Business License with City of Emeryville during the term of this contract. Contractor shall insert in each of its subcontract Contracts a provision which requires its subcontractors to present proof that the subcontractor has obtained a current Business License with City of Emeryville during the term of this contract.

The California Environmental Quality Act (Public Resources Code, Section 21000 to 21176) may be applicable to permits, licenses and other authorizations which Contractor must obtain from State or local agencies in connection with performing the work of the Contract. Contractor shall comply with the provisions of that Act in obtaining such permits, licenses and other authorizations and they shall be obtained in sufficient time to prevent delays to the work.

5. **Reserved**

6. **Warranty**

Contractor warrants that all materials and work furnished (1) shall meet all requirements and conditions of City's Contract and manufacturer's warranty if any; (2) shall be free from defects in design, material; workmanship and methods of installation; and (3) shall be fit for the purposes intended. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective and nonconforming. This warranty by the Contract is in addition to any warranties or guarantees required or provided by the manufacturer or supplier.

Contractor shall correct the work at its own expense promptly after written notice from City to do so and pay for any damage to other property resulting from such nonconforming work. If Contractor fails to do so promptly, or in an emergency when delay could cause risk of damage or loss, then City take whatever actions are necessary to have the nonconforming work removed, replaced or corrected at the expense of Contractor and to recover its damages, costs and expenses, including withholding the amount from any payment that is due or to commencing an action against any performance bond.

Nothing in this section shall be construed to establish a period of limitation with respect to other obligations that Contractor may have under these Contract Documents.

7. **Independent Contractor Status**

Contractor shall independently perform all work under this Contract and shall not be considered an agent or employee of City; nor shall Contractor's subcontractors or employees be considered as subagents of the Owner.

8. **Hazardous Chemicals and Wastes**

Should any release, discharge, leakage, spillage, emission or pollution of any hazardous chemicals or wastes occur due to Contractor's work, then Contractor at its sole cost, shall clean all affected property to the satisfaction of City and any governmental body with jurisdiction. Contractor shall immediately report any such release to the Director of Public Works.

If the performance of the work outlined by these Contract Documents creates any hazardous wastes, Contractor shall properly dispose of such wastes in full accordance with federal, state and local laws, at its expense. Contractor shall provide City with written proof of its or its subcontractor's registration as a hazardous waste transporter.

9. **Compliance with Laws**

All work performed by Contractor under this Contract shall be in accordance with applicable federal, state and local requirements, including, but not limited to environmental laws and laws regarding disposal of hazardous wastes.

10. **Noncollusion Declaration**

By executing this Contract, Contractor declares that only persons or parties interested in this Contract are those named in Contractor's Proposal and that such proposal was not made in the interest of or on behalf of any undisclosed person, firm or organization; that the proposal was genuine and not collusive or sham; that the signatory to this Contract has not directly or indirectly induced or solicited others to put in a sham proposal, or to refrain from proposing; and that the signatory to this Contract has not in an manner sought by collusion to secure for itself an advantage over other potential proposers.

11. **Conflicts of Interest**

Contractor covenants and declares that other than this Contract, it has no holdings or interests within the City of Emeryville nor business holdings or agreements with any official, employee or representative of City and shall disclose any such holdings or interests to City in writing.

12. **Discrimination Prohibited**

Contractor covenants and agrees that in performing the services required under this Contract, Contractor shall not discriminate against any person on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, age or disability.

13. **Payment Bond.**

A payment bond in an amount of 100% of the not to exceed amount of the Contract is required.

14. **Living Wage**

If this Agreement provides for compensation to Consultant of \$25,000 or more within a single fiscal year for providing services to the City, then Consultant shall comply with the requirements of the City's Living Wage Ordinance set forth in Chapter 31 of Title 5 of the Emeryville Municipal Code, unless (i) Consultant is a governmental entity, (ii) this Agreement is subject to a higher prevailing wage rate as defined in the California Labor Code, or (iii) this Agreement is subject to federal or state laws or regulations that would preclude the application of the City's laws.

Compliance with the Living Wage Ordinance, if applicable, shall be required during the term of the Agreement for all employees of Consultant who perform at least twenty-five percent (25%) of the work arising from this Agreement, unless said employees are otherwise exempt from the application of the Living Wage Ordinance pursuant to Section

5-31.08. Consultant shall promptly provide to the City documents and information verifying compliance with the requirements of the Living Wage Ordinance within ten (10) working days following a written request for such documentation and information from the City.

Failure to comply with the Living Wage Ordinance provides that a person claiming a violation thereof may bring an action against Consultant for back pay, reinstatement and compensatory damages, as well as a penalty up to three times the amount of damages for a willful violation, plus reasonable attorney's fees and costs. In addition, the City may terminate the Agreement and pursue any other remedies available to the City, including debarment, for violations of the Living Wage Ordinance.

Consultant shall notify each of its affected employees with regards to wages that are required to be paid pursuant to this Agreement. "Living Wage" means no less than \$15.69 per hour as of July 1, 2018, which includes the FY 2018 increase of 3% set annually on July 1st to reflect the twelve-month average increase to the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose Metropolitan Statistical Area for the preceding year from May to April, (not to exceed three percent (3%) in any one year) including wages and health benefits. If employer contributions for health benefits are not paid on an hourly basis, the employer must demonstrate to the City the hourly value of such benefits in order to receive credit for such payments to covered employees.

D. GENERAL PROVISIONS

1. Applicable Law

If any action at law or in equity is brought to enforce or interpret the provisions of this Contract, the rules, regulations, statutes and laws of the State of California will control. The exclusive venue for any legal action taken pursuant to this Contract shall be the State of California Superior Court for the County of Alameda or the United States District Court for the Northern District of California.

2. Assignment and Subcontracting

Neither this Contract nor any interest herein nor any claim hereunder may be assigned or subcontracted by Contractor either voluntarily or by operation of law, without the prior written consent of City. No such consent shall relieve Contractor of its obligations to comply fully with the requirements of this Contract.

3. Records

Contractor will permit City to audit, examine, and make copies of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and or data relating to all matters covered by this Contract. Except as otherwise authorized, such records shall be maintained for a period of three years from the date that final payment is made under this Contract.

4. **No Waiver**

Failure of City to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any rights or remedies or to properly notify Contractor in the event of breach, or the acceptance of or payment for any good hereunder, shall not release Contractor of any of the warranties or obligations of this Contract and shall not be deemed a waiver of any right of City to insist upon strict performance hereof.

5. **Notices**

a. **Communications Relating to Daily Activities.** All communications relating to the day to day activities of the work shall be addressed to the City Public Works Operations Manager, or designee.

b. **Official Notices.** All other notices, writings or correspondence as required by this Contract shall be directed to City and Contractor, respectively, as follows:

CITY

**Director of Public Works
City of Emeryville
1333 Park Avenue
Emeryville, California 94608
Phone No. (510) 596-4330
Fax No. (510) 596-4389
Email: aclough@emeryville.org**

CONTRACTOR

**CleanStreet Inc.
1937 W. 169th St.
Gardena, CA 90247
Phone No. 800 225-7316 x108
Fax No. 310-538-8015
E-Mail: info@cleanstreet.com**

6. **No Personal Liability**

No member, official or employee of City shall be personally liable to Contractor or any successor in interest in the event of any default or breach by City or for any amount which may become due to Contractor or successor on any obligation under this Contract.

7. **Entire Agreement**

This Contract contains the entire agreement of the parties with respect to the subject matter of this Contract. Any modifications to this Agreement shall be in writing.

8. **Authority to Contract**

Contractor covenants and declares that it has obtained all necessary approvals to bind Contractor to this Contract and that the representative signing the Contract is authorized to do so.

City and Contractor have executed this Contract on the date that it is executed by City of Emeryville.

CITY OF EMERYVILLE

Carolyn Lehr, City Manager

CONTRACTOR

By: _____

Printed name: **Jere Costello**

Title: **President**

Date: **May 18, 2018**

Approved as to form:



City Attorney

EXHIBIT "A"

STREET SWEEPING SPECIFICATIONS

Scope of Work

Provide routine street sweeping services for all streets within the City of Emeryville at varying frequencies as described herein by tables and a map. The Contractor shall provide labor, tools, equipment, fuel and any other materials necessary to complete the required work. The contractor shall be responsible for maintenance and repair of equipment.

Performance

1. Street Sweeping Services shall be performed with a vacuum sweeper and shall include removal of regular day-to-day build-up of debris, and leaves.
2. The contractor shall sweep an area 7-feet wide adjacent to the curb on each side of the street and shall be responsible for the removal and disposal of street sweeping debris and leaves.
3. The sweeper shall be operated at a safe and appropriate speed that will allow for maximum debris pick-up.
4. After sweeping, curbs and gutters shall be left in a clean condition. A clean condition is defined as the absence of residue in the streets and gutters upon the completion of the sweeping operation.
5. The sweeping shall include as many passes as necessary to leave the street in a clean condition.

Equipment

1. The equipment used for sweeping shall be a regenerative air vacuum sweeper equal to or exceeding the Tymco 600.
2. All sweepers shall have amber beacons and/or strobes, directional arrows, and slow moving vehicle signs to increase visibility.
3. All sweepers shall have a factory installed dust suppression system.
4. All cleaning equipment shall be equipped in accordance with existing state, and federal laws.
5. Sweeping operations shall conform to current MUTCD guidelines.

Monitoring and Auditing

1. Contractor is required to equip all vehicles used in conjunction with this contract with an internet-based GPS location monitoring system tied to database(s) described below.
2. The City shall be provided unrestricted password access to - and the ability to download in Microsoft Excel format from - the following databases:
 - a. Each contractor's vehicle database account in order to confirm:
 - i. work locations swept – by street name - including GPS lat/long data and date/time
 - ii. mileage claims
 - iii. vehicle speed
 - iv. miles swept
 - b. Disposal database – based on input of disposal scale tags or electronic equivalent
 - i. disposal locations
 - ii. disposal dates/times
 - iii. disposal tonnage
3. Pre-determined downloads of the above data will be provided on a monthly basis (or occasionally "on demand") by the Contractor and forwarded electronically to the City project manager and/or his designee(s).

Emergency Callouts

Contractor shall provide a 24-hour telephone number and/or a list of managers, supervisors, and employees, including telephone numbers and pager numbers, who are available for 24-hour emergency callout service.
Compensation for emergency callouts shall be on an hourly basis as detailed in the fee schedule.

Fall Leaf Clean-up

In the event that it becomes necessary to increase the frequency of sweeping during the heavy leaf fall season, Contractor and the City project manager shall mutually develop a proposal describing dates, days, hours, locations, etc. for the City's written approval prior to performing any additional service.

Holidays

If sweeping is not to be performed on certain holidays, Contractor must provide an alternative schedule to the City project manager for sweeping streets missed due to the holiday. City shall be advised in advance of holidays to be observed by Contractor and shall be provided with a makeup schedule that is no more than one week later. Once

the makeup schedule is established, it shall not be changed without prior written approval of the City.

Disposal of Sweepings

Contractor shall dispose of all refuse collected by hauling same to a legal landfill disposal facility. Refuse shall not be stored on any street surface.

Water

Contractor shall provide, at their own expense, sufficient water for the street sweeping equipment necessary to comply with this Agreement and to assure that the curb and gutter are left in a clean condition and the amount of dust during sweeping is kept to a minimum.

Portable water meters shall be obtained from the East Bay Municipal Utilities District by the Contractor and used by the Contractor's employees at all times when obtaining water. The cost of water and portable hydrant fees shall be paid by Contractor and included in the unit costs for various sweeping services.

NOTE: The practice of bypassing meters with direct hydrant connections is subject to severe penalties and legal action by EBMUD.

Delays in Sweeping Schedule:

In the event that delays in the sweeping schedule, Contractor shall notify that City as soon as possible and provide a makeup schedule satisfactory to the City.

Schedule and Streets

Residential Streets shall be swept once per month as described herein. The north and east half of each residential street (from centerline to curb) shall be swept on the 1st Thursday of the month between the hours of 8:00 a.m. and noon. The south and west half of each residential street (from centerline to curb) shall be swept on the 2nd Thursday of each month between the hours of 8:00 a.m. and noon.

Residential Streets are as follows:

- Adeline Street from 36th Street to north City limits near 47th Street
- All streets east of Adeline Street to the east City limits, (approximately 150 feet east of Adeline).
- 36th and 37th Streets from San Pablo Avenue to the east City limits, (approximately 150 feet east of Adeline).
- 43rd, 45th, 47th, 48th between San Pablo Avenue and Adeline Street
- Salem Street
- Essex Street
- 54th Street west of Boyer Street
- 55th, 59th, 61st, 62nd, 63rd, and 64th Streets and Ocean Ave from Vallejo St. to Doyle St.
- Vallejo Street from 55th Street to 65th Street (includes connecting section of Peabody Lane)
- Doyle Street from 55th Street to Ocean Avenue
- Beaudry Street
- Powell Street from Captain Drive to Anchor Drive (west bound lanes)
- Christie Avenue from 59th Street to 64th Street
- Peralta Street from Mac Arthur to 36th Street

Commercial/Industrial/Mixed Use City Streets shall be swept twice a month according to the following schedule:

- 1st and 3rd Mondays of each month between the hours of 8:00 p.m. and 5:00 a.m. (*or as modified*) and shall include the following streets:
 - 36th Street between Peralta St and San Pablo Avenue
 - 41st Street between San Pablo Avenue and Adeline (*8pm to midnight*)
 - 45th Street west of San Pablo Avenue
 - 47th Street west of San Pablo Avenue (*8pm to 9pm*)
 - 53rd Street between Horton and Boyer Streets (*8pm to 9pm*)
 - 53rd Street (south side of street) between Boyer Street and San Pablo Ave
 - 59th, 61st, 62nd, 63rd, 64th Streets west of Doyle
 - 62nd between Shellmound and Market Drive
 - Market Drive between 62nd and 63rd
 - Market Drive north of 63rd (cul-de-sac)
 - 63rd between Shellmound and Christie
 - 65th Street (*10pm to midnight*)
 - 66th Street (*10pm to midnight*)
 - 67th Street

- Amtrak access
 - Christie Avenue north of Powell Street (except as stated in residential streets above)
 - Doyle Street between 45th and 47th Streets (8pm -9pm)
 - Emery Street
 - Halleck Street
 - Harlan Street
 - Harruf Street
 - Haven Street
 - Holden Street
 - Hollis Street
 - Horton Street
 - Hubbard Street
 - Lacoste Street
 - MacArthur Blvd between Emery St and San Pablo Ave
 - Ocean west of Doyle
 - Overland Avenue
 - Park Avenue
 - Peladeau Street
 - San Pablo Avenue between 36th and 53rd Streets
 - Sherwin Street
 - Stanford Avenue
 - Vallejo Street between 65th & 66th Streets (10pm to midnight)
 - Watts Street
- 1st and 3rd Thursday of each month between the hours of 8:00 p.m. and 5:00 a.m. and shall include the following streets:
 - 40th Street, including median islands, from Adeline Street to Shellmound Street
 - Shellmound Street from the east side of 40th Street Bridge north to the City limit.
 - Shellmound Way
 - Christie Avenue south of Powell Street
 - Powell Street from Vallejo Street to Marina turn – around (except as stated in residential streets above)
 - Frontage Road, from Point Emery to Powell Street

Emeryville Street Sweeping

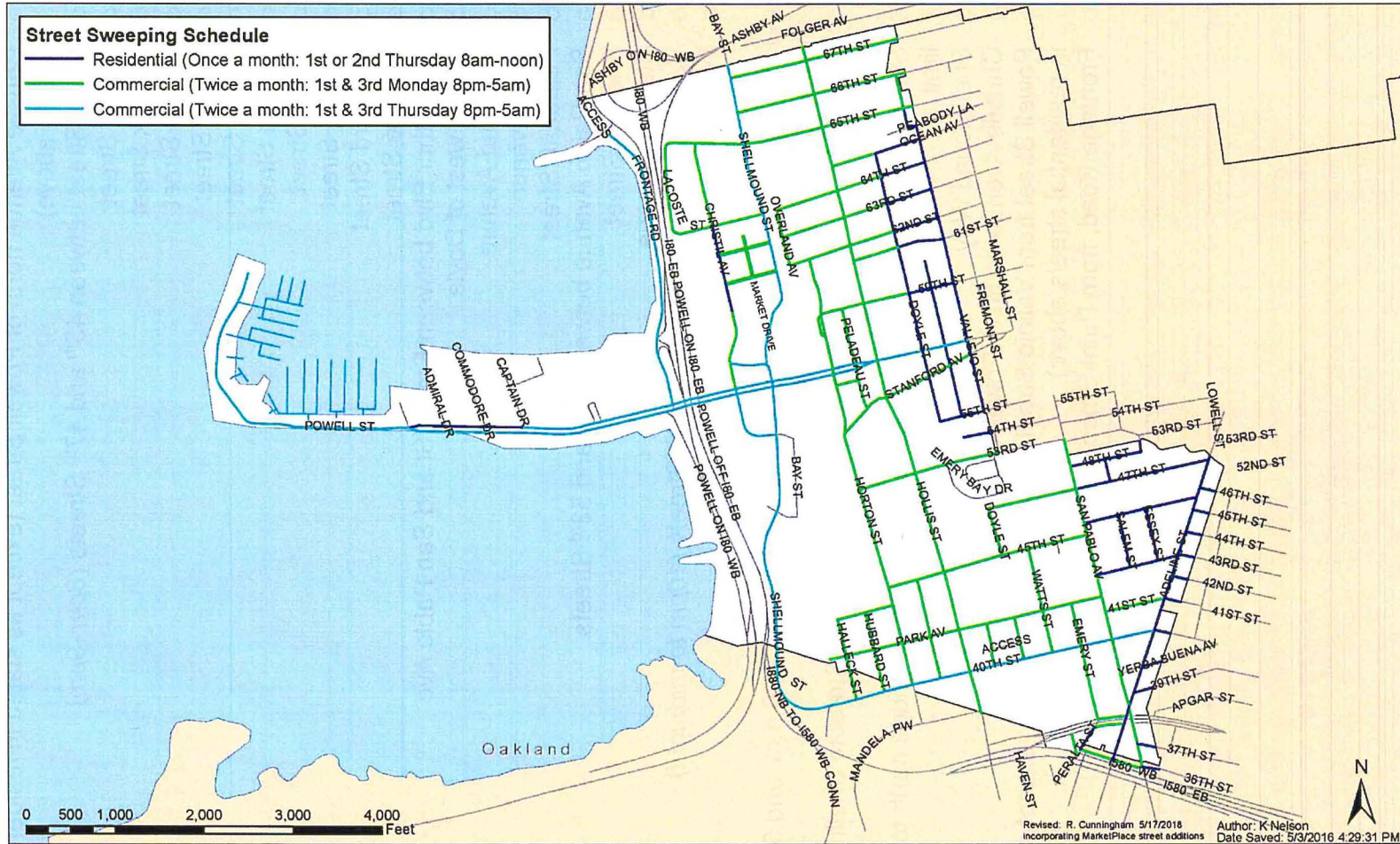


EXHIBIT B

The proposal prices are to include and cover the furnishing of all labor, materials, equipment, incidentals, website for on-line reporting, and overhead necessary to perform the work described in the "Specifications" section of Exhibit "A" of this proposal document.

The proposer affirms that in the event they are selected as the successful proposer the Contractor assures that all work will be performed in the specified manner and under the terms and conditions specified at the prices listed below:

PART 1:

City of Emeryville City Wide Street Sweeping Bid Form		
Item description		Amount
City Wide Street Sweeping per schedule and map definition shown in Exhibit "A".	Monthly rate =	\$4140
	X 12 months =	\$49,680

PART 2:

The City, at its option, may infrequently make provision for additional work, e.g. special events, fall leaf clean-up, and emergencies.

Enter below the rates applicable to each situation.

NOTE: The statement of rates is for information only to allow the City to develop budget amounts – the rates are NOT a part of the process of determining the lowest responsive bidder in awarding the contract.

City of Emeryville Street Sweeping Additional Work Hourly Rates	
Item description	Hourly Rate
Special events and additional fall leaf season cleanup when previously arranged and scheduled – cost per hour – straight time	\$109
Callouts for emergencies– cost per hour – minimum call-out is four (4) hours	\$109