

**Agreement Between
City of Chula Vista
and
Cannon Pacific Services, Inc
To Provide Street Sweeping Services**

This agreement (Agreement), dated November 15, 2011 for the purposes of reference only, and effective as of the date last executed unless another date is otherwise specified in Exhibit A to this Agreement (Exhibit A), Paragraph 1, is between the City-related entity whose name and business form is indicated on Exhibit A, Paragraph 2, (City), and the entity whose name, business form, place of business and telephone numbers are indicated on Exhibit A, Paragraphs 4 through 6, (Contractor), and is made with reference to the following facts:

RECITALS

WHEREAS, the City has solicited bids for street sweeping within and on the streets of the City of Chula Vista and on various City parking lots, as contained in "RFB #1-11/12 Street Sweeping Services for the City of Chula Vista" ("Bid"), available in the City Purchasing Office; and

WHEREAS, the Contractor has submitted to the City a bid to sweep the public streets and various City parking lots within the City limits, per the requirements of the Bid, and has thus made certain representations regarding length of time in business, financial strength, credit standing, cities served, equipment provided and qualified trained personnel, per its bid proposal, available in the City Purchasing Office; and

WHEREAS, Contractor warrants and represents that it is experienced and staffed in a manner such that it can deliver the services required of Contractor to City in accordance with the time frames and the terms and conditions of this Agreement.

WHEREAS, the City awarded the Bid to the Contractor based on the terms of this Agreement and in reliance on the representations and warranties herein.

NOW, THEREFORE, for valuable consideration the City and Contractor do hereby mutually agree as follows:

All of the Recitals above are incorporated into this Agreement by this reference.

ARTICLE I. CONTRACTOR'S OBLIGATIONS

A. General

1. **General Duties.** Contractor shall perform all of the services described on Exhibit A, Paragraph 7 (General Duties).
2. **Scope of Work and Schedule.** In performing and delivering the General Duties, Contractor shall also perform the services, and deliver to City the "Deliverables" described in Exhibit A, Paragraph 8, entitled "Scope of Work and Schedule," according to, and within the time frames set forth in Exhibit A, Paragraph 8, time being of the

essence of this agreement. The General Duties and the work and Deliverables required in the Scope of Work and Schedule shall be referred to as the "Defined Services." Failure to complete the Defined Services by the times indicated does not, except at the option of the City, terminate this Agreement.

- a. *Adjustments to Scope of Work.* At the Street Maintenance Public Works Manager's sole discretion, streets and/or parking lots constructed or accepted by the City may be added to the "Defined Services" at the applicable unit price identified in the rate schedule in Exhibit A, Paragraph 10D, and in accordance with the sweeping schedule identified in Exhibit A, Paragraph 8A.
- b. *Reductions in Scope of Work.* City may independently, or upon request from Contractor, from time to time, reduce the Defined Services to be performed by the Contractor under this Agreement. Upon doing so, City and Contractor agree to meet in good faith and confer for the purpose of negotiating a corresponding reduction in the compensation associated with the reduction.
- c. *Additional Services.* In addition to performing the Defined Services, City may require Contractor to perform additional services related to the Defined Services (Additional Services), and upon doing so in writing, if they are within the scope of services offered by Contractor, Contractor shall perform same on a time and materials basis at the lowest of the following rates (1) rates set forth in the "Rate Schedule" in Exhibit A, Paragraph 10D, (2) rates submitted by Contractor as part of Contractor's bid, or (3) a separate fixed fee is otherwise agreed upon. All compensation for Additional Services shall be paid monthly as billed.

3. **Standard of Care.** The Contractor expressly warrants that the work to be performed pursuant to this Agreement, whether Defined Services or Additional Services, shall be performed in accordance with the standard of care ordinarily exercised by members of the profession currently practicing under similar conditions and in similar locations.

- a. *No Waiver of Standard of Care.* Where approval by City is required, it is understood to be conceptual approval only and does not relieve the Contractor of responsibility for complying with all laws, codes, industry standards, and liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of the Contractor or its subcontractors.

B. **Application of Laws.** Should a federal or state law pre-empt a local law, or regulation, the Contractor must comply with the federal or state law and implementing regulations. No provision of this Agreement requires the Contractor to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of federal, state, territorial, or local law, regulation, or ordinance. If compliance with any provision of this Agreement violates or would require the Contractor to violate any law, the Contractor agrees to notify City immediately in writing. Should this occur, the City and the Contractor agree that they will make appropriate arrangements to proceed with or, if necessary, amend or terminate this Agreement, or portions of it, expeditiously.

1. **Subcontractors.** Contractor agrees to take appropriate measures necessary to ensure that all participants utilized by the Contractor to complete its obligations under this Agreement, such as subcontractors, comply with all applicable laws, regulations, ordinances, and policies, whether federal, state, or local, affecting Project implementation. In addition, if a subcontractor is expected to fulfill any responsibilities of the Contractor under this Agreement, the Contractor shall ensure that the subcontractor carries out the Contractor's responsibilities as set forth in this Agreement.

C. Insurance

1. **General.** Contractor must procure and maintain, during the period of performance of this Agreement, and for twelve months after completion, policies of insurance from insurance companies to protect against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work under this Agreement and the results of that work by the Contractor, his agents, representatives, employees or subcontractors, and provide documentation of same prior to commencement of work.
2. **Minimum Scope of Insurance.** Coverage must be at least as broad as:
 - a. *CGL.* Insurance Services Office Commercial General Liability coverage (occurrence Form CG0001).
 - b. *Auto.* Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
 - c. *WC.* Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
 - d. *E&O.* Professional Liability or Errors & Omissions Liability insurance appropriate to the Contractor's profession. Architects' and Engineers' coverage is to be endorsed to include contractual liability.
3. **Minimum Limits of Insurance.** Contractor must maintain limits no less than those included in the table below:

i. General Liability: (Including operations, products and completed operations, as applicable)	\$1,000,000 per occurrence for bodily injury, personal injury, (including death), and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit must apply separately to this Project/location or the general aggregate limit must be twice the required occurrence limit.
ii. Automobile Liability:	\$1,000,000 per accident for bodily injury, including death, and property damage.
iii. Workers' Compensation Employer's	Statutory \$1,000,000 each accident \$1,000,000 disease-policy limit

Liability:	\$1,000,000 disease-each employee
iv. Professional Liability or Errors & Omissions Liability:	\$1,000,000 each occurrence

4. **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer will reduce or eliminate such deductibles or self-insured retentions as they pertain to the City, its officers, officials, employees and volunteers; or the Contractor will provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
5. **Other Insurance Provisions.** The general liability, automobile liability, and where appropriate, the worker's compensation policies are to contain, or be endorsed to contain, the following provisions:
- a. *Additional Insureds.* City of Chula Vista, its officers, officials, employees, agents, and volunteers are to be named as additional insureds with respect to all policies of insurance, including those with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor, where applicable, and, with respect to liability arising out of work or operations performed by or on behalf of the Contractor, including providing materials, parts or equipment furnished in connection with such work or operations. The general liability additional insured coverage must be provided in the form of an endorsement to the Contractor's insurance using ISO CG 2010 (11/85) or its equivalent. Specifically, the endorsement must not exclude Products/Completed Operations coverage.
 - b. *Primary Insurance.* The Contractor's General Liability insurance coverage must be primary insurance as it pertains to the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers is wholly separate from the insurance of the Contractor and in no way relieves the Contractor from its responsibility to provide insurance.
 - c. *Cancellation.* The insurance policies required by this Agreement shall not be canceled by either party, except after thirty days' prior written notice to the City by certified mail, return receipt requested. The words "will endeavor" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives" shall be deleted from all certificates.
 - d. *Active Negligence.* Coverage shall not extend to any indemnity coverage for the active negligence of the additional insureds in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

- e. *Waiver of Subrogation.* Contractor's insurer will provide a Waiver of Subrogation in favor of the City for each required policy providing coverage for the term required by this Agreement.
6. **Claims Forms.** If General Liability, Pollution and/or Asbestos Pollution Liability and/or Errors & Omissions coverage are written on a claims-made form:
- a. *Retro Date.* The "Retro Date" must be shown, and must be before the date of the Agreement or the beginning of the work required by the Agreement.
- b. *Maintenance and Evidence.* Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the work required by the Agreement.
- c. *Cancellation.* If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a "Retro Date" prior to the effective date of the Agreement, the Contractor must purchase "extended reporting" coverage for a minimum of five years after completion of the work required by the Agreement.
- d. *Copies.* A copy of the claims reporting requirements must be submitted to the City for review.
7. **Acceptability of Insurers.** Insurance is to be placed with licensed insurers admitted to transact business in the State of California with a current A.M. Best's rating of no less than A V. If insurance is placed with a surplus lines insurer, insurer must be listed on the State of California List of Eligible Surplus Lines Insurers (LESLI) with a current A.M. Best's rating of no less than A X. Exception may be made for the State Compensation Fund when not specifically rated.
8. **Verification of Coverage.** Contractor shall furnish the City with original certificates and amendatory endorsements effecting coverage required by Section I.C. of this Agreement. The endorsements should be on insurance industry forms, provided those endorsements or policies conform to the requirements of this Agreement. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require, at any time, complete, certified copies of all required insurance policies, including endorsements evidencing the coverage required by these specifications.
9. **Subcontractors.** Contractor must include all subcontractors as insureds under its policies or furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors is subject to all of the requirements included in these specifications.
10. **Not a Limitation of Other Obligations.** Insurance provisions under this Article shall not be construed to limit the Contractor's obligations under this Agreement, including Indemnity.

D. Security for Performance

1. **Performance Bond.** In the event that Exhibit A, at Paragraph 18, indicates the need for Contractor to provide a Performance Bond (indicated by a check mark in the parenthetical space immediately preceding the subparagraph entitled "Performance Bond"), then Contractor shall provide to the City a performance bond, in the amount indicated at Exhibit A, Paragraph 18, in the form prescribed by the City and by such sureties which are authorized to transact such business in the State of California, listed as approved by the United States Department of Treasury Circular 570, <http://www.fms.treas.gov/c570>, and whose underwriting limitation is sufficient to issue bonds in the amount required by the Agreement, and which also satisfy the requirements stated in Section 995.660 of the Code of Civil Procedure, except as provided otherwise by laws or regulations. All bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act. Surety companies must be duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds for the limits so required. Form must be satisfactory to the Risk Manager or City Attorney.
 2. **Letter of Credit.** In the event that Exhibit A, at Paragraph 18, indicates the need for Contractor to provide a Letter of Credit (indicated by a check mark in the parenthetical space immediately preceding the subparagraph entitled "Letter of Credit"), then Contractor shall provide to the City an irrevocable letter of credit callable by the City at its unfettered discretion by submitting to the bank a letter, signed by the City Manager, stating that the Contractor is in breach of the terms of this Agreement. The letter of credit shall be issued by a bank, and be in a form and amount satisfactory to the Risk Manager or City Attorney which amount is indicated in the space adjacent to the term, "Letter of Credit," in Exhibit A, Paragraph 18.
 3. **Other Security.** In the event that Exhibit A, at Paragraph 18, indicates the need for Contractor to provide security other than a Performance Bond or a Letter of Credit (indicated by a check mark in the parenthetical space immediately preceding the subparagraph entitled "Other Security"), then Contractor shall provide to the City such other security therein listed in a form and amount satisfactory to the Risk Manager or City Attorney.
- E. **Business License.** Contractor agrees to obtain a business license from the City and to otherwise comply with Title 5 of the Chula Vista Municipal Code.

ARTICLE II. CITY OBLIGATIONS

- A. **Consultation and Cooperation.** City shall regularly consult the Contractor for the purpose of reviewing the progress of the Defined Services and Schedule, and to provide direction and guidance to achieve the objectives of this Agreement. The City shall allow Contractor access to its office facilities, files and records, as deemed necessary and appropriate by the City, throughout the term of this Agreement. In addition, City agrees to provide the materials identified at Exhibit A, Paragraph 9, with the understanding that delay in the provision of those materials beyond thirty days after authorization to proceed, shall constitute a basis for the justifiable delay in the Contractor's performance.

B. Compensation.

1. **Following Receipt of Billing.** Upon receipt of a properly prepared bill from Contractor, submitted to the City as indicated in Exhibit A, Paragraph 17, but in no event more frequently than monthly, on the day of the period indicated in Exhibit A, Paragraph 17, City shall compensate Contractor for all services rendered by Contractor according to the terms and conditions set forth in Exhibit A, Paragraph 10, adjacent to the governing compensation relationship indicated by a "checkmark" next to the appropriate arrangement, subject to the requirements for retention set forth in Paragraph 18 of Exhibit A, and shall compensate Contractor for out of pocket expenses as provided in Exhibit A, Paragraph 11.
2. **Supporting Information.** Any billing submitted by Contractor shall contain sufficient information as to the propriety of the billing, including properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature of the charges to the Project in order to permit the City to evaluate that the amount due and payable is proper, and such billing shall specifically contain the City's account number indicated on Exhibit A, Paragraph 17(C) to be charged upon making such payment.
3. **Exclusions.** In determining the amount of the compensation City will exclude any cost:
 - 1) incurred prior to the effective date of this Agreement; or 2) arising out of or related to the errors, omissions, negligence or acts of willful misconduct of the Contractor, its agents, employees, or subcontractors.
 - a. *Errors and Omissions.* In the event that the City Administrator determines that the Contractor's negligence, errors, or omissions in the performance of work under this Agreement has resulted in expense to City greater than would have resulted if there were no such negligence, errors, omissions, Contractor shall reimburse City for any additional expenses incurred by the City. Nothing in this paragraph is intended to limit City's rights under other provisions of this Agreement.
4. **Payment Not Final Approval.** The Contractor understands and agrees that payment to the Contractor for any Project cost does not constitute a City final decision about whether that cost is allowable and eligible for payment under the Project and does not constitute a waiver of any violation of Contractor of the terms of the Agreement. The Contractor acknowledges that City will not make a final determination about the eligibility of any cost until the final payment has been made on the Project or the results of an audit of the Project requested by the City has been completed, whichever occurs latest. If City determines that the Contractor is not entitled to receive any portion of the compensation due or paid, City will notify the Contractor in writing, stating its reasons. The Contractor agrees that Project closeout will not alter the Contractor's responsibility to return any funds due City as a result of later refunds, corrections, or other similar transactions; nor will Project closeout alter the right of City to disallow costs and recover funds provided for the Project on the basis of a later audit or other review.
 - a. *Contractor's Obligation to Pay.* Upon notification to the Contractor that specific amounts are owed to City, whether for excess payments or disallowed costs, the

Contractor agrees to remit to City promptly the amounts owed, including applicable interest.

ARTICLE III. ETHICS

A. Financial Interests of Contractor

1. Contractor is Designated as an FPPC Filer. If Contractor is designated on Exhibit A, Paragraph 14, as an "FPPC filer," Contractor is deemed to be a "Contractor" for the purposes of the Political Reform Act conflict of interest and disclosure provisions, and shall report economic interests to the City Clerk on the required Statement of Economic Interests in such reporting categories as are specified in Paragraph 14 of Exhibit A, or if none are specified, then as determined by the City Attorney.
2. No Participation in Decision. Regardless of whether Contractor is designated as an FPPC Filer, Contractor shall not make, or participate in making or in any way attempt to use Contractor's position to influence a governmental decision in which Contractor knows or has reason to know Contractor has a financial interest other than the compensation promised by this Agreement.
3. Search to Determine Economic Interests. Regardless of whether Contractor is designated as an FPPC Filer, Contractor warrants and represents that Contractor has diligently conducted a search and inventory of Contractor's economic interests, as the term is used in the regulations promulgated by the Fair Political Practices Commission, and has determined that Contractor does not, to the best of Contractor's knowledge, have an economic interest which would conflict with Contractor's duties under this Agreement.
4. Promise Not to Acquire Conflicting Interests. Regardless of whether Contractor is designated as an FPPC Filer, Contractor further warrants and represents that Contractor will not acquire, obtain, or assume an economic interest during the term of this Agreement which would constitute a conflict of interest as prohibited by the Fair Political Practices Act.
5. Duty to Advise of Conflicting Interests. Regardless of whether Contractor is designated as an FPPC Filer, Contractor further warrants and represents that Contractor will immediately advise the City Attorney if Contractor learns of an economic interest of Contractor's that may result in a conflict of interest for the purpose of the Fair Political Practices Act, and regulations promulgated thereunder.
6. Specific Warranties Against Economic Interests. Contractor warrants, represents and agrees that:
 - a. Neither Contractor, nor Contractor's immediate family members, nor Contractor's employees or agents (Contractor Associates) presently have any interest, directly or indirectly, whatsoever in any property which may be the subject matter of the Defined Services, or in any property within 2 radial miles from the exterior boundaries of any property which may be the subject matter of the Defined Services, (Prohibited Interest), other than as listed in Exhibit A, Paragraph 14.

- b. No promise of future employment, remuneration, consideration, gratuity or other reward or gain has been made to Contractor or Contractor Associates in connection with Contractor's performance of this Agreement. Contractor promises to advise City of any such promise that may be made during the Term of this Agreement, or for twelve months thereafter.
- c. Contractor Associates shall not acquire any such Prohibited Interest within the Term of this Agreement, or for twelve months after the expiration of this Agreement, except with the written permission of City.
- d. Contractor may not conduct or solicit any business for any party to this Agreement, or for any third party that may be in conflict with Contractor's responsibilities under this Agreement, except with the written permission of City.

IV. LIQUIDATED DAMAGES

- A. **Application of Section.** The provisions of this section apply if a Liquidated Damages Rate is provided in Exhibit A, Paragraph 13.
- 1. Estimating Damages. It is acknowledged by both parties that time is of the essence in the completion of this Agreement. It is difficult to estimate the amount of damages resulting from delay in performance. The parties have used their judgment to arrive at a reasonable amount to compensate for delay.
 - 2. Amount of Penalty. Failure to complete the Defined Services within the allotted time period specified in this Agreement shall result in the following penalty: For each consecutive calendar day in excess of the time specified for the completion of the respective work assignment or Deliverable, the Contractor shall pay to the City, or have withheld from monies due, the sum of Liquidated Damages Rate provided in Exhibit A, Paragraph 13 (Liquidated Damages Rate).
 - 3. Request for Extension of Time. If the performance of any act required of Contractor is directly prevented or delayed by reason of strikes, lockouts, labor disputes, unusual governmental delays, acts of God, fire, floods, epidemics, freight embargoes, or other causes beyond the reasonable control of the Contractor, as determined by the City, Contractor shall be excused from performing that act for the period of time equal to the period of time of the prevention or delay. In the event Contractor claims the existence of such a delay, the Contractor shall notify the City's Contract Administrator, or designee, in writing of that fact within ten calendar days after the beginning of any such claimed delay. Extensions of time will not be granted for delays to minor portions of work unless it can be shown that such delays did or will delay the progress of the work.

ARTICLE V. INDEMNIFICATION

A. Defense, Indemnity, and Hold Harmless.

1. General Requirement. Except for liability for Design Professional Services covered under Article V., Section A.2., Contractor shall defend, indemnify, protect and hold harmless the City, its elected and appointed officers, agents and employees, from and against any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions, negligence, or willful misconduct of Contractor, its officials, officers, employees, agents, and contractors, arising out of or in connection with the performance of the Defined Services or this Agreement. This indemnity provision does not include any claims, damages, liability, costs and expenses (including without limitations, attorneys fees) arising from the sole negligence, active negligence or willful misconduct of the City, its officers, employees. Also covered is liability arising from, connected with, caused by or claimed to be caused by the active or passive negligent acts or omissions of the City, its agents, officers, or employees which may be in combination with the active or passive negligent acts or omissions of the Contractor, its employees, agents or officers, or any third party.
2. Design Professional Services. If Contractor provides design professional services, as defined by California Civil Code section 2782.5, as may be amended from time to time, Contractor shall defend, indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Contractor, its officials, officers, employees, agents, Contractors, and contractors arising out of or in connection with the performance of Contractor's services. Contractor's duty to defend, indemnify, and hold harmless shall not include any claims or liabilities arising from the sole negligence, active negligence or willful misconduct of the City, its agents, officers or employees. This section in no way alters, affects or modifies the Contractor's obligations and duties under this Agreement.
3. Costs of Defense and Award. Included in the obligations in Sections A.1 and A.2, above, is the Contractor's obligation to defend, at Contractor's own cost, expense and risk, any and all suits, actions or other legal proceedings, that may be brought or instituted against the City, its directors, officials, officers, employees, agents and/or volunteers, subject to the limitations in Sections A.1. and A.2. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City or its directors, officials, officers, employees, agents and/or volunteers, for any and all related legal expenses and costs incurred by each of them, subject to the limitations in Sections A.1. and A.2.
4. Insurance Proceeds. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its directors, officials, officers, employees, agents, and/or volunteers.

5. Declarations. Contractor's obligations under Article V shall not be limited by any prior or subsequent declaration by the Contractor.
6. Enforcement Costs. Contractor agrees to pay any and all costs City incurs enforcing the indemnity and defense provisions set forth in Article V.
7. Survival. Contractor's obligations under Article V shall survive the termination of this Agreement.

ARTICLE VI. TERMINATION OF AGREEMENT

- A. **Termination for Cause**. If, through any cause, Contractor shall fail to fulfill in a timely and proper manner Contractor's obligations under this Agreement, or if Contractor shall violate any of the covenants, agreements or stipulations of this Agreement, City shall have the right to terminate this Agreement by giving written notice to Contractor of such termination and specifying the effective date thereof at least five (5) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, reports and other materials prepared by Contractor shall, at the option of the City, become the property of the City, and Contractor shall be entitled to receive just and equitable compensation, in an amount not to exceed that payable under this Agreement and less any damages caused City by Contractor's breach, for any work satisfactorily completed on such documents and other materials up to the effective date of Notice of Termination,.
- B. **Termination of Agreement for Convenience of City**. City may terminate this Agreement at any time and for any reason, by giving specific written notice to Contractor of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In that event, all finished and unfinished documents and other materials described hereinabove shall, at the option of the City, become City's sole and exclusive property. If the Agreement is terminated by City as provided in this paragraph, Contractor shall be entitled to receive just and equitable compensation, in an amount not to exceed that payable under this Agreement, for any satisfactory work completed on such documents and other materials to the effective date of such termination. Contractor hereby expressly waives any and all claims for damages or compensation arising under this Agreement except as set forth in this section.

ARTICLE VII. RECORD RETENTION AND ACCESS

- A. **Record Retention**. During the course of the Project and for three (3) years following completion, the Contractor agrees and to maintain, intact and readily accessible, all data, documents, reports, records, contracts, and supporting materials relating to the Project as City may require.
- B. **Access to Records of Contractor and Subcontractors**. The Contractor agrees to permit, and require its subcontractors to permit City or its authorized representatives, upon request, to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Contractor and its subcontractors pertaining to the Project.

- C. **Project Closeout.** The Contractor agrees that Project closeout does not alter the reporting and record retention requirements of this Agreement.

ARTICLE VIII. PROJECT COMPLETION, AUDIT, AND CLOSEOUT

- A. **Project Completion.** Within ninety (90) calendar days following Project completion or termination by City, Contractor agrees to submit a final certification of Project expenses and audit reports, as applicable.
- B. **Audit of Contractors.** Contractor agrees to perform financial and compliance audits the City may require. The Contractor also agrees to obtain any other audits required by City. Contractor agrees that Project closeout will not alter Contractor's audit responsibilities. Audit costs are allowable Project costs.
- C. **Project Closeout.** Project closeout occurs when City notifies the Contractor that City has closed the Project, and either forwards the final payment or acknowledges that the Contractor has remitted the proper refund. The Contractor agrees that Project closeout by City does not invalidate any continuing requirements imposed by the Agreement or any unmet requirements set forth in a written notification from City

ARTICLE IX. MISCELLANEOUS PROVISIONS

- A. **Assignability.** The services of Contractor are personal to the City, and Contractor shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or notation), without prior written consent of City.
1. **Limited Consent.** City hereby consents to the assignment of the portions of the Defined Services identified in Exhibit A, Paragraph 16 to the subcontractors identified as "Permitted Subcontractors."
- B. **Ownership, Publication, Reproduction and Use of Material.** All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems and any other materials or properties produced under this Agreement shall be the sole and exclusive property of City. No such materials or properties produced in whole or in part under this Agreement shall be subject to private use, copyrights or patent rights by Contractor in the United States or in any other country without the express written consent of City. City shall have unrestricted authority to publish, disclose (except as may be limited by the provisions of the Public Records Act), distribute, and otherwise use, copyright or patent, in whole or in part, any such reports, studies, data, statistics, forms or other materials or properties produced under this Agreement.
- C. **Independent Contractor.** City is interested only in the results obtained and Contractor shall perform as an independent contractor with sole control of the manner and means of performing the services required under this Agreement. City maintains the right only to reject or accept Contractor's work products. Contractor and any of the Contractor's agents, employees or representatives are, for all purposes under this Agreement, independent contractors and shall not be deemed to be employees of City, and none of them shall be entitled to any benefits to which City employees are entitled including but not limited to,

overtime, retirement benefits, worker's compensation benefits, injury leave or other leave benefits. Therefore, City will not withhold state or federal income tax, social security tax or any other payroll tax, and Contractor shall be solely responsible for the payment of same and shall hold the City harmless with regard to them.

1. Actions on Behalf of City. Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever, as an agent or otherwise. Contractor shall have no authority, express or implied, to bind City or its members, agents, or employees, to any obligation whatsoever, unless expressly provided in this Agreement.
2. No Obligations to Third Parties. In connection with the Project, Contractor agrees and shall require that it's agents, employees, subcontractors agree that City shall not be responsible for any obligations or liabilities to any third party, including its agents, employees, subcontractors, or other person or entity that is not a party to this Agreement. Notwithstanding that City may have concurred in or approved any solicitation, subagreement, or third party contract at any tier, City shall have no obligation or liability to any person or entity not a party to this Agreement.

- D. Administrative Claims Requirements and Procedures.** No suit or arbitration shall be brought arising out of this Agreement, against City unless a claim has first been presented in writing and filed with City and acted upon by City in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may from time to time be amended, the provisions of which are incorporated by this reference as if fully set forth herein, and such policies and procedures used by City in the implementation of same. Upon request by City, Contractor shall meet and confer in good faith with City for the purpose of resolving any dispute over the terms of this Agreement.
- E. Administration of Contract.** Each party designates the individuals (Contract Administrators) indicated on Exhibit A, Paragraph 12, as that party's contract administrator who is authorized by the party to represent it in the routine administration of this Agreement.
- F. Term.** This Agreement shall terminate when the parties have complied with all executory provisions hereof.
- G. Attorney's Fees.** Should a dispute arising out of this Agreement result in litigation, it is agreed that the prevailing party shall be entitled to a judgment against the other for an amount equal to reasonable attorneys' fees and court costs incurred. The "prevailing party" shall be deemed to be the party who is awarded substantially the relief sought.
- H. Statement of Costs.** In the event that Contractor prepares a report or document, or participates in the preparation of a report or document in performing the Defined Services, Contractor shall include, or cause the inclusion of, in the report or document, a statement of the numbers and cost in dollar amounts of all contracts and subcontracts relating to the preparation of the report or document.
- I. Contractor is Real Estate Broker and/or Salesman.** If the box on Exhibit A, Paragraph 15 is marked, the Contractor and/or principals is/are licensed with the State of California or

some other state as a real estate broker or salesperson. Otherwise, Contractor represents that neither Contractor, nor its principals are licensed real estate brokers or salespersons.

- J. **Notices.** All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands and requests to be sent to any party shall be deemed to have been properly given or served if personally served or deposited in the United States mail, addressed to such party, postage prepaid, registered or certified, with return receipt requested, at the addresses identified in this Agreement as the places of business for each of the designated parties.
- K. **Integration.** This Agreement, together with any other written document referred to or contemplated in it, embody the entire Agreement and understanding between the parties relating to the subject matter hereof. Neither this Agreement nor any provision of it may be amended, modified, waived or discharged except by an instrument in writing executed by the party against which enforcement of such amendment, waiver or discharge is sought.
- L. **Capacity of Parties.** Each signatory and party to this Agreement warrants and represents to the other party that it has legal authority and capacity and direction from its principal to enter into this Agreement, and that all necessary resolutions or other actions have been taken so as to enable it to enter into this Agreement.
- M. **Governing Law/Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action arising under or relating to this Agreement shall be brought only in the federal or state courts located in San Diego County, State of California, and if applicable, the City of Chula Vista, or as close thereto as possible. Venue for this Agreement, and performance under it, shall be the City of Chula Vista.

(End of page. Next page is signature page.)

**Signature Page
to
Agreement between
City of Chula Vista and
Cannon Pacific Services, Inc.
to Provide Street Sweeping Services**

IN WITNESS WHEREOF, City and Contractor have executed this Agreement, indicating that they have read and understood same, and indicate their full and complete consent to its terms:


Dated: 11/28/11

City of Chula Vista

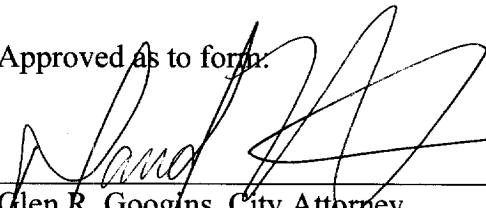
By: 
Cheryl Cox, Mayor

Attest:


Donna Norris, City Clerk

By: 
Richard Hopkins,
Director of Public Works

Approved as to form:


Glen R. Googins, City Attorney

Dated: 11/22/11

Cannon Pacific Services, Inc


By: 
Lee Miller, President and CEO

Exhibit A
to
Agreement between
City of Chula Vista
and
Cannon Pacific Services, Inc.

1. Effective Date of Agreement: November 15, 2011

2. City-Related Entity ("City"):

- City of Chula Vista, a municipal chartered corporation of the State of California
- Redevelopment Agency of the City of Chula Vista, a political subdivision of the State of California
- Industrial Development Authority of the City of Chula Vista,
a _____
- Other: _____,

3. Place of Business for City:

City of Chula Vista
Public Works/ Street Division
1800 Maxwell Road
Chula Vista, CA 91911

4. Contractor:

Cannon Pacific Services, Inc.
Attention: Lee Miller, President and CEO

5. Business Form of Contractor:

- Sole Proprietorship
- Partnership
- Corporation

6. Place of Business, Telephone and Fax Number of Contractor:

285 Pawnee Street
Suite A
San Marcos, California 92078
Phone (760) 943-9633 Ext. 305

AFTER HOURS EMERGENCY VOICE PHONE: (760) 801-7436; (760) 802-2286
FAX PHONE: (760) 602-0522

7. General Duties:

Contractor shall provide sweeping of City streets, center islands/medians, center lines and parking lots in accordance with the conditions stated herein, and in accordance with the schedules listed in Exhibit "B", and "C" included herein.

Sweeping for all curbs, gutters, median curbs and painted islands, centerlines, and road shoulders, turning lanes, alleys, cross gutters, intersection curb return areas and parking lots located in the City and designated in this Agreement in Exhibit B and C or subsequently added shall be performed in a manner consistent with that highest level of care and skill exercised by members of the municipal street cleaning profession. There shall be no fines, sediment or debris left at the curb, apron adjoining the curb, gutter or either end of the broom or pick-up head when the final pass for sweeping a street, center line, center median or island is complete. Standards of performance shall include sweeping all intersection curb returns and all cross gutters in a manner such that no "diamonds," of fines, sediment, fractured glass or other debris remain. If additional passes through an intersection are required in order to adequately sweep both a return and a cross gutter, the Contractor shall make the necessary passes without extra charges. On streets with uncurbed median islands created by pavement striping, the median areas shall be swept their entire width. When necessary for proper cleaning, Contractor shall make more than one pass on a street, without extra charge.

The contractor shall be expected to hand collect any bulky item such as corrugated cardboard which the broom or pick-up head may reject. Over weight items such as concrete chunks, or lumber shall be moved from the road to the immediate adjacent curb and immediately reported to the number provided for City crews (619-397-6000).

8. Scope of Work and Schedule

The Scope of Work and Schedule contained herein is designed to establish an effective, efficient and safe system of street cleaning and parking lot cleaning that provides for the following intended purposes:

Establish and maintain a continuous level of cleanliness of City streets in order to assure protection of the health, safety and welfare of the community.

Clean City streets in a systematic and coordinated manner that compliments solid waste collection and other City services, by use of a routing system that will improve current street cleaning practices while decreasing costs.

Increase the collection of fines, sediment, particulate, debris and any other materials on the street to prevent them from entering the storm drain system as much as possible.

Provide deficiency reports indicating areas that cannot be swept and the reason for not sweeping.

8A. Detailed Scope of Work: The Contractor shall in a manner consistent with that highest level of care and skill exercised by members of the profession clean all curbs, gutters, median curbs and painted islands, centerlines, road shoulders, turning lanes, alleys, cross gutters, intersection curb return areas and parking lots located in the City as designated in this Agreement in Exhibits B and C. Parking is not restricted for street sweeping purposes.

The Contractor shall sweep around any vehicle on City streets in a safe manner and missing as little curb and/or gutter as possible.

The streets and parking lots to be cleaned, and the frequency of cleaning are listed in Exhibits B and C. The lengths represent the City's best measurement. Payment will be based on the quantities indicated with no adjustments except as provided herein.

Contractor is responsible for verifying measurements and inspecting all conditions prior to submitting their bid and starting work. The streets and parking lots to be cleaned are divided into the following categories:

- (1) Class A: (Residential) Streets to be swept once every two months.
- (2) Class B: (Business/Commercial) Streets to be swept once every two weeks.
- (3) Class C: (Commercial) Streets to be swept once every two weeks.
- (4) Class D: Center islands and medians to be swept once every two months.
- (5) Class E: Center lines to be swept once every two months.
- (6) Class F: Non-curbed streets to be swept once every two months.
- (7) Class G: Parking lots to be swept once every two months.
- (8) Class H: Other special sweeping requested by the City at the rate stipulated within the bid.

8B. Equipment Specifications and Maintenance: The type of street sweeping equipment used by the Contractor shall be consistent with that highest level of quality and performance currently available to the industry and shall be subject to the approval of the Street Maintenance Public Works Manager. Vehicles and equipment used to perform the services provided for herein shall be clean, and maintained in good mechanical condition at all times. In addition, the following shall apply:

- (1) Contractor shall use standard heavy-duty broom-type or regenerative air equipment that will clean the streets of the City of paper, wet leaves, dirt, rocks and debris. Vacuum type sweepers shall not be permitted except that small air or vacuum sweepers may be permitted, if approved by the City, in cleaning the parking lots only. The broom, brush or pick-up heads shall be applied with sufficient pressure to pick up said material in one pass.
- (2) The City requires use of at least three (3) street sweepers with one backup sweeper, unless Contractor demonstrates to City's satisfaction that some lesser equipment standard would adequately provide the services required by this Agreement. The City prefers that the Contractor begin the agreement with new sweepers. The average age of the fleet used including the back up sweeper shall not be more than 5 years of age at any time during the initial term of the agreement and no sweeper shall be more than seven (7) years old at any time during the full term and all extensions. Certification

shall be presented by the Contractor and approved by the Street Maintenance Public Works Manager that any equipment over five years of age has been completely overhauled and/or rebuilt to the City's satisfaction. All vehicles shall meet the latest and best standard for vehicle air emissions; reduce sweeping particulate impacts, and road safety.

- (3) All equipment shall meet or exceed the South Coast Air Quality Management Districts Rule 1186 for fugitive dust particulates of 10 microns (PM₁₀) or less, and the California Air Resources Board Standard for super ultra-low emission vehicles (SULEV).
- (4) All equipment shall be equipped in accordance with existing State law, equipped with safety lighting and markings appropriate for slow-moving vehicles, and shall be equipped with a flashing light with the following characteristics:
 - (a) Visible for a minimum of one mile.
 - (b) Flash 60 to 90 times per minute.
 - (c) Mounted for 360-degree visibility.
 - (d) Equipped with amber lens.
- (5) Contractor shall thoroughly clean and wash all trucks at least once each week and shall otherwise keep them clean, neat and in sanitary condition at all times. All vehicles shall be field inspected by someone other than the driver on a regular basis but not less than quarterly for satisfactory service and leakage. All leaks discovered shall be immediately repaired. Mechanical brushes, brooms and pick-up heads shall be maintained in proper condition and shall be replaced as recommended by the manufacturer or when pick-up ability becomes impaired or does not meet the manufacturer's stated performance standard as represented in the bid. All street sweepers shall be equipped with adequate water systems for dust control. Each vehicle shall at all times have in the cab the registration of the vehicle, certification of insurance card, and an identification card with the name of whom to telephone in case of an accident. Each vehicle shall be equipped with a five-pound fire extinguisher certified by the State fire marshal, as well as a two-way radio or comparable wireless telephone. Graffiti on any equipment shall be promptly removed. Cannon Pacific Services, Inc. shall exercise all reasonable care and diligence in sweeping so as to prevent spilling, scattering or dropping of waste or debris and shall immediately, at the time of known occurrence or upon notification clean up any spillage.
- (6) All street sweepers shall be equipped with a geographic positioning system (GPS) connection to the City with real time and monthly report capacity for each vehicle that indicates, date and time of service, vehicle identification and speed, broom or pick-up head down time, mileage and route. The contractor shall provide the City with information necessary to monitor the sweeper activity from City owned computers.

- (7) Contractor shall provide any adequate support equipment including debris transfer vehicles, pickup trucks, service trucks, tire trucks, and any other item of equipment necessary to provide sweeping services as described in these specifications.
- (8) All equipment (including support equipment) to be used by the Contractor shall be subject to the inspection and final approval of the City. Such approval may require on-site demonstration of the capability of any proposed equipment.
- (9) Notice of Changes to Equipment. Contractor shall notify City prior to entering into any contract for the purchase or lease of any vehicle of a design or color not pre-approved by the City, or to changing the signage on same, and shall meet and confer with City in order to determine the appropriateness of same.
- (10) The City shall have the option to perform a complete inspection of all vehicles at any time throughout the term of the Agreement. Should any vehicle, when inspected, and in the determination of the City, not meet standards that the City feels are necessary to complete the Contract or to operate safely, the Contractor shall, at its cost, immediately bring such vehicle to standard before being placed back in service; however, during this repair time period, Contractor shall remain obligated to provide full service under this Agreement at no additional cost.
- (11) The City reserves the right over the life of this Agreement to reject any equipment for use for sweeping City streets. The Contractor shall furnish at no additional cost equipment satisfactory to the City.
- (12) Nothing herein shall preclude the Contractor from substituting other equal equipment occasionally for temporary purposes (up to 3 days) due to maintenance or other factors upon prior notice to the City. Any change in sweepers more frequent than once per month or more than three days shall be subject to the written approval of the Street Maintenance Public Works Manager. At any time during the life of this Agreement, all equipment shall be available for inspection by the City upon 24-hour notification to the Contractor.
- (13) Equipment must have sufficient mufflers and other silencing devices to permit its operation within City noise standards (no more than 55 dba within 25 feet of a residence). All equipment shall be subject to City approval prior to use.

8C. Other Requirements:

- (1) The Contractor shall at no additional cost to the City place signs approved by the City on the street sweeping equipment used in the performance of the work, which signs shall be visible from both sides and the rear of the vehicle and shall read "Under Contract to the City of Chula Vista," in letters of at least 4 inches in height.
- (2) The Contractor shall maintain an office within San Diego County, or provide an 800 telephone number, staffed by a responsible representative for receipt of requests from 8:00 a.m. to 5:00 p.m., Monday through Friday, not including approved holidays. The Contractor shall provide a list of names and phone numbers of supervisory

personnel who can be contacted on a 24-hour basis to respond to emergency needs. The Contractor for the life of the Agreement shall keep this list current.

- (3) The Contractor shall maintain, at its own expense, an adequate maintenance and storage facility, located in San Diego County, to maintain and store the Contractor's equipment inventory. Contractor shall provide documentation for maintenance work that is contracted by providing the name and address of the contracted maintenance facility, the type of work contracted and the length of the contract. The City may, at its sole discretion, provide a location for parking two (2) sweeper units and access to the vehicle power-washing facility used for this Agreement at its Public Works Corporate Yard located at 1800 Maxwell Rd in Chula Vista. The use of the facility does not include use of the site for any mechanical repairs. The Contractor's use of the site is subject to all local, state and federal law regarding vehicles. If the Street Maintenance Public Works Manager determines that the Contractor has abused their use of the site, breached site security, or otherwise improperly used or failed to care for the site, the Contractor's use shall be cancelled without appeal. Contractor agrees to vacate premises within forty-eight hours' notice. Such cancellation shall not constitute a change in rate charged the City. Should the Contractor elect to store sweepers at the Corporate yard, Contractor agrees to perform special sweeps at the conclusion of the following City events: Cinco de Mayo; The Lemon Festival; and The Yule Tide Parade, and additionally sweep said Corporate yard and Maxwell Road from Main Street to the northern property boundary routinely and/or as requested by the Street Maintenance Public Works Manager, but no more than once per two weeks. These services are considered compensation for use of the Corporate yard for sweeper storage and use of the vehicle power-wash facility.
- (4) The Contractor shall provide the name of a contact person and phone number for use by the Street Maintenance Public Works Manager, or Designee, in case of routine questions relating to the Agreement, sweeping days and times, new street additions, and resolution of citizen complaints.
- (5) Employees: Contractor shall provide top quality service by industry standards, including competent, qualified and sober personnel who serve the public in a courteous, helpful and impartial manner. Subject to all applicable law, and the provisions of collective bargaining agreements negotiated in good faith (a) City may, at its option, require fingerprinting of Contractors employees or agents whose service will cause them to enter onto or work in close proximity to private property; and (b) Contractor shall hire employees without regard to race, religion, color, national origin, sex, political affiliation, or any other non-merit factor. Any employee driving a vehicle shall at all times have in his/her possession a valid and appropriate license issued by the State. Cannon Pacific Services, Inc. and its employees and agents shall be required to wear clean clothing of a uniform type when engaged in sweeping service on public streets and adhere to the drug free work place standards. Contractor shall train all employees in the operation of vehicles, standards of performance contained herein and the assigned routes for the City prior to assigning them to routes independently. The City shall be notified at least 24 hours in advance whenever a regular operator is replaced with an employee other than a standard replacement

whose proficiency with the City has been confirmed, and new operators shall be accompanied by a Contractor supervisor until their proficiency is assured.

8D. Standards of Performance:

- (1) Sweeping for all curbs, gutters, median curbs and painted islands, centerlines, road shoulders, turning lanes, alleys, cross gutters, intersection curb return areas and parking lots located in the City and designated in this Agreement in Exhibits B, C & D or subsequently added shall be performed in a manner consistent with that highest level of care and skill exercised by members of the municipal street cleaning profession. There shall be no fines, sediment or debris left at the curb, apron adjoining the curb, gutter or either end of the broom or pick-up head when the final pass for sweeping a street, center line, center median or island is complete. Standards of performance shall include sweeping all intersection curb returns and all cross gutters in a manner such that no "diamonds," of fines, sediment, fractured glass or other debris remain. If additional passes through an intersection are required in order to adequately sweep both a return and a cross gutter, the Contractor shall make the necessary passes without extra charge. On streets with uncurbed median islands created by pavement striping, the median areas shall be swept their entire width. When necessary for proper cleaning, Contractor shall make more than one pass on a street, without extra charge.

The contractor shall be expected to hand collect any bulky item such as corrugated cardboard which the broom or pick-up head may eject. Over weight items such as concrete chunks or lumber shall be moved from the road to the immediate adjacent curb and immediately reported to the number provided for City crews.

- (2) **Sweeper speeds shall not exceed eight (8) miles per hour when sweeping.**
- (3) The Contractor shall maintain lists of locations that cannot be adequately swept because of obstructions such as low hanging limbs or vehicles that are parked on the City streets for extended periods of time (deficiency reports). These deficiency reports with locations and dates shall be turned into the Street Maintenance Public Works Manager as soon as possible but no later than ten (10) days following the Contractor having swept around the obstruction. Deductions may be made from Contractor's payments for areas not swept due to obstructions that were not reported to the Department.
- (4) The Contractor shall promptly and as soon as practicably possible, repair or replace all existing improvements that are damaged as a result of its operation. Improvements, such as, but not limited to, curbs, gutters, driveways, or signs, shall be repaired and replaced to a condition equal to or better than the original condition, and no additional compensation shall be made by City.
- (5) The Contractor is expected to clean the entire area of the City parking lots and shall use vacuum hoses attached to their sweepers to remove material from areas the sweeper cannot reach or brooms, air blowers or other methods in all parking lots to move debris to a location where it can be swept up.

- (6) The Contractor shall dispose of all refuse collected by hauling the same to legally established disposal areas at Contractor's expense. Transfer points for storage of sweepings must be approved by the City and in no case be stored in the City in excess of five working days. The City shall approve disposal areas in advance.
- (7) The Contractor shall provide security to such transfer points to prevent the spread of the refuse by others or by nature, or the addition of debris to the sweeping refuse by others. Transfer points shall be kept clean at all times. The Department reserves the right to inspect the transfer points, and if the Department determines the transfer points are not being maintained properly, it will notify the Contractor to clean up the area. Said clean-up will be completed within 24 hours of notification.
- (8) The cost for disposal of sweeping refuse, including any and all landfill fees, is included in the various unit price compensation rates, as designated herein, and no additional compensation will be paid by the City. Therefore, except as stated in Exhibit A, Paragraph 11, entitled "Compensation", receipts of disposal at the established disposal site shall be prepared by the Contractor and may be requested/reviewed by the City periodically.
- (9) The Contractor shall make all necessary arrangements to obtain and pay for water necessary for the operation from the appropriate water district or authority. The Contractor shall maintain an accounting of the amount of water used each day and shall submit a copy of payment to the Water districts with their request for payment from the City as soon as feasible but no less than quarterly for the previous water billing period(s). Reclaimed water should be used to the extent allowed by local and state law and whenever operationally feasible. No additional compensation will be paid by the City.

8E. Sweeping Schedule: Upon execution of the Agreement, the Contractor shall submit a sweeping schedule ("Schedule") to the Street Maintenance Public Works Manager. The Schedule shall identify the streets or neighborhoods and parking lots to be swept each week. The Schedule shall provide for the sweeping of streets and intersections and parking lots as shown on Exhibit B and C. The required Schedule must provide the following information:

- (1) Contractor shall provide a list of proposed cleaning routes for a complete cycle of cleaning, with identification of all streets to be cleaned on each route in sequence ("Routing Lists"). Routes shall show direction of travel and include head-in locations and routes shall indicate start/end locations for each day's work. Maps of all routes shall accompany the Routing Lists.
- (2) The mileage for each street on each route must be identified as Right Hand or Left Hand sweeping mileage. Each Route List must reference the segment of streets to be swept. The total mileage for all proposed routes must equal the mileages contained in Exhibit B, or as modified by the City as stated herein.

- (3) The Contractor shall schedule the hours of operation as approved by the Street Maintenance Public Works Manager so as to sweep the streets when a minimum number of vehicles are expected to be parked at the curb. The Contractor shall also make every effort to schedule the sweeping on days following regular trash collections, but in no event any closer than two days prior to trash pickup.
- (4) The hours during which the sweeping shall be performed shall be at the discretion of the Contractor, with the approval of the Street Maintenance Public Works Manager. The Contractor may be required to do early morning sweeping, such as on certain major streets and parking lots. No sweeping in residential areas shall be started prior to 7:00 a.m., or conducted later than 4:00 p.m.
- (5) The City has several areas where on street parking of adjacent residents prevents adequate sweeping. City plans to provide public education to inform residents of the sweeping schedule in their neighborhood to encourage off street parking during street sweeping periods. The City may, in future, post signs to prohibit parking at certain times or on alternate weeks for each side of the street. City reserves the right to require Contractor to revise the Schedule accordingly to provide an adequate level of sweeping. The City will make every effort to coordinate those changes with the contractor to make them as efficient for the Contractor and as convenient for the residents as possible. No additional charge or payment shall be made therefore.
- (6) All municipal and park parking lots shall be swept on a schedule to be determined by the Street Maintenance Public Works Manager with the input of the Contractor. The park parking lots are expected to have the least amount of vehicles between the hours of 4:30 a.m. and 7:00 a.m., on Mondays while municipal parking lots may best be swept on Saturdays between 9 a.m. and 3 p.m. The corners and any obstructed areas of lots shall be cleaned with a vacuum house or other method or cleared with a broom or blower and the entire surface area of each lot shall be swept. The Contractor shall submit for approval a schedule indicating the days and times that these lots will be swept within 15 days of the award of the Contract.

8F. Adjustments to Street Sweeping Schedule:

- (1) Holidays and Inclement Weather.
 - (a) When inclement weather, in the opinion of the Street Maintenance Public Works Manager, prevents adherence to the Schedule for two or less days in a given week, the sweeping areas so affected by the inclement weather shall be swept at the discretion of the Street Maintenance Public Works Manager. Such "make up sweeping," shall occur without interruption of the regular sweeping schedule and no later than the following week from the date of the scheduled sweeping for all Classes of service regardless of the frequency that they are swept. Missed sweeps for streets, medians, centerlines or parking lots shall be deducted from the monthly rate. The Contractor shall perform all extra work required by such inclement weather without additional charge.

- (b) As to holidays, when any holiday or observance as specified in the Government Code of the State of California occurs on a regularly scheduled sweeping day, the affected scheduled streets shall be swept without interruption in the regular sweeping schedule or interference with the solid waste collection service. The designated holidays for solid waste service are New Year's Day, Memorial Day, Independence Day (Fourth of July), Labor Day, Thanksgiving and Christmas. On those days and the remaining days of that week trash shall be delayed one day (Friday's service is provided on Saturday). The Contractor shall make any adjustments necessary to follow trash service but no event any later than the third day after trash collection. The Contractor shall perform make-up sweeping for holidays at no additional cost to the City. The Street Maintenance Public Works Manager may at his/her discretion upon consultation with the Contractor cancel service for one or more Classes of service on any holiday route and direct the Contractor to deduct the mileage for that day from the monthly payment. The Contractor shall perform make-up sweeping for holidays at no additional cost to the City.
- (c) In the event the Contractor is prevented from completing the sweeping as provided in the schedule because of reasons other than inclement weather, the Contractor shall be required at the City's discretion to complete the sweeping services so deferred prior to the next regularly scheduled date at no additional cost to the City, or give the City credit for the work not so performed at the unit price compensation rates specified herein, if agreed to by the City.

Failure to sweep streets on schedule for reasons other than inclement weather or acts not reasonably within the plan and control of the Contractor shall be subject to the "Enforcement Provisions," specified herein.

(2) Alteration by Agreement of Parties.

- (a) The Parties may alter the street sweeping schedule by agreement. The Contractor shall submit a new schedule in accordance with the provisions of section 8E, above.

8G. Interpretation of Specifications: Should any discrepancy appear, or any misunderstandings arise as to the meaning or interpretation of anything contained in these specifications, the matter shall be decided by the Street Maintenance Public Works Manager, and the interpretation of the Street Maintenance Public Works Manager shall be binding upon the Contractor.

8H. Verification of Work:

- (1) It shall be the responsibility of the Contractor to guarantee the execution of the Agreement in accordance with its terms and specifications. In addition to any and all other remedies provided hereunder, or at law or equity, Contractor's failure to perform any work required hereunder shall entitle the City to withhold payment with respect to such work. The Street Maintenance Public Works Manager, or his/her

designee ("Designee"), shall have the right to inspect and monitor the work performed under the Agreement.

- (2) As required in this Agreement, the Contractor shall submit the Schedule and Route Lists for all scheduled cleaning upon award. These Route Lists will be reviewed for accuracy and efficiency by the Street Maintenance Public Works Manager. The Contractor shall meet with the Street Maintenance Public Works Manager to make any necessary changes to the Route Lists or Schedule. Any subsequent changes or revisions to the Schedule or Route Lists throughout the Term must have the prior written approval of the Street Maintenance Public Works Manager.

The Schedule shall become the basis for:

- (a) the Contractor's Routing Lists,
 - (b) the City's inspection of sweeping,
 - (c) the invoicing of Route Lists completed, and
 - (d) payment by the City for services rendered.
- (3) The Contractor shall prepare a monthly Schedule showing the Route List and submit two copies to the City. In the event the Schedule is changed, the Contractor shall submit a revised Schedule to the City at least five (5) working days prior to the change. In the event a Route List is changed, the Contractor shall submit a revised Route List and map of the proposed route. Such Route Lists and maps shall be submitted for both Contractor and City initiated route changes, including additions caused by acceptance of new streets into the City's maintained mileage, at least five (5) working days prior to sweeping.
 - (4) The Street Maintenance Public Works Manager, or his/her designee, shall have the right to monitor the Contractor's work performance. All streets cleaned by the Contractor must present an appearance that is completely satisfactory to the Street Maintenance Public Works Manager, or his/her designee, and within the guidelines of the Standard of Performance contained herein. The City shall maintain a log of inspections and will verify completion of the contractor's work with the Contractor at a minimum of once per month. Any deficiency in the Contractor's performance shall be reported to the Contractor within 24 hours following completion of work or as soon as possible but no later than the next cycle of sweeping for that area. The Contractor shall correct such deficiencies by no later than 24 hours following receipt of such notice.
 - (5) In the event a street rehabilitation or improvement project is under construction or will be under construction where cleaning is scheduled, that portion of a cleaning cycle will be deleted from the appropriate Route List at the direction of the Street Maintenance Public Works Manager. The section(s) of streets deleted may be re-entered at the first scheduled cycle following completion of the rehabilitation. Such deletions shall be reflected in the Contractor's request for payments. Prior to re-

entering any such street into the cycle, the Street Maintenance Public Works Manager shall make a field inspection and the Contractor to determine what cleaning will be required by others. In no event will the Contractor be allowed additional compensation by the Department for initial cleaning of a re-entered street following rehabilitation or construction.

(6) In addition to the procedure for verification of work performed as described herein, the Contractor shall lend whatever necessary assistance the Department may request with respect to verification of work performed.

8I. Additional Services: The City may from time to time require special sweeping on a callback basis, such as for accidental spills, sweeping after special events or miscellaneous needs. The per hour rate for these Additional Services is designated in Exhibit A, Paragraph 10, entitled "Compensation." The amount charged for this callback work shall be at the rates specified in the rate schedule in Paragraph 10D of this Exhibit A.

8J. Accidents: Any and all accidents, regardless of how minor, involving another person, private property, or vehicle shall be reported immediately to the City Police Department and a Police report requested. The Street Maintenance Public Works Manager, and/or the City Risk Manager, shall also be contacted immediately but no later than the next regular business day.

8K. Date for Commencement of Contractor Services:

Same as Effective Date of Agreement

Other: _____

8L. Dates or Time Limits for Delivery of Deliverables: Not Applicable

8M. Date for completion of all Contractor services: This agreement shall be in effect for a period of five years beginning November 15, 2011, and ending June 30, 2016. The City may, at its sole discretion, extend this Agreement for two (2) additional two-year terms for a maximum contract term of nine (9) years ending June 30, 2020.

9. Materials Required to be Supplied by City to Contractor

Contractor to supply all required materials.

Note to agreement: Per Bid 1-11/12, the City cannot supply fuel or allow Contractor to refuel at City facilities.

10. Compensation:

10A. Single Fixed Fee Arrangement.

For performance of all of the Defined Services by Contractor as herein required, City shall pay a single fixed fee in the amounts and at the times or milestones or for the Deliverables set forth below:

Single Fixed Fee Amount: _____, payable as follows:

Milestone/Event/Deliverable ("M/E/S") Amount or Percent of Fixed Fee

- 1. _____
- 2. _____
- 3. _____

() Interim Monthly Advances. The City shall make interim monthly advances against the compensation due for each M/E/S on a percentage of completion basis for each given M/E/S such that, at the end of each M/E/S only the compensation for that M/E/S has been paid. Any payments made hereunder shall be considered as interest free loans that must be returned to the City if the M/E/S is not satisfactorily completed. If the M/E/S is satisfactorily completed, the City shall receive credit against the compensation due for that M/E/S. The retention amount or percentage set forth in Paragraph 18 is to be applied to each interim payment such that, at the end of the M/E/S, the full retention has been held back from the compensation due for that M/E/S. Percentage of completion of a M/E/S shall be assessed in the sole and unfettered discretion by the Contracts Administrator designated herein by the City, or such other person as the City Manager shall designate, but only upon such proof demanded by the City that has been provided, but in no event shall such interim advance payment be made unless the Contractor shall have represented in writing that said percentage of completion of the M/E/S has been performed by the Contractor. The practice of making interim monthly advances shall not convert this agreement to a time and materials basis of payment.

10B. () Phased Fixed Fee Arrangement.

For the performance of each phase or portion of the Defined Services by Contractor as are separately identified below, City shall pay the fixed fee associated with each phase of Services, in the amounts and at the times or milestones or Deliverables set forth. Contractor shall not commence Services under any Phase, and shall not be entitled to the compensation for a Phase, unless City shall have issued a notice to proceed to Contractor as to said Phase.

<u>Phase</u>	<u>Fee for Said Phase</u>
1.	\$ _____
2.	\$ _____
3.	\$ _____

() Interim Monthly Advances. The City shall make interim monthly advances against the compensation due for each phase on a percentage of completion basis

for each given phase such that, at the end of each phase only the compensation for that phase has been paid. Any payments made hereunder shall be considered as interest free loans that must be returned to the City if the Phase is not satisfactorily completed. If the Phase is satisfactorily completed, the City shall receive credit against the compensation due for that phase. The retention amount or percentage set forth in Paragraph 18 is to be applied to each interim payment such that, at the end of the phase, the full retention has been held back from the compensation due for that phase. Percentage of completion of a phase shall be assessed in the sole and unfettered discretion by the Contracts Administrator designated herein by the City, or such other person as the City Manager shall designate, but only upon such proof demanded by the City that has been provided, but in no event shall such interim advance payment be made unless the Contractor shall have represented in writing that said percentage of completion of the phase has been performed by the Contractor. The practice of making interim monthly advances shall not convert this agreement to a time and materials basis of payment.

10C. () Hourly Rate Arrangement

For performance of the Defined Services by Contractor as herein required, City shall pay Contractor for the productive hours of time spent by Contractor in the performance of said Services, at the rates or amounts set forth in the Rate Schedule herein below according to the following terms and conditions:

() Not-to-Exceed Limitation on Time and Materials Arrangement

Notwithstanding the expenditure by Contractor of time and materials in excess of said Maximum Compensation amount, Contractor agrees that Contractor will perform all of the Defined Services herein required of Contractor for \$_____, including all Materials, and other "reimbursables" (Maximum Compensation).

() Limitation without Further Authorization on Time and Materials Arrangement

At such time as Contractor shall have incurred time and materials equal to \$_____ (Authorization Limit), Contractor shall not be entitled to any additional compensation without further authorization issued in writing and approved by the City. Nothing herein shall preclude Contractor from providing additional Services at Contractor's own cost and expense. See Exhibit B for wage rates.

() Hourly rates may increase by 6% for services rendered after [month], 20___, if delay in providing services is caused by City.

10D. (X) Other

(X) Annual Maximum Compensation.

For the Term of this Agreement, including any extensions hereto, there shall be an annual maximum compensation amount for the performance of Defined Services ("Maximum Compensation"). The Maximum Compensation for a particular fiscal year during the term of this Agreement, or any extension thereof, shall be equal to that amount approved by Council for ORG KEY #16733-6401 for the applicable fiscal year. The Maximum Compensation amount approved for Fiscal Year 2011-2012 is \$150,000.

(X) Rate Schedule.

Payment under this Agreement shall be made on a monthly basis for curb miles, pass miles, or square footage, as appropriate, which Contractor adequately demonstrates to the City was actually cleaned, pursuant to the standards set forth herein, at the following rates; provided, however, in no event shall Contractor be entitled to compensation in excess of the sum of (a) compensation corresponding to the sweeping indicated in Exhibit B and, which numbers constitute the per frequency related to curb mile, pass mile or square footage scheduled by City under the terms of this Agreement; plus (b) compensation corresponding to additional services. Such numbers shall be further subject to adjustment by the addition or subtraction of streets or parking lots or other deductions or offsets expressly provided herein.

- (1) Class A Streets to be swept once every two months, at the rate of \$ 16.38 per curb mile
- (2) Class B Streets to be swept once every two weeks, at the rate of \$ 16.38 per curb mile
- (3) Class C Streets to be swept once every two weeks, at the rate of \$ 12.00 per curb mile
- (4) Class D Center islands and medians to be swept once every two months, at the rate of \$ 16.38 per curb mile
- (5) Class E Center lines to be swept once every two months, at the rate of \$ 12.00 per pass mile
- (6) Class F Non-curbed streets to be swept once every two months, at the rate of \$ 12.00 per curb mile
- (7) Class G Parking lots to be swept once every two months, at the rate of \$.00001 per square feet.
- (8) Class H Other special sweeping requested by the City at the following rates:

Streets Weekdays: Hourly rate of \$ 85.00 per hour
Streets Weekends and Holidays: Hourly rate of \$ 100.00 per hour
Streets Mileage rate/per curb/pass mile: \$ 17.00 per curb/pass mile

Parking Lots: Area rate of \$.15 per 100 square feet

(X) Requests for Partial Payment.

Request for partial payment must be made in duplicate to the Street Maintenance Public Works Manager and include the following:

- (1) Claim for payment in a format approved by the City.
- (2) Cover invoice showing curb or pass miles swept or parking lot square footages swept and an extension in dollars at unit price compensation rate.
- (3) Copy of Route lists for the invoiced period, showing the date each street was cleaned, the total mileage for the period and the initials and signature of the Contractor's representative.
- (4) The GPS report for each vehicle, for each day showing speed, mileage, travel times and broom-down sweeping times labeled to indicate the route or routes swept and initialed by the Contractor's representative.
- (5) A monthly statement with the dates and the times for each parking lot swept. A month prior, the Contractor shall provide a letter to the Street Maintenance Public Works Manager indicating the anticipated dates and times the parking lots will be swept.

(X) Substantiated Work.

Payment shall be made on the basis of actual, substantiated curb or pass miles, or square footage swept at the appropriate unit price compensation rate except that deductions shall be made for streets or areas not swept. Such deductions shall be made on the basis of curb or pass miles or square footage not swept at the appropriate unit price compensation rate. Deductions may also be made for streets or areas not properly swept according to the standards indicated herein.

(X) Price Adjustments.

Prices bid shall be firm for the first two years of the Agreement (11/15/11 - 06/30/13). Adjustments for the third through fifth year and the two (2) two-year options to renew shall be based upon the All Urban Consumers/All Items Component of the San Diego Metropolitan Area Consumer Price Index, as published by the Bureau of Labor Statistics, for the preceding twelve month period, (CPI increase), up to a maximum of 6% per year.

(X) No Additional Compensation.

The cost for disposal of sweeping refuse, including any and all landfill fees, shall be included in the various bid schedule prices, and no additional compensation will be paid by the City. Therefore, except as stated in Exhibit A, Paragraph 10,

entitled "Compensation", receipts of disposal at the established disposal site shall be prepared by the Contractor and may be requested/reviewed by the City periodically.

(X) Waste.

The Contractor shall not haul waste generated from the City using vehicles and employees of any person other than the Contractor's own labor and equipment or the City's franchise hauler. The City reserves the right to direct the Contractor to remove and convey waste generated under the Agreement to a Pacific Waste/Allied Facility (the Otay Landfill) and make an appropriate adjustment if: 1) The Contractor has not demonstrated that the proposed location and method for disposal is approved by the CA Integrated Waste Management Board and acceptable to the City, 2) that the indemnity provided by the disposal location does not transfer to the City, or 3) the rate for hauling and disposal quoted by the Contractor is more than the rate the City can obtain. Whenever possible, the City prefers that the material generated from street sweeping is diverted through recycling or composting. The City reserves the right to direct the Contractor to use the City's franchise hauler to remove and convey waste should the Contractor seek to haul waste outside the City using the vehicles and employees of any person other than the Contractor's own labor and equipment.

(X) Debris Testing.

The Contractor will be responsible for performance and payment of the Bi-Annual Street Sweeping Debris testing which includes Special Waste Profile, Recertifications, Applicable Title 22 Metals (CAM17) and the Wet CSTLC (when the total results of the trigger 10X their STLC value) TPH Gas, Diesel & extended range, VOC's 8260. Testing cost to be included in the unit cost.

(X) Extraordinary Circumstances.

Right to Request Increases Based on Extraordinary Circumstances. Notwithstanding the foregoing, the Contractor may submit a request to the City Council for additional rate relief at any time extraordinary expenses are incurred beyond Contractor's reasonable control. City Council reserves the right to approve or disapprove such a request in its sole discretion.

(X) Most Favored Nation Rate.

Notwithstanding any provisions in this section to the contrary, in the event that, during the Term of this Agreement, the Contractor or any affiliate thereof agrees to a rate or rates for sweeping streets and parking lots under an agreement (or equivalent contract) within the County of San Diego with a public agency which is/are lower than the rate or rates then in effect for the corresponding service(s) charged the City, then the Contractor shall immediately make such lower rates available and applicable to this Agreement.

11. Materials Reimbursement Arrangement

For the cost of out of pocket expenses incurred by Contractor in the performance of services herein required, City shall pay Contractor at the rates or amounts set forth below:

(X) None, the compensation includes all costs.

<u>Expense</u>	<u>Cost or Rate</u>
() Reports, not to exceed \$ _____:	\$ _____
() Copies, not to exceed \$ _____:	\$ _____
() Travel, not to exceed \$ _____:	\$ _____
() Printing, not to exceed \$ _____:	\$ _____
() Postage, not to exceed \$ _____:	\$ _____
() Delivery, not to exceed \$ _____:	\$ _____
() Outside Services:	\$ _____
() Other Actual Identifiable Direct Costs:	\$ _____
_____ , not to exceed \$ _____:	\$ _____
_____ , not to exceed \$ _____:	\$ _____

12. Contract Administrators:

City:
 Tim Ripley
 Street Maintenance Public Works Manager
 619-397-6043

Contractor:
 Lee Miller
 President and CEO
 Cannon Pacific Services, Inc.
 760-943-9633 ext. 305

13. Liquidated Damages Rate:

- () \$ _____ per day.
- (x) Other: See Exhibit "D" Enforcement Summary

14. Statement of Economic Interests, Contractor Reporting Categories, per Conflict of Interest Code (Chula Vista Municipal Code chapter 2.02):

- (x) Not Applicable. Not an FPPC Filer.
- () FPPC Filer
- () Category No. 1. Investments, sources of income and business interests.

- Category No. 2. Interests in real property.
- Category No. 3. Investments, business positions, interests in real property, and sources of income subject to the regulatory, permit or licensing authority of the department administering this Agreement.
- Category No. 4. Investments and business positions in business entities and sources of income that engage in land development, construction or the acquisition or sale of real property.
- Category No. 5. Investments and business positions in business entities and sources of income that, within the past two years, have contracted with the City of Chula Vista or the City's Redevelopment Agency to provide services, supplies, materials, machinery or equipment.
- Category No. 6. Investments and business positions in business entities and sources of income that, within the past two years, have contracted with the department administering this Agreement to provide services, supplies, materials, machinery or equipment.
- List Contractor Associates interests in real property within 2 radial miles of Project Property, if any:

15. Contractor is Real Estate Broker and/or Salesman

N/A

16. Permitted Subcontractors: None

17. Bill Processing:

A. Contractor's Billing to be submitted for the following period of time:

- Monthly
- Quarterly
- Other: _____

B. Day of the Period for submission of Contractor's Billing:

- First of the Month
- 15th Day of each Month

- End of the Month
- Other: _____

C. City's Account Number: **16733-6401**

18. Security for Performance

- Performance Bond, 100% of the amount of the contract price.
- Letter of Credit, \$ _____
- Other Security: _____

Type: _____
Amount: \$ _____

- Retention. If this space is checked, then notwithstanding other provisions to the contrary requiring the payment of compensation to the Contractor sooner, the City shall be entitled to retain, at their option, either the following "Retention Percentage" or "Retention Amount" until the City determines that the Retention Release Event, listed below, has occurred:

- Retention Percentage: 10 %
- Retention Amount: \$ _____

Retention Release Event:

- Completion of All Contractor Services
- Other: _____

EXHIBIT B

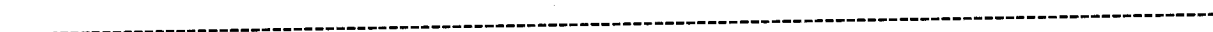
CITY OF CHULA VISTA SCHEDULE OF SWEEPING

	<u>EXISTING LINEAR FEET</u>	<u>EXISTING CURB MILES</u>
SWEEP CLASS A		
TOTAL RESIDENTIAL STREETS SWEPT ONCE EVERY TWO MONTHS	3,465,580	656.36
<hr/>		
SWEEP CLASS B		
TOTAL BUSINESS/COMMERCIAL STREETS SWEPT ONCE EVERY TWO WEEKS	639,461	121.11
<hr/>		
SWEEP CLASS C		
TOTAL COMMERCIAL STREETS SWEPT ONCE EVERY TWO WEEKS	55,440	10.50
<hr/>		
SWEEP CLASS D		
TOTAL CENTER ISLANDS AND MEDIANS SWEPT ONCE EVERY TWO MONTHS	393,730	74.57
<hr/>		
SWEEP CLASS E		
TOTAL CENTER LINES SWEPT ONCE EVERY TWO MONTHS	242,352	45.90 (PASS MILES)
<hr/>		
SWEEP CLASS F		
TOTAL NON-CURBED STREETS SWEPT ONCE EVERY TWO MONTHS	102,432	19.40
<hr/>		
SWEEP CLASS H		
OTHER SPECIAL SWEEPING REQUESTED BY THE CITY AT THE RATE STIPULATED WITHIN THE BID		

CLASS G CITY OF CHULA VISTA PARKING LOTS SWEEPED EVERY TWO MONTHS

- *Eucalyptus Park (47 Fifth Ave. / upper and lower lots)	69,710 sq. ft.
- *Rohr Park (4548 Sweetwater Rd. / 3 separate lots)	205,404 sq. ft.
- Public Parking Lot# 2 (Landis Av and Davidson St, N/E corner)	25,520 sq. ft.
- Public Parking Lot# 3 (Across from 280 Landis Av.)	24,132 sq. ft.
- Memorial Park/Parkway Gym (385 Park Way)	20,913 sq. ft.
- Norman Park Center (270 F St.)	13,200 sq. ft.
- Lauderbach Park/Center (333 Oxford St.)	19,350 sq. ft.
- Rienstra Park/Max Field (1500 Max Av.)	85,083 sq. ft.
- Loma Verde Park (1420 Loma Ln.)	88,468 sq. ft.
- SDG&E Park (1450 Hilltop Dr.)	11,329 sq. ft.
- Hilltop Park (780 Hilltop Dr.)	10,877 sq. ft.
- Civic Center Library (365 F St.)	59,864 sq. ft.
- Discovery Park (700 Buena Vista Way.)	64,670 sq. ft.
- Terra Nova Park (450 Hidden Vista Dr.)	15,370 sq. ft.
- South Chula Vista Library (1427 Fourth Av.)	82,780 sq. ft.
- Horizon Park (970 East Palomar St.)	7,800 sq. ft.
- Ken Lee Building (430 F St.)	35,000 sq. ft.
- Monteville Park (840 Duncan Ranch Rd.)	148,252 sq. ft.
- Mountain Hawk Park (1475 Lake Crest Dr.)	23,042 sq. ft.
- Salt Creek Park (2710 Otay Lakes Rd.)	119,064 sq. ft.
- Veterans Park (785 East Palomar St.)	28,266 sq. ft.
Civic Center area	16,640 sq. ft.
TOTAL	1,174,734 sq. ft.

Additional parking lots shall be swept on an as-needed basis, to be paid at the per sqft rate, in accordance with section "H" of the bid form.



Enforcement Summary & Incentives

The parties agree that calculating the full damages caused by Cannon Pacific Services, Inc. failure to adhere to performance standards is difficult if not impossible to ascertain. Consequently, the parties agree that the following liquidated damages schedule shall reflect liquidated damages that shall be payable to City in accordance with the terms hereof.

	Service Indicator	Description	Penalty Amount
1	Missed Sweep,	Failure To Sweep street, median, centerline, cross gutter, curb return parking lot or other approved duties.*	\$10.00
		Additional Business Day After Receiving Notification From City.	\$10.00
2	Failure to report Property damage (within 24 hours)	Failure To Notify the City Risk Manager or Special Operations Manager with Name, location and nature of accident no later than the beginning of the next business day.	\$100.00
		Failure To Respond In Writing (and cc City) to a Damage Claim Within 30 Days of Receipt And Initiate a Process to Resolve.	\$100.00
3	Failure to provide GPS	Continued access to full GPS report for each vehicle and each day of service.	\$100.00
		Value of sweep for day and:	
4	Working GPS	Each additional day Failure to maintain working GPS.	\$50.00
5	GPS deception	Per day fee for any attempt to alter the accurate reading and reporting	\$500.00
6	Failure to report deficiency	Notify the City within the time allotted per incident: (mile or lot rate as appropriate)	\$
7	Exceeds maximum speed while sweeping	For each hour or part thereof that the sweeping speed exceeds the eight (8) miles per hour contract limit:	\$50.00
8	Vehicle Emissions	Vehicle does not meet fuel emissions or particulate standard	\$25.00
		Each Additional Day Problem Not Resolved.	\$5.00
9	Equipment & Personnel	Standards, Signage not appropriate and staff not uniformed.	\$25.00
10	Equipment Change	Use of Equipment not Pre-Approved by the City	\$100.00
		Each additional Day not cured	\$100.00
11	Spillage Or Litter	Failure To Make A Good Faith Effort To Clean Up Spillage Or Litter Within 90 Minutes or hand pick large items.	\$15.00

1. Right to Cure. In each case where a cure for unsatisfactory performance can be rendered within the same day, 24 hours or a time specified period, and the cure and time period are acceptable to the City, Cannon Pacific Services, Inc. may cure the incident without penalty.

2. Following Day Obligations. In each case where a cure for unsatisfactory performance can be rendered within a specified time period, if the expiration of such time period falls on a non-business day, Cannon Pacific Services', Inc. right to cure shall be extended until the following business day.

3. Penalties for Additional Days in Breach: Minor Violations. Cannon Pacific Services, Inc. may obtain relief from "Each Additional Day Late" damages by providing notice to City of the problem and by diligently proceeding to cure the problem as quickly as possible, subject to City's approval. The City will not unreasonably withhold a request for additional time to cure. In addition, minor occasional violations with advance notice from Cannon Pacific Services, Inc. and prompt cure may be excused at the discretion of the Street Maintenance Public Works Manager.

4. Right to Appeal. Contractor will have the right to appeal any City assessment to the Street Maintenance Public Works Manager, whose decision shall be final.