

AGREEMENT FOR SERVICES
TRASH COLLECTION SERVICES
RFB PWD 24.302

THIS AGREEMENT is made and entered into this **First day of July 2024** between **XXX, Inc.** ("Contractor"), whose address is **XXX** and the **CITY OF PLEASANTON**, a municipal corporation ("City").

In consideration of the mutual promises set forth in this Agreement, the parties agree as follows:

1. **Term.** The term of this Agreement commences on the date written above and will expire three years from that date. The parties may extend this Agreement, by Amendment, for additional two (2), one-year terms, not to exceed five years for the total Agreement. If extended by Amendment, the cost of each one-year term may increase only by the change in the consumer price index for the San Francisco-Oakland-San Jose Metropolitan Area (all items index; all urban consumers) for the twelve (12) month period ending in May each year as published by the Bureau of Labor Statistics, U.S. Department of Labor.
2. **Services to be Performed.** Contractor shall perform, or cause to be performed, the work of Trash Collection Services as further described in **Exhibit A and Exhibit B.**
3. **Compensation.** Total compensation under this Agreement for all work for each year of this Agreement shall not exceed XXX, further broken down, \$XXX in the first year, \$XXX, in the second year, and \$XXX for the third year. City shall pay Contractor for all work performed based on the bid proposal, from **RFB PWD 24.302**, in **Exhibit A.** Each year includes a 15% contingency for unforeseen circumstances and related extra services as determined to be necessary by the City. Payment of such contingency funds is not guaranteed to Contractor unless the City requests in writing such extra services.
4. **Method of Payment.** Payment shall occur upon completion of work, acceptance by City staff, and submission by Contractor of a request for payment. Requests submitted promptly as of the 20th day of each month will be paid by the 10th day of the following month.
5. **Indemnification.** Contractor shall hold harmless, defend, and indemnify the City, its officers, agents and employees ("Indemnities"), against any and all claims, costs, demands, causes of action, suits, losses, expenses, attorney's fees, or liability, arising from or in any manner related to Contractor's (includes Contractor's employees, agents, or subcontractors) negligent act or omission, whether alleged or actual, regarding the work or services performed or caused to be performed pursuant to this Agreement and any amendments thereto. Contractor shall not, however, be obligated to indemnify Indemnities from claims arising from the sole negligence or willful misconduct of Indemnities. This indemnification includes any claim that the materials or equipment provided under this Agreement, or any tool, article or process used, constitutes an infringement of any patent issued by the United States. This indemnification provision shall survive termination or cancellation of the Agreement.

6. **Insurance.** During the term of this Agreement, Contractor shall maintain at its own cost and expense the following insurance coverage with insurers with an A.M. Best's rating of no less than A:VII. Contractor shall have the obligation to furnish City, as additional insured, the minimum coverages identified below, or such greater or broader coverage for City, if available in the Contractor's policies:

- a. **General Liability and Bodily Injury Insurance.** Commercial general liability insurance with limits of at least \$2,000,000 combined limit for bodily injury and property damage that provides that the City, its officers, employees and agents are named additional insured's under the policy as evidenced by an additional insured endorsement satisfactory to the City Attorney. The policy shall further state in writing either on the Certificate of Insurance or attached rider that this insurance will operate as primary insurance for work performed by Contractor and its subcontractors, and that no other insurance effected by City or other named insured will be called on to cover a loss.
- b. **Automobile Liability Insurance.** Automobile liability insurance with limits not less than \$2,000,000 per person/per occurrence.
- c. **Workers' Compensation Insurance.** Workers' Compensation Insurance for all of Contractor's employees shall be in strict compliance with State laws, including a waiver of subrogation and Employer's Liability Insurance with limits of at least \$1,000,000.

For work or services deemed public works, by signing this Agreement, Contractor is certifying, pursuant to Section 1861 of the California Labor Code, that: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract."

- d. **Certificate of Insurance.** Contractor shall file a certificate of insurance with the City prior to the City's execution of this Agreement, and prior to engaging in any operation or activity set forth in this Agreement. The Certificate of Insurance shall provide in writing that the insurance afforded by this Certificate shall not be suspended, voided, canceled, reduced in coverage or in limits without providing notice to the City in accordance with California Insurance Code section 677.2 which requires the notice of cancellation to: 1) include the effective date of the cancellation; 2) include the reasons for the cancellation; and 3) be given at least 30 days prior to the effective date of the cancellation, except that in the case of cancellation for nonpayment of premiums or for fraud, the notice shall be given no less than 10 days prior to the effective date of the cancellation. Notice shall be sent by certified mail, return receipt requested. In addition, the insured shall provide thirty (30) days prior written notice to the City of any cancellation, suspension, reduction of coverage or in limits, or voiding of the insurance coverage required by this agreement. The City reserves the right to require complete certified copies of policies.
- e. **Subcontractors.** Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage's for

subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to naming additional insureds.

- f. **Waiver of Subrogation.** The insurer agrees to waive all rights of subrogation against the City, its officers, employees and agents.
- g. **Defense Costs.** Coverage shall be provided on a “pay on behalf of” basis, with defense costs payable in addition to policy limits. There shall be no cross-liability exclusions.
- 7. **Independent Contractor.** The Contractor is an independent contractor retained by the City. All personnel employed by the Contractor, including subcontractors, and personnel of subcontractors, are not and shall not be employees of the City.
- 8. **Contractor’s Warranty.** Contractor shall bear the risk of loss or damage to any goods associated with the services until delivered to and accepted by City. Contractor further warrants that all work done and goods provided under this Agreement shall: a) meet all conditions of the Agreement; b) shall be free from all defects in design, material and workmanship; and 3) shall be fit for the purposes intended. If any defects occur within the 12 months following acceptance, Contractor shall be solely responsible for the correction of those defects.
- 8. **Notices.** All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

To Contractor: _____

To City: City Manager
City of Pleasanton
P.O. Box 520
Pleasanton, CA 94566

- 9. **Miscellaneous Provisions.**
 - a. City may terminate this Agreement at any time, including failure to adhere to OSHA Safety Requirements, by mailing a notice to Contractor. Contractor shall be paid for that portion of work or services already completed by Contractor as approved by City.
 - b. Contractor acknowledges that time is of the essence regarding the performance of this Agreement.
 - c. Contractor shall not assign or transfer this Agreement.
 - d. If either City or Contractor waives a breach of this Agreement, such waiver shall not constitute a waiver of other or succeeding breaches of this Agreement.
 - e. This Agreement constitutes the entire understanding of the parties.
 - f. This Agreement may only be modified by a writing signed by the authorized representative of both parties.

- g. Contractor covenants that it has obtained and will keep in effect during the term of the Agreement all certificates, licenses, including a City Business License, permits or the like required by any federal, state or local regulatory agency in order to perform the work under this Agreement.
- h. Contractor shall comply with all federal, state and local laws, regulations and rules, including but not limited to applicable safety and environmental laws. Contractor shall bear full and exclusive responsibility for any release of hazardous or non-hazardous substances and disposal of hazardous wastes.
- i. The Contractor will permit the City to audit, examine and make copies of all contracts, invoices, payrolls and other documents or data relating to this Agreement. Such records shall be maintained for three years from the date of final payment under this Agreement.
- j. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with U.S. federal E-Sign Act of 2000 (15 U.S. Code §7001 et seq.), California Uniform Electronic Transactions Act (Cal. Civil Code §1633.1 et seq.), or other applicable law) or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.
- k. This Agreement shall be governed by the laws of the State of California, with venue for any action under this Agreement in Alameda County, California.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date and year first above written.

CITY OF PLEASANTON

CONTRACTOR

Gerry Beaudin, City Manager

By: _____
Signature

Print name

ATTEST:

Title: _____

Jocelyn Kwong, City Clerk

[If Contractor is a corporation, signatures must comply with California Corporations Code §313]

APPROVED AS TO FORM:

Signature

Dan Sodergren, City Attorney

Print name

Title: _____