



**AMENDMENT NO. 1
BETWEEN CITY OF INDIAN WELLS AND CLEANSTREET, INC.
FOR STREET SWEEPING SERVICES**

This Amendment No. 1 ("Amendment No. 1") to that certain City of Indian Wells Agreement for Street Sweeping Services by and between **Cleanstreet, Inc.** and the **City of Indian Wells** dated **January 22, 2015** ("the Agreement") is entered into by and between **Cleanstreet, Inc.**, a **California** corporation (the "**Contractor**"), and the City of Indian Wells, a municipal corporation and charter city of the State of California (the "**City**") on this **14th** day of **April, 2015**. The **Contractor** and the **City** agree as follows:

Section 1. Amendment of Exhibit Exhibit "C". The paragraph in Exhibit "C" entitled "**Business Auto/Umbrella Liability Insurance**" is amended by deleting **Ten (10) Million dollars** and by substituting therefor **Six (6) Million dollars**.

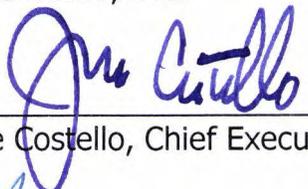
Section 2. Reaffirmation of Remaining Provision. The terms and provisions of the Agreement shall remain unchanged and in full force and effect except insofar as they are amended pursuant to this **Amendment No. 1**.

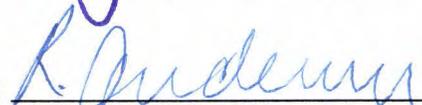
IN WITNESS WHEREOF, the **City** and the **Contractor** have entered into this Amendment No. 1 as of the date first set forth hereinabove.

CITY OF INDIAN WELLS

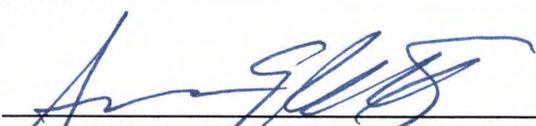
By: 
Wade G. McKinney, City Manager

CLEANSTREET, INC.

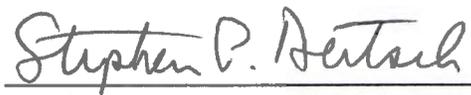
By: 
Jere Costello, Chief Executive Officer

By: 
Rick Anderson, Corporate Secretary

Attest:


Anna Grandys, Chief Deputy City Clerk

Approved as to Form:


Stephen P. Deitsch, City Attorney



CALIFORNIA

CITY OF INDIAN WELLS
STREET SWEEPING AGREEMENT

This agreement governed by the Laws of the State of California is made and entered into this **22nd** day of **January, 2015** by and between the **City of Indian Wells**, a municipal corporation of the State of California, located at 44-950 Eldorado Drive, Indian Wells, California 92210-7497, County of Riverside, State of California, (hereafter "City"), and **Cleanstreet, Inc.**, a California Corporation, with its principal place of business at 1937 W. 169th Street, Gardena, CA 90247 (hereafter "Contractor").

RECITALS:

- A. City requires weekly sweeping of approximately 31.58 miles of City streets.
- B. Contractor is qualified and experienced to provide such services.

NOW, THEREFORE, in consideration of the performance by the parties of the covenants and conditions herein contained, the parties hereto agree as follows:

ARTICLE 1
IDENTIFICATION OF PRINCIPAL AND CITY LIAISON

1.1 City's Representative - Contractor shall work closely with **Public Works Director**, City's designated representative, who shall be the "Liaison Representative of City", and shall, on a continuous basis, review and approve Contractor's work. Contractor shall keep the City's Representative apprised of progress on all aspects of the work.

1.2 Contractor's Representative - Contractor designates as its Project Manager for supervision of the tasks and services required by this agreement, the following individual(s):

Rick Anderson, Corporate Secretary

Said Project Manager shall not be replaced by Contractor without prior written notice to City nor without written approval from City.

ARTICLE 2
BASIC SERVICES OF CONTRACTOR AND TERM

2.1 Scope Of Work - Contractor shall provide to City, any and all services and/or materials which are necessary and appropriate for the completion of the work set forth in Exhibit "A", Special Provisions, Citywide Street Sweeping.

2.1.1 Amendment Of Scope Of Work - City shall have the right to amend the Scope of Work within the agreement by written notification to the Contractor. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of either party to agreement. Failure of the Contractor to secure City's written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the contract price or time due, whether by way of compensation, restitution, quantum merit, etc. for work done without the appropriate City authorization. Contractor shall make no change in the character or extent of the work required by this agreement, except as may be authorized in writing by City. Such supplemental authorization shall set forth the specific changes of work to be performed and any related extension of time and/or adjustment of fee to be paid to Contractor by City.

2.1.2 Correction Of Work - The Performance of services or acceptance of information furnished by Contractor shall not relieve the Contractor from its obligation to correct any defective, inaccurate or incomplete work subsequently discovered and all such work shall be remedied by the Contractor on demand without cost to the City.

2.2 Time For Performance - The City requires the finished work of this agreement **by each week's end**, at the latest. Time is of the essence of this agreement. If at any time it appears that the Project cannot be completed by said date, Contractor shall notify City of that fact and provide an estimate of the time when the Project will be completed. If completion of the Project would be expedited by use of other or additional consulting services, City may use the retained amounts for the purpose and shall be relieved of paying such retention to Contractor.

2.2.1 Delays And Extensions - The Contractor will be granted time extensions for delays beyond the Contractor's control. Time extensions will be equal to the length of the delay or as otherwise agreed upon between the Contractor and the City. In such event, compensation as set forth in the Scope of Work shall be subject to renegotiation upon written demand of either party to the agreement.

2.2.2 Term - The term of this Agreement shall be from January 1, 2015, to December 31, 2019, unless earlier terminated as provided herein.

ARTICLE 3

RESPONSIBILITIES OF CITY

3.1 Information - City shall provide full information regarding its requirements for the Project, and shall furnish, without charge to Contractor, any and all information, data, reports, maps and records which are available within the offices of City and are necessary for the provisions by Contractor of the tasks and services set forth herein.

3.2 Cooperation - City shall cooperate with Contractor in carrying out the work without undue delay. In this regard, City, including any representative thereof, shall examine documents submitted by Contractor, shall consult with Contractor regarding any such documents, and shall render any necessary decisions pertaining to such documents as promptly as is practicable.

ARTICLE 4

COMPENSATION

4.1 Contract Sum - For the services and/or materials rendered pursuant to this agreement, the Contractor shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "B" and incorporated herein by this reference, but not exceeding the maximum **weekly** contract amount of **Eight Hundred Forty Nine and 50/100 dollars (\$849.50)** (the "Agreement Sum"), except as provided in Section 4.1.2. The method of compensation set forth in the Schedule of Compensation may include a lump sum payment upon completion, paying in accordance with the percentage of completion of the services, payment for time and materials based upon the Contractor's rates as specified in Exhibit "B" Schedule of Compensation, but not exceeding the Agreement Sum, or such other methods as may be specified in the Schedule of Compensation (Exhibit "B"). Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, transportation expense, telephone expense, premiums of bonds and insurance, and similar costs and expenses when and if specified in the Schedule of Compensation (Exhibit "B").

4.1.1 Payment - Contractor shall submit to City, prior to the first (1st) day of each month during the term of this agreement, a certified invoice for allowable cost incurred in the performance of this agreement.

4.1.2 Extra Work - Any services and/or materials beyond the scope of services specified in this agreement shall be requested of Contractor in writing by City. All additional services shall be performed in accordance with the terms of this agreement and shall be compensated in accordance with the rates shown in "B", "Schedule of Compensation."

ARTICLE 5
TERMINATION OR SUSPENSION OF AGREEMENT

5.1 Termination Notice - City may terminate this agreement at any time upon providing Contractor with a ten (10) day written notice, with or without cause. City may discontinue or suspend a portion of the work, upon written notice within the same time period as stated above, and continue with the remainder to completion. Contractor shall be paid for services provided as stated in Section 5.2.

5.2 Payment On Termination - In the event of the termination or suspension of this agreement, Contractor shall be paid for the reasonable value of the services provided up to the time of such termination or suspension; but upon receiving notice of termination or suspension, Contractor shall exercise all reasonable controls to terminate all activity and mitigate further costs to City.

5.2.1 Documents Deliverable - Prior to receiving the prorata termination payment, Contractor shall deliver all applicable plans, specifications, estimates or other materials to City.

5.2.2 Default Termination - If this agreement is terminated upon default of Contractor, City may provide for the completion of the services required of Contractor by this agreement as it deems appropriate; and Contractor shall be liable for all expenses and costs in excess of those provided for in this agreement and for any other damages which City may sustain by reason of such default. City may withhold from any prorata payment due Contractor an amount sufficient to cover such expenses, costs and damages; any such withholding shall not be deemed a waiver of the rights of City to any further amounts due from Contractor pursuant to this agreement.

ARTICLE 6
EMPLOYMENT PRACTICES OF Contractor

6.1 Nondiscrimination - In providing for the performance of the tasks and services required by this agreement, Contractor shall not discriminate against any employee or applicant for employment on the basis of race, religion, color, sex, or national origin.

ARTICLE 7
CONFLICTS OF INTEREST

7.1 No Interest In Contract - No officer or employee of City shall have any interest, direct or indirect, in this agreement or the proceeds thereof during his tenure with City or for a period of one (1) year thereafter.

7.2 Contractor Free Of Conflict - Contractor hereby covenants that it has, at the time of the execution of this agreement, no interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this agreement, nor shall it acquire any such interest at any time during such performance of services. Contractor further covenants that during the performance of this agreement, no person having any such interest shall be employed by Contractor.

7.3 Statement Of Economic Interest - In addition, if requested to do so by City, Contractor shall complete and file and shall require any other person doing work under this agreement to complete and file a "Statement of Economic Interest" with the Clerk of the City of Indian Wells disclosing Contractor or such other person's financial interests.

7.4 Disclosure - City and Contractor hereby covenant and agree that to their best knowledge, no member of City's City Council, nor any officer, agent, representative or employee of City has any interest, whether contractual, non-contractual, financial or otherwise direct or indirect, in this agreement or in the business of subcontracting work required under this agreement; and that if any such interest comes to the attention of either party at any time during the performance of this agreement, a full and complete disclosure of such information shall be made in writing to the other party, even if such interest would not be considered a conflict of interest under applicable laws.

7.5 No Contract Fees - Contractor hereby covenants that it has not employed or retained any person or company to solicit or secure this agreement; and that it has not paid or agreed to a brokerage fee, gift, or other compensation, contingent upon or resulting from the award of making of this agreement. For breach or violation of this covenant, City shall have the right to annul this agreement without liability, or in its discretion to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE 8 **INSURANCE AND INDEMNIFICATION**

8.1 Insurance - Contractor shall procure, maintain and provide proof of insurance as set forth in Exhibit C, "Insurance Requirements for Contractors".

8.2 Indemnification - Contractor and City agree that City, its officers, employees and agents (hereinafter collectively "City") should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorneys fees, litigation costs, defense costs, court costs or any other cost arising out of or in any way related to the performance of this agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to the City.

Contractor acknowledges that City would not enter into this agreement in the absence of this commitment from Contractor to indemnify and protect City as set forth here.

To the full extent permitted by law, Contractor shall defend, indemnify and hold harmless City from any and all liability claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, demands, damages, judgments, expenses or costs of any kind, whether actual, alleged or threatened, actual attorney fees incurred by City, court costs, interest, defense costs including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation, including but not limited to those predicated upon theories of violation of statute, ordinance, or regulation, professional malpractice, negligence, or recklessness including negligent or reckless operation of motor vehicles or other equipment, furnishing of defective or dangerous products or completed operations, premises liability (and in those cases where the Contractor may enter property owned or controlled by third parties, "liability arising from inverse condemnation"), violation of civil rights and also including any adverse determination made by the Internal Revenue Service or the State Franchise Tax Board with respect to Contractor's "independent Contractor" status that would establish a liability for failure to make social security and income tax withholding payments, incurred in relation to as a consequence of or arising out of or in any way attributable actually, allegedly or impliedly, in whole or in part to the performance of this agreement, or any act or omission to act, whether or not it be willful, intentional or actively or passively negligent on the part of Contractor or his agents, employees or other independent Contractors directly responsible to Contractor; providing further that the foregoing shall apply to any wrongful acts or any active or passively negligent acts or omissions to act, committed jointly or concurrently by Contractor or Contractor's agents, employees or other independent contractors and the City, its agents, employees or independent contractors. All obligations under this provision are to be paid by Contractor as they are incurred by the City.

Without affecting the rights of City under any provision of this agreement or this section, Contractor shall not be required to indemnify and hold harmless City as set forth above for liability attributable to the sole fault of City, provided such sole fault is determined by agreement between the parties or the findings of a court of competent jurisdiction. This exception will apply only in instances where the City is shown to have been solely at fault and not in instances where Contractor is solely or partially at fault or in instances where City's fault accounts for only a percentage of the liability involved. In those instances, the obligation of Contractor will be all inclusive and City will be indemnified for all liability incurred, even though a percentage of the liability is attributable to conduct of the City.

Contractor acknowledges that its obligation pursuant to this section extends to liability attributable to City, if that liability is less than the Sole fault of City. Contractor has no obligation under this agreement for liability proven in a court

of competent jurisdiction or by written agreement between the parties to be the sole fault of City.

The obligations of Contractor under this or any other provision of this agreement will not be limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City.

Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor, sub-tier contractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance or subject matter of this agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this section.

Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns, or heirs of Contractor and shall survive the termination of this agreement or this section.

ARTICLE 9 **MISCELLANEOUS**

9.1 Task Authorization - The execution of this agreement by the parties hereto does not constitute an authorization to proceed with the work specified in said agreement. The Liaison Representative of the City shall separately authorize Contractor to proceed on each task, as listed in Exhibit "A" Special Provisions, Citywide Street Sweeping, and each such task shall be completed within the time limits mutually agreed upon by the parties as set forth in this agreement. Contractor shall have no claims for compensation for services on all or part of any task of work upon which the Liaison Representative of the City has not authorized Contractor to proceed.

9.2 Licenses, Permits, Fees And Assessments - Contractor shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for the performance of the services required by the agreement. Contractor shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the services required by the agreement, and shall indemnify, defend and hold harmless City against any such fees, assessments, taxes, penalties, or interest levied, assessed, or imposed against City thereunder. Contractor warrants that Contractor and each of the personnel employed or otherwise retained by Contractor are properly certified and licensed under the laws and regulations of the State of California to provide the special services herein agreed to.

9.3 Standard of Care - City relies upon the professional ability of Contractor as a material inducement to entering into this agreement. Contractor agrees to use reasonable care and diligence in rendering services under this agreement. Contractor agrees that the acceptance of his work by City shall not operate as a waiver or release of said obligation of Contractor. The absence, omission, or failure to include in this agreement, items which are normally considered to be a part of generally accepted professional procedure or which involve professional judgment shall not be used as a basis for submission of inadequate work or incomplete performance.

9.4 Federal And State Rules And Regulations - Contractor shall have the duty of performing under the agreement in accordance with applicable Federal and State laws, rules and regulations.

9.5 Demand For Assurance - Each party to this agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until he/she receives such assurance may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this agreement but also conduct with respect to other agreements with parties to this agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding ten (10) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

9.6 Retention Of Funds - City may withhold from any monies payable to Contractor sufficient funds to compensate City for any losses, costs, liabilities or damages it reasonably believes were suffered by City due to the default of Contractor in the performance of the services required by this agreement.

9.7 Procedure For Notification - All notices, bills, and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed as follows:

To City: City of Indian Wells
 44-950 Eldorado Drive
 Indian Wells, CA 92210
 ATTENTION: Public Works Director

To Contractor: Cleanstreet, Inc.
1937 W. 169th Street
Gardena, CA 90247
ATTENTION: Rick Anderson

When so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to who notices, bills and payments are to be given by giving notice pursuant to this paragraph.

9.7.1 Fax Delivery - All notices and demands shall in addition be transmitted by fax to City at (760) 346-0407 and to Contractor at (310) 538-8015.

9.8 Records Of Performance - Contractor shall maintain adequate records of contract performance costs, expenses, etc., and make these records available for inspection, audit, and copying by the City during the agreement period and for a period of three (3) years from the date of final payment. Contractor shall prepare and forward such additional or supplementary records as City may reasonably request. Contractor shall prepare and forward such additional or supplementary records as City may reasonably request.

9.9 INTENTIONALLY OMITTED

9.10 Independent Contractor - Contractor shall, during the entire term of the agreement, be construed to be an independent contractor and nothing in this agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow City to exercise discretion or control over the professional manner in which Contractor performs the services which are the subject matter of this agreement; provided always however that the services to be provided by Contractor shall be provided in a manner consistent with all applicable standards and regulations governing such services.

Contractor understands and agrees that Contractor's personnel are not and will not be eligible for membership in or any benefits from any City group plan for hospital, surgical or medical insurance or for membership in any City retirement program or for paid vacation, paid sick leave or other leave, with or without pay or for any other benefit which accrues to a City employee.

9.10.1 Taxes - Contractor agrees to file tax returns and pay all applicable taxes on amounts paid pursuant to this agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Contractor agrees to indemnify and hold the City harmless from any liability which it may incur to the United States for to the State of

California as a consequence of Contractor's failure to pay, when due, all such taxes and obligations.

9.11 Successors - City and Contractor each binds itself and its partners, successors, assigns, and legal representatives to the other party to this agreement and to the partners, successors, assigns, and legal representatives of such other party with respect to all covenants of this agreement.

9.11.1 Non-Assignment of Agreement - Inasmuch as this agreement is intended to secure the specialized services of the Contractor, Contractor may not assign, transfer, delegate or sublet any interest therein without the prior written consent of the City and any such assignment, transfer, delegation or sublease without the City's prior written consent shall be considered null and void.

9.11.2 Subcontracting - None of the services covered by this contract shall be subcontracted without the prior written consent of the City. In accordance with Government Code Section 7550, Contractor agrees to state in a separate section of any filed report the numbers and dollars amounts of all contracts and subcontracts relating to preparation of the report.

9.12 Third Party Beneficiaries - Nothing contained in this agreement shall be construed to create and the parties do not intend to create any rights in third parties.

9.13 No Waiver Of Breach - The waiver by City of any breach of any term or promise contained in this agreement shall not be deemed to be a waiver of such term or provision of any subsequent breach of the same or any other term or promise contained in this agreement.

9.14 Amendments By Operation Of Law - Each and every provision of law and clause required by law to be inserted in this agreement shall be deemed to be inserted herein, and the agreement shall be read and enforced as though it were included herein, and if for any reason any such provision is not inserted, or is not correctly stated, then upon application of either party, the agreement shall forthwith be physically amended to make such insertion or correction.

9.15 Merger - This agreement shall constitute the entire agreement between the parties and shall supersede any previous agreements, whether verbal or written, concerning the same subject matter. No modification of this agreement shall be effective unless and until evidence by a writing is signed by both parties.

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

9.16.1 Enforceability. If any term, covenant, condition or provision of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

9.17 [INTENTIONALLY OMITTED]

9.18 Corporate Authority - The person(s) executing the agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver the agreement on behalf of said party, (iii) by so executing the agreement, such party is formally bound to the provisions of this agreement, and (iv) the entering into the agreement does not violate any provision of any other agreement to which said party is bound.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

CITY OF INDIAN WELLS

WGM
By: Wade G. McKinney
Wade G. McKinney
City Manager

CLEANSTREET, INC.

By: Jere Costello
Jere Costello
Chief Executive Officer

Attest:

By: Anna Grandys
Anna Grandys
Chief Deputy City Clerk

By: Rick Anderson
Rick Anderson
Corporate Secretary

Approved as to form:

By: Stephen P. Deitsch
Stephen P. Deitsch
City Attorney

Recommended for Approval:

By: Ken Seumalo
Ken Seumalo, P.E.
Public Works Director

EXHIBIT "A"

SPECIAL PROVISIONS **CITYWIDE STREET SWEEPING**

SECTION 100 GENERAL

100.01 Scope of Work

The Contractor shall provide all materials, labor and equipment necessary for the sweeping of various City streets.

The work to be done consists of vacuum sweeping all designated improved public streets including curb returns and medians within the City of Indian Wells on a uniform schedule as outlined in Section 100.02. No street sweeping shall be performed during rainstorms, when there is running water in the gutter or street, or for any other reason that makes sweeping impractical as determined by the Public Works Director.

100.02 Completion of Project and Scheduling

The Contractor shall begin sweeping streets designated by plans and as repeated below.

SCHEDULE OF WORK – The Contractor's schedule for carrying out the work specified shall be submitted to the City for review and approval at the time of acceptance of the contract by the City. The regularly scheduled street sweeping shall be adhered to by the Contractor. All deviations from this schedule shall be approved by the Public Works Director in advance of the requested deviation.

ADDITIONAL WORK – In the event the City desires to extend the street sweeping program to include new streets constructed after the effective date of this contract, or new alleys, then any such additional sweeping which is required of the Contractor shall be paid for at the then current unit prices for compensation specified by the contract and subsequent contract amendments to it.

100.03 Liquidated Damages for Delay

Failure of Contractor to complete sweeping zones during days and hours posted for notices of violation, except on holidays or due to rain, shall result in a deduction of \$500.00 from payment otherwise due Contractor for each incomplete sweep day to reimburse City for losses sustained.

100.04 Conduct of Work

The Project shall be carried out as quietly as possible to prevent possible annoyance to adjacent residential property and according to the ordinance for hours of work. The finished work shall be performed once per week, and on Friday of each week. In the event of a National Holiday occurring on a Friday, no work shall be allowed to be completed. The Project shall be completed on the following Monday, and shall not eliminate the regular work scheduled for the following Friday. Unnecessary noise shall be avoided at all times. The Contractor shall comply with the requirements of any and all local anti-noise ordinances.

Unless otherwise specified, the Contractor shall execute street sweeping during the hours specified in Section 100.14 "Hours of Sweeping" of these specifications. Work at other times and work on holidays will be permitted only with the prior approval or direction of the Public Works Director.

100.05 Water

The Contractor shall provide water needed for the street sweeping operation under this Contract. The Contractor shall, at its own expense, convey the water, in each case, to the point of use. Water shall be fresh water only and the source of supply shall be approved by the Public Works Director prior to its use. No residual tracking is permitted. The proper volume and pressure of water shall be supplied by the sweeper at all times to adequately control dust during the sweeping operation. The contractor shall comply with all current South Coast Air Quality Management District requirements for dust control during the course of the contract.

100.06 Disposal of Waste Material

All cleared and waste material shall become the property of the Contractor and shall be disposed of by the Contractor outside the Project area at the Contractor's expense in accordance with the applicable ordinances and regulations of governmental agencies having jurisdiction.

Sweepings may be deposited at temporary dump sites with the prior approval of the Public Works Director. Sweepings shall not be deposited in City streets or alleys. It shall be the responsibility of the Contractor to identify locations and obtain all necessary approvals for utilizing the site as a temporary dump site. Contractor shall remove sweepings within 48 hours, and shall be responsible for all costs related to pick up and removal of all sweepings. After each removal and before the next one, Contractor shall sweep the temporary dump site. City shall retain the right to demand abandonment of any temporary dump site and may request Contractor

to establish different temporary dump sites, the location of which will be approved by the Public Works Director prior to dumping.

100.07 Statement Required

The Contractor shall submit a monthly statement indicating number of curb miles swept on a regular schedule and additional ones swept by call back or extra work request.

100.08 Reduction of Service Level

The City of Indian Wells reserves the right to reduce the frequency of street sweeping services and/or the number of areas being swept. When a reduction of the service level is desired, the Public Works Director will advise the Contractor of the changes in writing and their effective date. The Contractor shall then proceed with the work as reduced on the effective date of the notice.

100.09 Traffic Counters

The Contractor is cautioned that at various times and locations the City will temporarily install portable traffic counters which utilize a hose placed on the roadway. The Contractor shall work with the City's Public Works Director on its sweeping schedule to avoid sweeping areas with counters in place. If an area with a counter must be swept, care should be taken to avoid the counter hose. If the Contractor's equipment causes damage to such a counter, or its appurtenances, the Contractor shall bear the entire cost of restoration, repair, testing or replacement of the traffic counter.

100.10 Storage of Equipment

The Contractor shall provide its own storage for equipment such as sweepers, brooms, tires, gas, oil, and other required parts and materials.

100.11 Speed of Vehicles

The Contractor shall operate the sweepers between 4 and 5 miles per hour when sweeping, unless it can be proven to the satisfaction of the Public Works Director that the sweeper can operate at a higher speed and still operate efficiently.

100.12 Complaints

Complaints regarding the street sweeping operations, which the Public Works Director considers justifiable and the responsibility of the Contractor, will be referred to the Contractor for immediate attention. A report of the action taken on

each complaint shall be submitted by the Contractor within one (1) day after receiving the complaint to the Public Works Director on a standard complaint form, supplied by the Public Works Department.

100.13 Quality of Work

The standards of performance which the Contractor is obligated to perform hereunder are those standards which are considered to be good street sweeping practices and which are subject to approval by the Public Works Director or his designated representative.

100.14 Hours of Sweeping

All scheduled street sweeping shall be performed only during the working hours allowed in the City's municipal code. The hours and weekday the sweeping occurs each week shall be approved by the Public Works Director.

100.15 Equipment

All sweeping shall be performed with alternative fuel powered regenerative air sweepers. Equipment not suitable to produce the quality of work required shall not be permitted to operate on the contract work. All equipment shall be subject to the Public Works Director approval prior to use. All sweeping equipment shall have appropriate safety markings consisting of all highway lighting, flashing, and warning lights, clearance lights, and warning flags, all in accordance with the California Vehicle Code and approved by the Public Works Director.

100.16 Inclement Weather

A scheduled sweep shall not be canceled for inclement weather by the Street Sweeping Contractor without approval of the Public Works Director or his designee. During inclement weather a two (2) hour standby period between 7:00 a.m. and 9:00 a.m. will be observed before a scheduled residential sweep will be canceled.

100.17 Permits

All work performed shall be in accordance with the permit requirement of the agencies having jurisdiction. The City will issue a no charge encroachment permit for the course of the contract.

SECTION 200 – SERVICE ALTERNATIVES

200.01 Level of Service

Contractor shall provide a high level of service consistent with the requirements outlined throughout the Special Provisions and to the satisfaction of the Public Works Director.

200.02 Extra Work

Unforeseen work will be classified as extra work when determined by the Public Works Director that such work is not covered by these Special Provisions. Extra work also includes work specifically designated as extra work in the plans and specifications.

The Contractor shall specify in his bid cost per curb mile for extra work added to the regular schedule during the year and the cost per hour for special on-call work of an extraordinary nature, including but not limited to construction spillage, accidents, sandblasting, paving preparation, and special events which may require sweeping services during the year.

The Contractor shall do such extra work in accordance with the provisions of these specifications and shall furnish all labor, materials, and equipment.

EXHIBIT "B"

SCHEDULE OF COMPENSATION

Curb Miles Swept	Cost per Curb Mile	Maximum Weekly Amount	Maximum Monthly Amount	Maximum Yearly Amount
31.58	\$26.90	\$849.50	\$3,681.17	\$44,174.00

Extra Work:

Cost Per Curb Mile	Cost Per Hour
\$26.90	\$100.00

EXHIBIT "C"

INSURANCE SPECIFICATIONS

Contractor agrees to provide insurance in accordance with the requirements set forth here. If Contractor uses existing coverage to comply with these requirements and that coverage does not meet the requirements set forth herein, Contractor agrees to amend, supplement or endorse the existing coverage to do so. The following coverage's will be provided by Contractor and maintained on behalf of the City and in accordance with the requirements set forth herein.

Self Insurance will also be acceptable, and must meet the same criteria:

Commercial General Liability/Umbrella Insurance. Primary insurance shall be provided on ISO-CGL form No. CG 00 01 11 85 or 88. Total limits shall be no less than Five (5) Million dollars per occurrence for all coverages and Seven (7) Million dollars general aggregate. City and its employees and agents shall be added as additional insureds using ISO additional insured endorsement form CG 20 10 11 85 (in no event will City accept an endorsement form with an edition date later than 1990). Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to City or any employee or agent to City. Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Umbrella Liability Insurance (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum, and shall include a "drop down" provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary policies but covered by the umbrella policy. Coverage shall be following form to any underlying coverage. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion. Policies shall have concurrent starting and ending dates.

Business Auto/Umbrella Liability Insurance. Primary coverage shall be written on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto). Limits shall be no less than Ten (10) Million dollars per accident. Starting and ending dates shall be concurrent. If Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

Workers' Compensation/Employer's Liability shall be written on a policy form providing workers' compensation statutory benefits as required by law. Employer's liability limits shall be no less than One Million dollars per accident or disease. Employer's liability coverage shall be scheduled under any umbrella policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respects to the City, its employees or agents.

Contractor and City further agree as follows:

1. This Section supersedes all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.
2. Nothing contained in this Section is to be construed as affecting or altering the legal status of the parties to this Agreement. The insurance requirements set forth in this Section are intended to be separate and distinct from any other provision in this Agreement and shall be interpreted as such.
3. All insurance coverage and limits provided pursuant to this agreement shall apply to the full extent of the policies involved, available or applicable. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.
4. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any party to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.
5. For purposes of insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards, performance of this Agreement.
6. All general or auto liability insurance coverage provided pursuant to this Agreement, or any other agreements pertaining to the performance of this Agreement, shall not prohibit Contractor, and Contractor's employees, or agents, from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against City.
7. Unless otherwise approved by City, Contractor's insurance shall be written by insurers **LICENSED** (see Best's Key Rating Guide) to do business in the State of California and with a minimum "Best's" Insurance Guide rating of "A:VII." Self-insurance will not be considered to comply with these insurance specifications.
8. In the event any policy of insurance required under this Agreement does not comply with these requirements or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Contractor.

9. Contractor agrees to provide evidence of the insurance required herein, satisfactory to City, consisting of certificate(s) of insurance evidencing all of the coverages required and an additional insured endorsement to Contractor's general liability and umbrella liability policies (if any) using ISO form CG 20 10 11 85. Certificate(s) are to reflect that the insurer will provide 30 days notice of any cancellation of coverage. Contractor agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions. Contractor agrees to provide complete copies of policies to City upon request.

10. Contractor shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies provided at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.

11. Any actual or alleged failure on the part of City or any other additional insured under these requirements to obtain proof of insurance required under this Agreement in no way waives any right or remedy of City or any additional insured, in this or any other regard.

12. Contractor agrees to require all subcontractors or other parties hired for this project to provide general liability insurance naming as additional insureds all parties to this Agreement. Contractor agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. Contractor agrees to require that no contract used by any subcontractor, or contracts Contractor enters into on behalf of City, will reserve the right to charge back to City the cost of insurance required by this agreement. Contractor agrees that upon request, all agreements with subcontractors or others with whom Contractor contracts with on behalf of City, will be submitted to City for review. Failure of City and to request copies of such agreement will not impose any liability on City, or its employees.

13. If Contractor is Limited Liability Company, general liability coverage must be amended to that the Limited Liability Company and its Managers, Affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

14. Contractor agrees to provide immediate notice to City of any claim or loss against Contractor that includes City as a defendant. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.