

CONTRACT NUMBER MA-080-11011082
BETWEEN
THE COUNTY OF ORANGE
AND
ABM SERVICES, INCORPORATED
FOR
JANITORIAL SERVICES

THIS Contract number MA-080-11011082 for Janitorial Services, (hereinafter referred to as "Contract") is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California, (hereinafter referred to as "County") and ABM Services, Incorporated, with a place of business located at 165 Technology Drive, Suite 100, Irvine, California (hereinafter referred to as "Contractor"), which are sometimes individually referred to as ("Party"), or collectively referred to as ("Parties").

RECITALS

WHEREAS, Contractor and County are entering into this Contract for Janitorial Services under a firm fixed price Contract; and,

WHEREAS, the County solicited the scope of products and services as set forth herein, and Contractor has represented that it is qualified to provide scope of products and services to the County; and,

WHEREAS, Contractor agrees to provide products and services as more specifically described in the Scope of Work, attached hereto as Attachment A and incorporated herein; and,

WHEREAS, County agrees to pay Contractor the fees as further set forth in Contractor's Pricing, attached hereto as Attachment B and incorporated herein; and,

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

- 1. Scope of Services:** This Contract, including Attachments, specifies the contractual terms and conditions by which the Contractor shall provide to the County Janitorial Services under a firm fixed price Contract, as set forth herein.
- 2. Contract Term:** This Contract shall become effective ~~March 1, 2011~~, March 1, 2013 and shall continue for one (1) year from that date unless otherwise terminated as provided herein. This Contract may be renewed ~~upon expiration of the initial term~~, for ~~four (4)~~ two (2) additional years, upon mutual agreement of both Parties. The County is not obligated to give a reason or notice if it elects not to renew. Renewal amendments may require approval of the County Board of Supervisors.
- 3. Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.

4. **Precedence:** The Contract documents consist of this Contract and attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the attachments.
5. **Contractor's Project Manager and Key Personnel:** Contractor shall appoint a Project Manager, as specified in Article 26, to act as liaison between the County and the Contractor during the term of this Contract and to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County's Project Manager, which consent shall not be unreasonably withheld.

The Contractor's Project Manager and Key Personnel shall be assigned to this Contract for the duration of this Contract and shall diligently pursue all work and services to meet the project time lines. Contractor's Key Personnel are those individuals who report directly to the Contractor's Project Manager.

6. **County's Project Manager:** The County shall appoint a Project Manager, as specified in Article 26, to act as liaison between the County and the Contractor during the term of this Contract. The County's Project Manager shall coordinate the activities of the County staff assigned to work with the Contractor. The County's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager and Key Personnel under this Contract. The County's Project Manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within 14 calendar days after written notice by the County's Project Manager. The County is not required to provide any reason, rationale or additional factual information if it elects to request any specific Contractor Project Manager or Key Personnel be removed from performing services under this Contract. The County's Project Manager shall review and approve the appointment of the replacement for the Contractor's Project Manager and Personnel. Said approval shall not be unreasonably withheld.
7. **Contractor's Personnel:** The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to accept the kind of responsibility anticipated under this Contract. All Contractor's personnel shall be required to wear uniforms, badges and/or other means of identification which are to be issued and provided by the Contractor and must be worn at all times while working on County property. The County Project Manager must be notified in writing, within seven days of notification of award of Contract, of the uniform and/or badges and/or other identification to be worn by employees prior to beginning work and notified in writing seven days prior to any changes in this procedure.
8. **Conflict of Interest:** The County of Orange Board of Supervisors' policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose. The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor's employees, agents, and relatives; sub-tier Consultants; and third parties associated with accomplishing work and services hereunder. The Contractor's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County.
9. **Existing Site Conditions:** Information respecting the site of the work given in drawings or specifications has been obtained by County's representatives and is believed to be reasonably correct, but the County does not warrant either the completeness or accuracy of such information, and it is the responsibility of the Contractor to verify all such information.

10. **Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.
11. **Audits/Inspections:** Contractor agrees to permit the County, which may include the Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County), access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any Subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's Project Manager.

12. **Child Support Enforcement Requirements:** Contractor is required to comply with the child support enforcement requirements of the County. Failure of the Contractor to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.
13. **Publication:** No copies of sketches, schedules, written documents, computer based data, photographs, maps or graphs, including graphic art work, resulting from performance or prepared in connection with this Contract, are to be released by Contractor and/or anyone acting under the supervision of Contractor to any person, partnership, company, corporation, or agency, without prior written approval by the County, except as necessary for the performance of the services of this Contract. All press contacts, including graphic display information to be published in newspapers, magazines, etc., are to be administered only after County approval.
14. **News/Information Release:** The Contractor agrees that it will not issue any news releases or make any contact with the media in connection with either the award of this Contract or any subsequent amendment of, or effort under this Contract. Contractors must first obtain review and approval of said media contact from the County through the County's Project Manager. Any requests for interviews or information received by the media should be referred directly to the County. Contractors are not

authorized to serve as a media spokespersons for County projects without first obtaining permission from the County Project Manager.

15. **Reports/Meetings:** In addition to the requirements set forth in the Scope of Work, Attachment A, upon County's request, the Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Contract. The County's Project Manager and the Contractor's Project Manager will meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, the Contractor's Project Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract.
16. **Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract, shall constitute a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
 - i. Afford the Contractor written notice of the breach and ten calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
 - ii. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach and offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
 - iii. Terminate the Contract immediately without penalty.
17. **Contract Disputes:** The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Project Manager and the County's Project Manager, such matter shall be brought to the attention of the County Deputy Purchasing Agent (DPA), as specified in Article 26 by way of the following process:
 - i. The Contractor shall submit to the County DPA a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
 - ii. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.
 - iii. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract. Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County DPA. If the County fails to render a decision within 90 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions. The County's final decision shall be conclusive and binding regarding the dispute unless the Contractor commences action in a court of competent jurisdiction to contest such decision within 90 days following the date of the County's final decision or one year following the accrual of the cause of action, whichever is later.

