

**FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT
WITH CLEANSTREET**

THIS FIRST AMENDMENT is made and entered into this ____ day of June, 2015 (“Effective Date”), by and between the CITY OF COSTA MESA, a municipal corporation (“City”), and CLEANSTREET, a California corporation (“Consultant”).

WITNESSETH:

A. The City entered into an Agreement with Consultant on March 1, 2015 for the provision of street sweeping services (“Agreement”); and

B. The Parties believe it would be beneficial for Consultant to lease space at the Costa Mesa Corporation Yard located at 2310 Placentia Avenue, Costa Mesa California (“Property”) to store and maintain certain equipment belonging to the Consultant and used in the provision of street sweeping services.

WITNESSETH:

A. WHEREAS, City entered into an Agreement with Consultant on March 1, 2015 for the provision of street sweeping services (“Agreement”); and

B. WHEREAS, Consultant desires to store equipment used by Consultant in the provision of the Services on City property.

NOW, THEREFORE, the parties hereby agree to amend the Agreement as follows:

1. Section 7.0 entitled Use of Corporation Yard, is hereby inserted into the agreement as follows:

7.0 USE OF CORPORATION YARD.

7.1 Premises. City hereby grants to Consultant an exclusive right to use and occupy the certain portion of the Property more specifically designated in Exhibit A to this Amendment (“Premises”). Consultants shall be provided access to an electrical outlet, an air supply, and the City’s wash rack to clean out the street sweepers.

7.2 Hours of Access. Consultant shall have the right of access to the Premises through the main entrance gate, located at the signal on Placentia Avenue, during regular hours of operation: Monday through Friday 6:30 am to 3:00 pm. Consultant shall designate an employee to be responsible for the City-provided key to the main entrance gate. Access to the Premises before and/or after-hours shall be available through the automated gate located to the south side of Fire Station #4 at 2300 Placentia Avenue.

In addition, Consultant may access the Fleet Services/Street Maintenance building located at 2300 Placentia Avenue, during regular hours of City operation only, and only for the use of the restroom or to contact City staff.

7.3 Use.

- A. Consultant's activities and operations at the Property shall be limited to the parking and storage of equipment used by Consultant, installation of gutter brooms, debris transfer, changing of tires, washing of street sweepers, and other activity directly related to the maintenance of equipment used in the provision of services under the Agreement. All activity of Consultant must be performed within the Premises and must be directly associated with the performance of this Agreement. No other uses are permitted.
- B. Consultant shall limit its use of the air supply to regular City working hours.
- C. Consultant shall be responsible for the daily cleaning of the wash rack, weekly removal of debris from the associated clarifier, and the daily management of the debris placed in the transfer area.
- D. Consultant is responsible for all persons working on or visiting the Property due to Consultant's presence.
- E. Consultant will keep the Premises and all areas used by Consultant clean and shall operate all equipment in a safe manner and in compliance with all applicable laws, regulations, and industry custom and standards. Consultant will immediately remedy any unsightly or unsafe condition at the request of City staff.

7.4 Compensation for license to use Property.

- A. In consideration of the use of the Premises, Consultant agrees to pay to City rent in the amount of one thousand dollars (\$1,000.00) per month as designated in Exhibit B.
- B. Consultant further agrees to reimburse the City, in arrears on a monthly basis, the actual cost of Consultant's water use at the Property. City shall provide Consultant with a written estimate of said water use and Consultant shall reimburse in no less than 30 days.

7.5 Liability

- A. Consultant shall not allow any sub-contractors access to the Property until such subcontractor has complied with the insurance requirements of Consultant under the Agreement and approved by the City.
- B. Consultant agrees that the City is not responsible for damage to or any loss of Consultant's property, equipment, employees, or subcontractors, or property or equipment belonging to employees or subcontractors.
- C. Consultant further agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees ("Indemnitees"), at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the Consultant's, its employees, and/or authorized subcontractors ("Indemnitors") use or occupancy of the Premises or any activity of operation of Indemnitors thereon. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Indemnitors but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Indemnitors and/or whenever any claim, action, complaint or suit

asserts liability against the Indemnitees based upon the work performed by the Indemnitors under this Agreement, whether or not the Indemnitors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall **not** supersede and replace the indemnity provision contained in the Agreement but shall be read to supplement such defense and indemnity requirement as contained therein.

7.6 Removal Upon Termination. Upon termination of the Agreement, Consultant shall, within no more than fourteen (14) days, remove all personal property and otherwise restore the Premises to its condition as of the execution date of this First Amendment, reasonable wear and tear excepted.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

CITY:

CITY OF COSTA MESA,
a Municipal Corporation

By: 

Thomas Hatch, Chief Executive Officer

Date: 6/12/15

APPROVED AS TO LEGAL FORM
By: 

Thomas P. Duarte, City Attorney

Date: 06/09/15

APPROVED AS TO INSURANCE:

By: 

Risk Management

CONSULTANT:



By: RICK ANDERSON SEC.
Name and Title

Social Security or Taxpayer ID Number

Date: _____

ATTEST
By: 

City Clerk and ex-officio Clerk of the City of Costa Mesa

Date: 6/15/15

DEPARTMENTAL APPROVAL


By: _____
Public Services Director

**EXHIBIT A
CLEANSTREET SWEEPER PARKING & STORAGE DESIGNATION**



METHODOLOGY



Leasing the City facilities would not affect our current pricing.

CleanStreet's use of the City facilities would be integrated and not interfere with the City's use of these facilities. The City's employees would be given preference in the use of the City's facilities over the employees of CleanStreet.

Besides monitory compensation for use of water and the facilities, CleanStreet could share in the cleaning and disposal of the wash rack separator.

CleanStreet would provide insurance for operations conducted at the City yard or using City equipment.

CleanStreet offers \$1,000.00 per month for these privileges.

City Employees

We would be willing to meet with each displaced operator to discuss their employment with CleanStreet. We value your employees and we would be very willing to hire them if we can come to an agreement on pay rates.

CleanStreet Innovations

CleanStreet is a pioneer of municipal contract street sweeping. We are the industry leader.

Our innovations have improved the quality of services throughout the street sweeping industry.

Quality Innovation

One of our most powerful innovations was to authorize our operators to take additional passes if necessary to clean streets thoroughly.

While this increases our labor costs, it reduces or eliminates the complaints and the time wasted by City staff responding to complaints.

Increasing our labor costs reduces profits but it also increases customer satisfaction and loyalty.

This is why CleanStreet enjoys a great reputation.

Operator Pride

Another innovation is our program to instill pride in our operators.



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