

**CITY OF COSTA MESA  
MAINTENANCE SERVICES AGREEMENT  
WITH  
PERFORMANCE TRUCK REPAIR**

THIS MAINTENANCE SERVICES AGREEMENT ("Agreement") is made and entered into this 20th day of February, 2024 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and Performance Truck Repair, Inc. ("Contractor").

**WITNESSETH:**

A. City proposes to utilize the services of Contractor as an independent contractor to provide maintenance of City property, as more fully described herein; and

B. Contractor represents that it has the experience and expertise to properly perform such services and holds all necessary licenses to practice and perform the services; and

C. City and Contractor desire to contract for the services and desire to set forth their rights, duties and liabilities in connection with the performance of such services; and

D. No official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

**1.0. SERVICES PROVIDED BY CONTRACTOR**

1.1. Scope of Services. Contractor shall provide the services described in the City's Invitation for Bid ("IFB"), attached hereto as Exhibit "A," and Contractor's response to City's IFB (the "Proposal") attached hereto as Exhibit "B," both incorporated herein (the "Services").

1.2. Prevailing Wage Requirements.

(a) Prevailing Wage Laws. Contractor is aware of the requirements of Chapter 1 (beginning at Section 1720 et seq.) of Part 7 of Division 2 of the California Labor Code, as well as Title 8, Section 16000 et seq. of the California Code of Regulations ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. This project is a "maintenance" project and requires compliance with the Prevailing Wage Laws. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

(b) Payment of Prevailing Wages. Contractor shall pay the prevailing wage rates for all work performed under this Agreement. When any craft or classification is omitted from the general prevailing wage determinations,

Contractor shall pay the wage rate of the craft or classification most closely related to the omitted classification. A copy of the general prevailing wage rate determination is on file in the Office of the City Clerk and is incorporated into this Agreement as if fully set forth herein. Contractor shall post a copy of such wage rates at all times at the project site(s).

- (c) Legal Working Day. In accordance with the provisions of Labor Code Section 1810 et seq., eight (8) hours is the legal working day. Contractor and any subcontractor(s) of Contractor shall comply with the provisions of the Labor Code regarding eight (8)-hour work day and 40-hour work week requirements, and overtime, Saturday, Sunday, and holiday work. Work performed by Contractor's or any subcontractor's employees in excess of eight (8) hours per day, and 40 hours during any one week, must include compensation for all hours worked in excess of eight (8) hours per day, or 40 hours during any one week, at not less than one and one-half times the basic rate of pay. Contractor shall forfeit as a penalty to City Twenty-Five Dollars (\$25.00), or any greater penalty set forth in the Labor Code, for each worker employed in the execution of the work by Contractor or by any subcontractor(s) of Contractor, for each calendar day during which such worker is required or permitted to the work more than eight (8) hours in one calendar day or more than 40 hours in any one calendar week in violation of the Labor Code.
- (d) Apprentices. Contractor shall comply with the provisions of Labor Code Section 1777.5 concerning the employment of apprentices on public works projects. Contractor shall be responsible for ensuring compliance by its subcontractors with Labor Code Section 1777.5.
- (e) Payroll Records. Pursuant to Labor Code Section 1776, Contractor and any subcontractor(s) shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Contractor or any subcontractor in connection with this Agreement. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following: (1) The information contained in the payroll record is true and correct; and (2) The employer has complied with the requirements of Sections 1771, 1881, and 1815 of the Labor Code for any work performed by his or her employees on this project. The payroll records shall be certified and shall be available for inspection at all reasonable hours in accordance with the requirements of Labor Code Section 1776.
- (f) Registration with DIR. Contractor and any subcontractor(s) of Contractor shall comply with the provisions of Labor Code Section 1771 and Labor Code Section 1725.5 requiring registration with the DIR.

1.3. Performance to Satisfaction of City. Contractor agrees to perform all the work to the complete satisfaction of City. Evaluations of the work will be done by City's Maintenance Services Manager or his or her designee. If the quality of work is not satisfactory, City in its

discretion has the right to:

- (a) Meet with Contractor to review the quality of the work and resolve the matters of concern;
- (b) Require Contractor to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Compliance with Applicable Law. Contractor warrants that it shall perform the services required by this Agreement in compliance with all applicable federal and state employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other applicable federal, state and local laws and ordinances applicable to the services required under this Agreement. Contractor shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Contractor's performance under this Agreement.

1.5. Non-Discrimination. In performing this Agreement, Contractor shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status, except as permitted pursuant to section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Contractor acknowledges that City may enter into agreements with other contractors for services similar to the Services in this Agreement or may have its own employees perform services similar to those Services contemplated by this Agreement.

1.7. Delegation and Assignment. Contractor may not delegate or assign this Agreement, in whole or in part, to any person or entity without the prior written consent of City. Contractor may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Contractor's sole cost and expense.

## **2.0. COMPENSATION AND BILLING**

2.1. Compensation. For the first two years of the Agreement, Contractor shall be paid in accordance with the fee schedule set forth in Exhibit B. Notwithstanding any other language in this Agreement to the contrary, Contractor's total compensation shall not exceed two hundred thousand dollars (\$200,000.00) per year. After two years of the Agreement have been completed, Contractor may annually, 30 days prior to the end of the contract year, request an increase to the prices based upon the differences between the CPI-U for the Los-Angeles-Long Beach-Anaheim statistical area comparing the immediately preceding October CPI-U with the October twelve months before that date.

2.2. Additional Services. Contractor shall not receive compensation for any services provided outside the Scope of Services set forth in this Agreement without amending this Agreement as provided herein. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Contractor may submit invoices to the City for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Contractor's services which have been completed to City's sole satisfaction. City shall pay Contractor's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the Services performed, the date of performance, and the associated time for completion.

2.4. Records and Audits. Records of Contractor's Services shall be maintained in accordance with generally recognized accounting principles and shall be made available to City for inspection and/or audit at mutually convenient times throughout the term of this Agreement through three (3) years after its termination.

### **3.0. TIME OF PERFORMANCE**

3.1. Commencement and Completion of Work. The Services shall be performed in strict compliance with Exhibits A and B. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, pandemics (excluding COVID-19) or any other conditions beyond the reasonable control of a party.

### **4.0. TERM AND TERMINATION**

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of three years, ending on February 19, 2027, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. The city has the option to extend the contract for up to two additional one-year periods.

4.2. Notice of Termination. City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Contractor. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Contractor shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Contractor for reasonable costs incurred and Services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein.

## 5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Contractor shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00) per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00) combined single limit per accident for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California. Contractor agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Contractor for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of Contractor pursuant to its contract with City; products and completed operations of Contractor; premises owned, occupied or used by Contractor; automobiles owned, leased, hired, or borrowed by Contractor."
- (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City."
- (c) Other insurance: "Contractor's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not

affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.

- (e) Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Contractor shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.5. Non-limiting. The insurance provisions contained in this Agreement shall not be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the extent to which Contractor may be held responsible for payments of damages to persons or property.

## 6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Contractor shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Contractor called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Contractor in the performance of this Agreement.

Contractor shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Contractor or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile

or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONTRACTOR:

Performance Truck Repair  
892 W Tenth Street  
Covina, CA 91724  
Tel: (714) 327-7499  
Attn: David Killackey, Sr.

IF TO CITY:

City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
Tel: (714) 754-  
Attn: Robert Ryan

Courtesy copy to:

City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
Attn: Finance Dept. | Purchasing

6.5. Drug-free Workplace Policy. Contractor shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "C" and incorporated herein by reference. Contractor's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment. Contractor shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Contractor's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Contractor of Contractor's obligation to perform all other obligations to be performed by Contractor hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless. Contractor agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at

Contractor'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 performance of the Contractor, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Contractor, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Contractor, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Contractor, its employees, and/or authorized subcontractors under this Agreement, whether or not the Contractor, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Contractor 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 supersede and replace all other indemnity provisions contained either in the City's specifications or Contractor's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Contractor is and shall be acting at all times as an independent contractor and not as an employee of City. Contractor shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Contractor shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Contractor and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Contractor shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor further agrees to indemnify and hold City harmless from any failure of Contractor to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City,



including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.12. Cooperation. In the event any claim or action is brought against City relating to Contractor's performance or services rendered under this Agreement, Contractor shall render any reasonable assistance and cooperation which City might require.

6.13. Conflict of Interest. Contractor and its officers, employees, associates and subcontractors, if any, will comply with all conflict of interest statutes of the State of California applicable to Contractor's services under this Agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Contractor and its officers, employees, associates and subcontractors shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Contractor is not currently performing work that would require Contractor or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.14. Prohibited Employment. Contractor will not employ any regular employee of City while this Agreement is in effect.

6.15. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.16. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.17. Binding Effect. This Agreement binds and benefits the parties and their respective permitted successors and assigns.

6.18. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Contractor and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.19. Headings. Headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.20. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement and have had an adequate opportunity to review each and every provision of the Agreement and submit the same to counsel or other consultants for review and comment. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party

by virtue of the authorship of any of the provisions of this Agreement.

6.21. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.22. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.23. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.24. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.25. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

[Signature page follows.]

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

**CONTRACTOR**

  
David Killacky, Sr.  
President, Performance Truck Repair, Inc.

Date: 02-26-2024

  
David Killacky, Jr.  
Vice President, Performance Truck Repair, Inc.

Date: 2-26-24

**CITY OF COSTA MESA**

  
Lori Ann Farrell Harrison  
City Manager

Date: 3/13/2024

ATTEST:

 3/13/2024  
Brenda Green  
City Clerk



APPROVED AS TO FORM:

  
Kimberly Hall Barlow  
City Attorney

Date: 3/12/24

APPROVED AS TO INSURANCE:

  
Ruth Wang  
Risk Management

Date: 3/6/24

APPROVED AS TO CONTENT:



Robert Ryan  
Project Manager

Date: MARCH 6, 2024

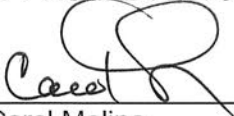
DEPARTMENTAL APPROVAL:



Raja Sethuraman  
Public Works Director

Date: 3-7-24

APPROVED AS TO PURCHASING:



Carol Molina  
Finance Director

Date: MARCH 5, 2024

**EXHIBIT A**

**INVITATION FOR BID**

**FOR FIRE EQUIPMENT MAINTENANCE, ANNUAL INSPECTION AND TESTING**

**EXHIBIT B**  
**CONTRACTOR'S PROPOSAL**



**INVITATION FOR BID**

**FOR**

**FIRE EQUIPMENT MAINTENANCE, ANNUAL INSPECTION & TESTING**

**IFB NO. 24-05**



**Public Works Department**

**CITY OF COSTA MESA**

**January 8, 2024**

**INVITATION FOR BID  
FOR  
FIRE EQUIPMENT MAINTENANCE, ANNUAL INSPECTION & TESTING**

The City of Costa Mesa (hereinafter referred to as the "City") is requesting Bids from qualified and certified consultants to provide professional fire equipment maintenance, annual inspection, and testing. The awarded Contractor, (hereinafter referred to as "Contractor") shall be in accordance with the Sample Maintenance Service Agreement, **Appendix C** terms, conditions, and scope of work. Prior to submitting a Bid, Bidders are advised to carefully read the instructions below, including the Sample Maintenance Service Agreement and any solicitation appendix/exhibits. The City reserves the right to award one or more contracts for the services.

**I. GENERAL INFORMATION**

The City of Costa Mesa is a general law city, which operates under the council/manager form of government with an annual General Fund budget of over \$180.3 million and a total budget of \$234 million for fiscal year 2023-2024.

The City of Costa Mesa, incorporated in 1953, has an estimated population of 115,000 and has a land area of 16.8 square miles. It is located in the northern coastal area of Orange County, California, and is bordered by the cities of Santa Ana, Newport Beach, Huntington Beach, Fountain Valley and Irvine.

The City is a "full service city" providing a wide range of services. These services include: police and fire protection; animal control; emergency medical aid; building safety regulation and inspection; street lighting; land use planning and zoning; housing and community development; maintenance and improvement of streets and related structures; traffic safety maintenance and improvement; and full range of recreational and cultural programs.

The City of Costa Mesa is home of the Segerstrom Center for the Arts, Orange County Fairgrounds, South Coast Repertory Theater and the South Coast Plaza Shopping Center, which is the single largest commercial activity center in the City. The volume of sales generated by South Coast Plaza secures its place as the highest volume regional shopping center in the nation.

The successful Bidder, shall have experience in similar types of services. All Bidders responding to this Invitation For Bid (IFB) will be reviewed on the basis of their expertise, prior experience on similar projects, demonstrated competence, ability to meet the requested services, adequate staffing, understanding of services, cost and responsiveness to the needs and concerns of the City of Costa Mesa.

- 1. Important Notice:** The City has attempted to provide all information available. It is the responsibility of each Bidder to review, evaluate, and, where necessary, request any clarification prior to submission of a bid. **Bidders are not to contact other City personnel with any questions or clarifications concerning this Invitation for Bid (IFB).** Any City



response relevant to this IFB other than through or approved by City's Purchasing Department is unauthorized and will be considered invalid.

If clarification or interpretation of this solicitation is considered necessary by City, a written addendum shall be issued and the information will be posted on PlanetBids. Any interpretation of, or correction to, this solicitation will be made only by addendum issued by the City's Purchasing Department. It is the responsibility of each Proposer to periodically check PlanetBids website to ensure that it has received and reviewed any and all addenda to this solicitation. The City will not be responsible for any other explanations, corrections to, or interpretations of the documents, including any oral information.

2. **Bid Validity:** Bids will be valid for a period of 120 days after the IFB closing date.
3. **Schedule of Events:** The invitation for bid will be governed by the following schedule:

Release of IFB	January 8, 2024
Deadline for Written Questions	January 16, 2024 at 11:00 a.m.
Responses to Questions Posted on City's Website	January 18, 2024
Bids Due	January 22, 2024 at 2:00 p.m.
Approval of Contract	TBD

## II. GENERAL INSTRUCTIONS AND PROVISIONS

1. Before submitting a bid, Bidders shall carefully examine the solicitation contents, including the sample maintenance services agreement, conditions and **Scope of Work, Appendix A**. Bidders shall include in their bid response a monetary sum to cover the cost of all items included in the agreement. The sample agreement contained in this solicitation is the proposed agreement for execution. Upon award, awarded Bidder will be required to sign and submit agreement for execution.
2. **Cover Letter:** A cover letter, not to exceed three pages in length, should summarize key elements of the Bid. An individual authorized to bind the Contractor must sign the letter. Indicate the address and telephone number of the contractor's office located nearest to Costa Mesa, California, and the office from which the project will be managed. And include proposed working relationship among the offering agency and subcontractors, if applicable.
3. **Background and Project Summary Section:** The Background and Project Summary Section should describe your understanding of the City, the work to be done, and the objectives to be accomplished. Refer to **Scope of Work, Appendix A** of this IFB.
4. **Bid, Appendix B:**
  - Bid prices quoted shall be firm for the full term of the contract.
  - Bid prices offered shall reflect all addendum(s) issued by the City.

- Bids shall be submitted only for the items and/or services as stated in the Scope of Work; bids for other than the items and/or services listed will not be considered.
- The City will only consider firm price bids.
- The net amount of profit will remain firm during the period of the contract. Contract adjustments which increase Contractor's profit will not be allowed.
- All price/rate decreases will automatically be extended to the City.
- Bids must be provided for each item separately; "all-or-none" bids will not be accepted unless in the best interest of the City.

**5. Substitutions:** Bids offering equivalent items meeting the standards of quality specified in the solicitation may be considered, unless otherwise specified, providing the bid clearly describes the article offered and how it differs from the specified brand. Unless Bidder specifies otherwise, it is understood that the Bidder is offering the brand item as specified in the solicitation. If Bidder bids an "equal," Bidder must state the brand name and must submit complete specifications and/or provide samples with the bid. Determination of equality shall be at the sole discretion of the City, and the City reserves the right to request a sample for determining equality with the specified brand. If it has been justified and accepted by the requesting agency/department and/or a City standards committee that only one brand can meet the City's requirements, "**no exceptions**" shall be noted in the specifications.

**6. Accuracy of Bids:** Bidders shall take all responsibility for any errors or omissions in their bids. Any discrepancies in numbers or calculations shall be interpreted to reflect the lowest price to the City.

If prior to contract award, a Bidder discovers a mistake in their bid which renders the Bidder unwilling to perform under any resulting contract, the Bidder must immediately notify the facilitator and request to withdraw the bid. It shall be solely within the City's discretion as to whether withdrawal will be permitted. If the solicitation contemplated evaluation and award of "all or none" of the items, then any withdrawal must be for the entire bid. If the solicitation provided for evaluation and award on a line item or combination of items basis, the City may consider permitting withdrawal of specific line item(s) or combination of items.

**7. Responsibility of Bidders:** The City shall not be liable for any expenses incurred by potential Contractors in the preparation or submission of their bids. Pre-contractual expenses are not to be included in the Contractor's Pricing Sheet. Pre-contractual expenses are defined as, including but not limited to, expenses incurred by Bidder in:

- Preparing its bid in response to this IFB;
- Submitting that bid to the City;

- Negotiating with the City any matter related to the bid; and,
- Any other expenses incurred by the Bidder prior to the date of the award and execution, if any, of the contract.

**8. Submission of Bids:** Complete written Bids must be submitted electronically in PDF file format via the planetbids.com website not later than **2:00 p.m. (P.S.T) on January 22, 2024**. Bids will not be accepted after this deadline. Bids received after the scheduled closing time will not be accepted. It shall be the sole responsibility of the Bidder to see that the bid is received in proper time. Faxed or e-mailed Bids will not be accepted. **NO EXCEPTIONS.**

**9. Inquiries:** Questions about this IFB must be posted in the Q&A tab on Planetbids no later than **January 16, 2024 at 11:00 A.M.** The City reserves the right not to answer all questions.

The City reserves the right to amend or supplement this IFB prior to the Bid due date. All addendum(s), responses to questions received, and additional information will be posted to the Costa Mesa Procurement Registry, Costa Mesa-Official City Web Site, Business-Bids & RFP's. Proposers should check this web page daily for new information.

From the date that this IFB is issued until a firm or entity is selected and the selection is announced, firms or public entities are not allowed to communicate outside the process set forth in this IFB with any City employee other than the contracting officer listed above regarding this IFB. The City reserves the right to reject any Bid for violation of this provision. No questions other than posted on Planetbids will be accepted, and no response other than written will be binding upon the City.

**10. Conditions for Bid Acceptance:** This IFB does not commit the City to award a contract or to pay any costs incurred for any services. The City, at its sole discretion, reserves the right to accept or reject any or all bids received as a result of this IFB or to cancel this IFB in part or in its entirety. The City may waive any irregularity in any bid. All bids will become the property of the City of Costa Mesa. If any proprietary information is contained in the bid, it should be clearly identified by Bidder

#### **11. Acceptance/Rejection/Award**

- Bids submitted in response to this IFB may become subject to public disclosure under the California Public Records Act, and other applicable law. The City shall not be liable in any way for disclosure of any such records. Additionally, all bids shall become the property of the City.
- The lowest, responsive and responsible, Bidder will be recommended for contract award.

- Bids will be reviewed by the City for responsiveness to all requirements. The City has the right to reject any bid deemed unresponsive or lacking the resources or experience to adequately perform the services described herein.
- Only those responsible and responsive bids that meet all solicitation requirements and specifications, shall be further reviewed for consideration for award. Award shall be based on the lowest, responsive, responsible bid.
- Please take notice that non-acceptance of City terms and conditions may deem a bid non-responsive. The City will not accept any other terms, conditions, or provisions contrary to those contained within this solicitation.
- By submitting a response to this solicitation, Bidders agree to accept the decision of the City as final.

**12. Checklist of Forms to Accompany Bid:** As a convenience to Bidders, following is a list of the Forms, (Appendix D) included in this IFB, which should be included with Bids:

1. Vendor Application Form
2. Company Profile & References
3. Ex Parte Communications Certificate
4. Disclosure of Government Positions
5. Disqualifications Questionnaire
6. Bidder/Applicant/Contractor Campaign Contribution

**13. Protests:** Failure to comply with the rules set forth herein may result in rejection of the protest. Any proposals awarded pursuant to the formal procurement procedure set forth in the Proposal procedure may be appealed in accordance with the following procedure:

- The Proposer shall file the written notice of appeal with the purchasing officer at least ten (10) working days prior to proposal award date specified in the notice of recommendation to award.
- The written notice of appeal must include specifics as to the nature of the appeal.
- The Proposer must provide any and all documentation to support the appeal.
- The purchasing officer will respond in writing to the Proposer within five (5) working days.
- In the event the appeal is denied by the purchasing officer, the Proposer may appeal the purchasing officer's ruling to the city council at the next available council meeting.

**14. Confidentiality:** The California Public Records Act (Cal. Govt. Code Sections 6250 et seq.) mandates public access to government records. Therefore, unless information is exempt from disclosure by law, the content of any request for explanation, exception, or substitution, response to this IFB, protest, or any other written communication between the City and Bidder, shall be available to the public. The City intends to release all public portions of bid

submissions following the evaluation process at such time as a recommendation is made to the City Council.

If Bidder believes any communication contains trade secrets or other proprietary information that the Bidder believes would cause substantial injury to the Bidder's competitive position if disclosed, the Bidder shall request that the City withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. Bidder may not designate its entire bid as confidential nor designate its Price Bid as confidential.

Submission of a bid shall indicate that, if Bidder requests that the City withhold from disclosure information identified as confidential, and the City complies with the Bidder's request, Bidder shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless the City from and against all damages (including but not limited to attorneys' fees and costs that may be awarded to the party requesting the Bidder information), and pay any and all costs and expenses related to the withholding of Bidder information. Bidder shall not make a claim, sue, or maintain any legal action against the City or its directors, officers, employees, or agents concerning the disclosure, or withholding from disclosure, of any Bidder information. If Bidder does not request that the City withhold from disclosure information identified as confidential, the City shall have no obligation to withhold the information from disclosure and may release the information sought without any liability to the City.

**15. Ex Parte Communications:** Bidders' representatives should not communicate with the City Council members about this IFB. In addition, Bidders, and Bidders' representatives, should not communicate outside the procedures set forth in this IFB with an officer, employee or agent of the City, including any member of the evaluation panel, with the exception of the IFB facilitator, regarding this IFB until after contract award. This solicitation requires due process and therefore set-forth herein must be explicitly complied with. Bidders and their representatives are not prohibited, however, from making oral statements or presentations in public to one or more representatives of the City during a public meeting.

A "Bidder" or "Bidder's representative" includes all of the Bidder's employees, officers, directors, consultants and agents, any subcontractors or suppliers listed in the Bidder's bid, and any individual or entity who has been requested by the Bidder to contact the City on the Bidder's behalf. Bidders shall include the Ex Parte Communications form (**Appendix D**) with their bids certifying that they have not had or directed prohibited communications as described in this section.

**16. Conflict of Interest:** The Bidder warrants and represents that it presently has no interest and agrees that it will not acquire any interest that would present a conflict of interest under California Government Code, Sections 1090, et seq., or sections 87100 et seq., during the performance of services under any contract awarded. The Bidder further covenants that it will not knowingly employ any person having such an interest in the performance of any

Agreement awarded. Violation of this provision may result in any awarded contract being deemed void and unenforceable.

**17. Disclosure of Governmental Position:** In order to analyze possible conflicts that might prevent a Bidder from acting on behalf of the City, the City requires that all Bidders disclose in their bids any positions that they hold as directors, officers, or employees of any governmental entity. Additional disclosure may be required prior to contract award or during the term of the contract. Each Bidder shall disclose whether any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past 12 months using the attached "Disclosure of Government Positions Form." (**Appendix D**)

**18.** The selected Bidder will execute a Maintenance Service Agreement for Services with the City describing the Scope of Work to be performed, the schedule for completion of the services, compensation, and other pertinent provisions. The contract shall follow the sample form of Agreement provided as **Appendix C** to this IFB, which may be modified by the City.

All Bidders are directed to particularly review the indemnification and insurance requirements set forth in the sample Agreement. **The terms of the agreement, including insurance requirements have been mandated by the City and can be modified only if extraordinary circumstances exist.**

Submittal of a Bid shall be deemed acceptance of all the terms set forth in this IFB and the sample agreement for services unless the Bidder includes with its Bid, in writing, any conditions or exceptions requested by the Bidder to the proposed Agreement.

**19.** Upon recommendation of contract award, Contractor will be required to submit the following documents with ten (10) days of City notification, unless otherwise specified in the solicitation:

- **Insurance** - City requires that licensees, lessees, and vendors have an approved Certificate of Insurance (not a declaration or policy) or proof of legal self-insurance on file with the City for the issuance of a permit or contract. Within ten (10) consecutive calendar days of award of contract, successful Bidder must furnish the City with the Certificates of Insurance proving coverage as specified in the sample contract.
- **W-9** – Current signed form W-9 (Taxpayer Identification Number & Certification) which includes Contractor's legal business name(s).

**20. Disqualification Questionnaire:** Bidders shall complete and submit, under penalty of perjury, a standard form of questionnaire inquiring whether a Bidder, any officer of a Bidder, or any employee of a Bidder who has a proprietary interest in the Bidder, has **ever** been disqualified, removed, or otherwise prevented from proposing on, or completing a federal, state, or local government project because of a violation of law or safety regulation and if so, to explain the

circumstances. A bid may be rejected on the basis of a Bidder, any officer or employee of such Bidder, having been disqualified, removed, or otherwise prevented from proposing on, or completing a federal, state, or local project because of a violation of law or a safety regulation. See (Appendix D).

**21. Standard Terms and Conditions:** The City reserves the right to amend or supplement this IFB prior to the Proposal due date. All addendum(s) and additional information will be posted via PlanetBids. Proposers should check this web page daily for new information.

## APPENDIX A SCOPE OF WORK

### SUMMARY

The City of Costa Mesa is requesting bids for supplying labor in the form of certified personnel to respond to all locations served by the City. (Incident scenes, fire stations, City Corporation Yard, etc) Contractor to provide all equipment, tools, materials, supervision, quality control and other items and non-personal services necessary to perform services. Work will include emergency vehicle repairs, annual inspection, testing, California required diesel emission testing services, annual on-site Mobile Fire Pump Testing, maintenance services on fire apparatus annual maintenance, and service testing of ground ladders, and annual inspection and service testing of fire hoses, nozzles, and fire hose appliances.

Towing and low bed services for transportation and emergency towing on an on-call basis to be arranged by the Contractor. Quote to be provided to the City for approval prior to service. Contractor to provide or coordinate warranty repairs for all vehicles including working with Pierce, International, Cummins, Detroit and Allison. The Contractor must have the ability to work with State of California OES for repairs and maintenance on any OES vehicle that is being utilized by the City.

Maintenance and repair of City vehicles must be considered top priority by Contractor when prioritizing workload and scheduling. If Contractor is unable to provide the maintenance or services necessary in a timely manner, as defined by City, then City may secure those services from another vendor.

### CONTRACTOR QUALIFICATIONS AND CONTRACT REQUIREMENTS

- Contractor shall be responsible and have the capability to properly furnish the Services and shall have the necessary expertise, personnel, equipment and sufficient capital to provide the Work.
- It is highly desirable that the Contractor provide documentation or proof of requisite experience and knowledge in repair, maintenance and service of OES apparatus. Documentation to include history and documentation as third-party facilitator or vendor for the State of California utilizing Form 161. Such documentation shall include the number of years that the contractor has provided such services. Experience on apparatus to include OES Type I, Type 3 and Type 6.



- It is highly desirable that the Contractor be certified to perform annual aerial ladder testing. Proof of certification shall be included with the bid documents.
- It is highly desirable that the Contractor be certified to perform annual apparatus pump testing (HALE). Proof of certification shall be included with the bid documents.
- On a separate page, provide a detailed description of the methodology used for the annual pump testing. This shall be included with the bid documents.

### **ESTIMATE PROCESS**

Contractor shall be notified by the City Representative that services are needed. Contractor will complete a vehicle inspection and work with the City Representative to schedule the time of an in-person inspection at the City's Equipment Maintenance Location or via a digital photo.

Contractor shall provide the City with a written cost estimate for repairs within two (2) business days after vehicle inspection. All proposals must give hourly labor rate pricing for regular work hours (i.e. Monday through Friday, 8:00am to 5:00pm) ("Regular Business Hours") and after hours, weekends and holiday hourly rate pricing. The proposals must also give the towing and low bed service pricing rates on portal to portal for Regular Business Hours and after hours, weekends and holidays. The Bidder must include Parts Pricing at cost, markup. All proposals must be signed by the bidder, with his address. If the proposal is made by individual, his name and office address must be shown. If made by an entity, the name and post office address of each member of the entity must be shown. If made by corporation, the proposal must show the name of the state under the laws of which the corporation was chartered, and the names, titles, and business addresses of the president, secretary, and treasurer. Bids are to verified before submission as they cannot be corrected, altered or signed after bids are opened.

All repairs shall be approved by the City Representative prior to the commencement of work. The City will not pay for work not approved prior to the commencement of work.

### **SUPPLEMENTAL ESTIMATES**

Supplemental estimates and additional cost of repair from hidden damage beyond the original estimate shall be reviewed and approved by City Representative prior to repairs.

**PARTS**

- Replacement parts shall consist of original equipment manufacturer (OEM) parts.
- Aftermarket equivalent parts may be acceptable if OEM parts are not available, however the City must agree to their use prior to being used.
- Equivalents shall meet or exceed the OEM designed specifications for the particular replacement part application and shall contain warranties equivalent to or exceeding OEM parts warranty coverage.
- Remanufactured or rebuilt parts may be acceptable for certain items, however the City must agree to their use prior to being used. All remanufactured or rebuilt parts to be used shall be indicated and approved on the estimate of repairs.

**COMPLETION OF WORK**

Contractor shall test all the functionality of any system to which any work was performed prior to considering the work complete. Contractor shall provide a report itemizing the parts and/or services provided upon completion of work performed and confirm successful testing.

**DELAYS**

Contractor must notify the City Representative of any delays to the repair of a vehicle.

**INVOICES**

Invoices shall contain the following information:

- Invoice number and date of invoice
- Purchas Order (PO) number
- Vehicle make, model, series, license number and vehicle mileage
- Description of all work performed
- Itemized list of parts, including part numbers
- Total labor hours at the hourly labor rate
- Total cost for labor and parts including sales tax on parts/materials.

Contractor shall submit priced invoices to Equipment Maintenance immediately upon completion of each job. All "miscellaneous" charges and travel time shall be described fully. The City will not process for payment any invoices that contain charges that are not properly described or itemized.

### **SPECIAL PROVISIONS – WARRANTIES**

- The responsive bidder and contractor shall guarantee all labor and parts installed on the vehicles and equipment owned by the City of Costa Mesa against defective materials or workmanship furnished by the contractor for a period of one (1) year from the date of completion of the work.
- Warranted parts shall be replaced with new parts in accordance with part requirements specified herein.
- All warranty information will be made available to the City.

### **MATERIAL AND WORKMANSHIP**

All equipment, materials and components incorporated into the work covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this Contract. References in the specifications to equipment, materials, articles or patented processes by trade name, make or catalog number shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, as its option, use any equipment, material, article or process that, in the judgment of the City Representative or designee, is equal to that named in the specifications, unless otherwise specifically provided in this Contract. Any substitution must be approved by the City Representative or designee prior to its use. The City will not be responsible for any work or parts that were not pre-approved.

All work under this Contract shall be performed in a workmanlike manner. The City may require, in writing, that the Contractor remove from work any employee deemed incompetent, careless or otherwise objectionable.

### **STOCK AND NON-STOCK PARTS AND MATERIAL**

Stock parts and material shall be any normal and common vehicle part that requires a timely repair or replacement. Such parts include, but are not limited to, hoses, belts, tires, brakes, engine parts, exhaust parts, catalytic converter

**APPENDIX B  
 BID SHEET**

Description is given for bidding purposes only and does not constitute a minimum or maximum quantity. Bidders shall complete Bid Sheet in its entirety. Items not available, shall be identified as not available and does not disqualify the Bidder.

Pricing shall remain firm for a minimum of two (2) years. Any and all invitations for pricing adjustments for follow-on contract renewal periods shall be provided no later than thirty (30) days prior to the end of the contract period. Any such proposed price adjustments shall not exceed The Bureau of Labor Statistics Consumer Price Index (CPI) data for Los Angeles-Riverside-Orange County, CA, All Items, Not Seasonally Adjusted, "annualized change comparing the original Bid month and the same month in the subsequent year. (This information may be found on the U.S. Department of Labor's website at [www.bls.gov](http://www.bls.gov).)

ITEM	DESCRIPTION	EST. HOURS	RATE PER HOUR	TOTAL COST
1	Labor rate – Regular Hours *Beyond Warranty & Recall Work	150	\$ ____ Hour	\$ ____
2	Labor Rate – After Hours & Holidays	50	\$ ____ Hour	\$ ____
3	Parts/Material Mark-up percentage	Cost Plus ____%		

Note: No charges will be paid by the City if not listed in the vendor's proposed pricing. Any additional charges listed in the vendor's proposal will be taken into consideration as part of the award evaluation.

Bidder acknowledges by signing below that bidder has read, understands, and agrees to the conditions contained herein and on all of the attachments and addenda.

**TO THE CITY OF COSTA MESA:**

The Undersigned hereby offers and shall furnish the material, labor, special equipment and permits or service in compliance with all terms, Scope of Services, conditions, specifications, and amendments in the Request for Bids which is incorporated by reference as if fully set forth herein. All material is guaranteed to be as specified, all work to be completed in a workmanlike manner according to standard practices, according to terms and conditions on the attached hereon and made a part thereof.

A Purchase Order will not be issued until the insurance certificate is approved by Risk Management. Bid may be withdrawn by Contractor if not accepted within 30 days.

For clarification of this offer, contact:

\_\_\_\_\_  
Company Name

Name: \_\_\_\_\_

\_\_\_\_\_  
Address

Title: \_\_\_\_\_

\_\_\_\_\_  
City State Zip

Phone: \_\_\_\_\_

\_\_\_\_\_  
Signature of Person Authorized to Sign

Fax: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

E-mail: \_\_\_\_\_

\_\_\_\_\_  
Title

**APPENDIX C**  
**MAINTENANCE SERVICES AGREEMENT (SAMPLE)**

**CITY OF COSTA MESA  
MAINTENANCE SERVICES AGREEMENT  
WITH**

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THIS MAINTENANCE SERVICES AGREEMENT ("Agreement") is made and entered into this \_\_\_ day of \_\_\_\_\_, 202\_ ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and \_\_\_\_\_, a [state] [type of corporation] ("Contractor").

**WITNESSETH:**

- A. City proposes to utilize the services of Contractor as an independent contractor to provide maintenance of City property, as more fully described herein; and
- B. Contractor represents that it has the experience and expertise to properly perform such services and holds all necessary licenses to practice and perform the services; and
- C. City and Contractor desire to contract for the services and desire to set forth their rights, duties and liabilities in connection with the performance of such services; and
- D. No official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

**1.0. SERVICES PROVIDED BY CONTRACTOR**

1.1. Scope of Services. Contractor shall provide the services described in the City's Invitation For Bid (IFB), attached hereto as Exhibit "A," and Contractor's response to City's IFB (the Bid) attached hereto as Exhibit "B," both incorporated herein (the "Services").

1.2. Prevailing Wage Requirements.

- (a) Prevailing Wage Laws. Contractor is aware of the requirements of Chapter 1 (beginning at Section 1720 et seq.) of Part 7 of Division 2 of the California Labor Code, as well as Title 8, Section 16000 et seq. of the California Code of Regulations ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. This project is a "maintenance" project and requires compliance with the Prevailing Wage Laws. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.
- (b) Payment of Prevailing Wages. Contractor shall pay the prevailing wage rates for all work performed under this Agreement. When any craft or classification is omitted from the general prevailing wage determinations,

Contractor shall pay the wage rate of the craft or classification most closely related to the omitted classification. A copy of the general prevailing wage rate determination is on file in the Office of the City Clerk and is incorporated into this Agreement as if fully set forth herein. Contractor shall post a copy of such wage rates at all times at the project site(s).

- (c) Legal Working Day. In accordance with the provisions of Labor Code Section 1810 et seq., eight (8) hours is the legal working day. Contractor and any subcontractor(s) of Contractor shall comply with the provisions of the Labor Code regarding eight (8)-hour work day and 40-hour work week requirements, and overtime, Saturday, Sunday, and holiday work. Work performed by Contractor's or any subcontractor's employees in excess of eight (8) hours per day, and 40 hours during any one week, must include compensation for all hours worked in excess of eight (8) hours per day, or 40 hours during any one week, at not less than one and one-half times the basic rate of pay. Contractor shall forfeit as a penalty to City Twenty-Five Dollars (\$25.00), or any greater penalty set forth in the Labor Code, for each worker employed in the execution of the work by Contractor or by any subcontractor(s) of Contractor, for each calendar day during which such worker is required or permitted to the work more than eight (8) hours in one calendar day or more than 40 hours in any one calendar week in violation of the Labor Code.
- (d) Apprentices. Contractor shall comply with the provisions of Labor Code Section 1777.5 concerning the employment of apprentices on public works projects. Contractor shall be responsible for ensuring compliance by its subcontractors with Labor Code Section 1777.5.
- (e) Payroll Records. Pursuant to Labor Code Section 1776, Contractor and any subcontractor(s) shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Contractor or any subcontractor in connection with this Agreement. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following: (1) The information contained in the payroll record is true and correct; and (2) The employer has complied with the requirements of Sections 1771, 1881, and 1815 of the Labor Code for any work performed by his or her employees on this project. The payroll records shall be certified and shall be available for inspection at all reasonable hours in accordance with the requirements of Labor Code Section 1776.
- (f) Registration with DIR. Contractor and any subcontractor(s) of Contractor shall comply with the provisions of Labor Code Section 1771 and Labor Code Section 1725.5 requiring registration with the DIR.

1.3. Performance to Satisfaction of City. Contractor agrees to perform all the work to the complete satisfaction of City. Evaluations of the work will be done by City's Maintenance Services Manager or his or her designee. If the quality of work is not satisfactory, City in its



discretion has the right to:

- (a) Meet with Contractor to review the quality of the work and resolve the matters of concern;
- (b) Require Contractor to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Compliance with Applicable Law. Contractor warrants that it shall perform the services required by this Agreement in compliance with all applicable federal and state employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other applicable federal, state and local laws and ordinances applicable to the services required under this Agreement. Contractor shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Contractor's performance under this Agreement.

1.5. Non-Discrimination. In performing this Agreement, Contractor shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status, except as permitted pursuant to section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Contractor acknowledges that City may enter into agreements with other contractors for services similar to the Services in this Agreement or may have its own employees perform services similar to those Services contemplated by this Agreement.

1.7. Delegation and Assignment. Contractor may not delegate or assign this Agreement, in whole or in part, to any person or entity without the prior written consent of City. Contractor may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Contractor's sole cost and expense.

## 2.0. COMPENSATION AND BILLING

2.1. Compensation. Contractor shall be paid in accordance with the fee schedule set forth in Exhibit B. Contractor's total compensation shall not exceed \_\_\_\_\_ Dollars (\$ \_\_\_\_\_.00).

2.2. Additional Services. Contractor shall not receive compensation for any services provided outside the Scope of Services set forth in this Agreement without amending this Agreement as provided herein. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Contractor may submit invoices to the City for approval on a

progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Contractor's services which have been completed to City's sole satisfaction. City shall pay Contractor's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the Services performed, the date of performance, and the associated time for completion.

2.4. Records and Audits. Records of Contractor's Services shall be maintained in accordance with generally recognized accounting principles and shall be made available to City for inspection and/or audit at mutually convenient times throughout the term of this Agreement through three (3) years after its termination.

### 3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The Services shall be performed in strict compliance with Exhibits A and B. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, pandemics (excluding COVID-19) or any other conditions beyond the reasonable control of a party.

### 4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of \_\_\_\_\_ years, ending on \_\_\_\_\_, 20\_\_\_\_, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Contractor. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Contractor shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Contractor for reasonable costs incurred and Services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein.

### 5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Contractor shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) **Commercial general liability**, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00) per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) **Business automobile liability** for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00) combined single limit per accident for bodily injury and property damage.
- (c) **Workers' compensation insurance** as required by the State of California. Contractor agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Contractor for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

5.2. **Endorsements.** The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) **Additional insureds:** "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of Contractor pursuant to its contract with City; products and completed operations of Contractor; premises owned, occupied or used by Contractor; automobiles owned, leased, hired, or borrowed by Contractor."
- (b) **Notice:** "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City."
- (c) **Other insurance:** "Contractor's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
- (e) Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Contractor shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.5. Non-limiting. The insurance provisions contained in this Agreement shall not be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the extent to which Contractor may be held responsible for payments of damages to persons or property.

## 6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Contractor shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Contractor called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Contractor in the performance of this Agreement.

Contractor shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Contractor or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONTRACTOR:

IF TO CITY:

\_\_\_\_\_  
\_\_\_\_\_  
Tel: \_\_\_\_\_  
Attn: \_\_\_\_\_

City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
Tel: (714) 754-  
Attn:

Courtesy copy to:

City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
Attn: Finance Dept. | Purchasing

6.5. Drug-free Workplace Policy. Contractor shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "C" and incorporated herein by reference. Contractor's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment. Contractor shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Contractor's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Contractor of Contractor's obligation to perform all other obligations to be performed by Contractor hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless. Contractor agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Contractor'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 performance of the Contractor, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Contractor, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Contractor, its employees, and/or authorized subcontractors, and/or whenever any claim, action,

complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Contractor, its employees, and/or authorized subcontractors under this Agreement, whether or not the Contractor, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Contractor 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 supersede and replace all other indemnity provisions contained either in the City's specifications or Contractor's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Contractor is and shall be acting at all times as an independent contractor and not as an employee of City. Contractor shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Contractor shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Contractor and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Contractor shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor further agrees to indemnify and hold City harmless from any failure of Contractor to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.12. Cooperation. In the event any claim or action is brought against City relating to Contractor's performance or services rendered under this Agreement, Contractor shall render any reasonable assistance and cooperation which City might require.

6.13. Conflict of Interest. Contractor and its officers, employees, associates and subcontractors, if any, will comply with all conflict of interest statutes of the State of California applicable to Contractor's services under this Agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Contractor and its officers, employees, associates and subcontractors shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Contractor is not currently performing work that would require Contractor or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.14. Prohibited Employment. Contractor will not employ any regular employee of City while this Agreement is in effect.

6.15. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.16. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.17. Binding Effect. This Agreement binds and benefits the parties and their respective permitted successors and assigns.

6.18. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Contractor and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.19. Headings. Headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.20. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement and have had an adequate opportunity to review each and every provision of the Agreement and submit the same to counsel or other consultants for review and comment. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.21. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.22. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of

this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.23. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.24. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.25. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

[Signature page follows.]



**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

**CONTRACTOR**

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
[Name and Title]

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
[Name and Title]

**CITY OF COSTA MESA**

\_\_\_\_\_  
Lori Ann Farrell Harrison  
City Manager

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Brenda Green  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Kimberly Hall Barlow  
City Attorney

Date: \_\_\_\_\_

APPROVED AS TO INSURANCE:

\_\_\_\_\_  
Ruth Wang  
Risk Management

Date: \_\_\_\_\_

APPROVED AS TO CONTENT:

\_\_\_\_\_  
[Name]  
Project Manager

Date: \_\_\_\_\_

DEPARTMENTAL APPROVAL:

\_\_\_\_\_  
[Name]  
[Title]

Date: \_\_\_\_\_

APPROVED AS TO PURCHASING:

\_\_\_\_\_  
Carol Molina  
Finance Director

Date: \_\_\_\_\_

**EXHIBIT C**

**CITY COUNCIL POLICY 100-5**

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SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

## BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

## PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

## **POLICY**

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

- b. Establishing a Drug-Free Awareness Program to inform employees about:
  - 1. The dangers of drug abuse in the workplace;
  - 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
  - 3. Any available drug counseling, rehabilitation and employee assistance programs; and
  - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
  - 1. Abide by the terms of the statement; and
  - 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
  - 1. Taking appropriate personnel action against such an employee, up to and including termination; or
  - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	3 of 3

- g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
    - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
    - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
    - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
  3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.

**APPENDIX D**

**FORMS**

**Vendor Application Form  
Ex Parte Communications Certification  
Disclosure of Government Positions  
Disqualification Questionnaire  
Company Profile & References  
Bidder/Applicant/Contractor Campaign Contribution**



**VENDOR APPLICATION FORM  
FOR  
IFB NO. 24-05 FIRE EQUIPMENT MAINTENANCE, ANNUAL INSPECTION & TESTING**

TYPE OF APPLICANT:             NEW             CURRENT VENDOR

Legal Contractual Name of Corporation: \_\_\_\_\_

Contact Person for Agreement: \_\_\_\_\_

Title: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Business Telephone: \_\_\_\_\_ Business Fax: \_\_\_\_\_

Corporate Mailing Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Contact Person for Proposals: \_\_\_\_\_

Title: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Business Telephone: \_\_\_\_\_ Business Fax: \_\_\_\_\_

Is your business: (check one)

- NON PROFIT CORPORATION             FOR PROFIT CORPORATION

Is your business: (check one)

- CORPORATION             LIMITED LIABILITY PARTNERSHIP  
 INDIVIDUAL             SOLE PROPRIETORSHIP  
 PARTNERSHIP             UNINCORPORATED ASSOCIATION



**Names & Titles of Corporate Board Members**

(Also list Names & Titles of persons with written authorization/resolution to sign contracts)

Names	Title	Phone

Federal Tax Identification Number: \_\_\_\_\_

City of Costa Mesa Business License Number: \_\_\_\_\_

(If none, you must obtain a Costa Mesa Business License upon award of contract.)

City of Costa Mesa Business License Expiration Date: \_\_\_\_\_

**EX PARTE COMMUNICATIONS CERTIFICATION**

Please indicate by signing below one of the following two statements. **Only sign one statement.**

I certify that Proposer and Proposer's representatives have not had any communication with a City Councilmember concerning **IFB No. 24-05 FIRE EQUIPMENT MAINTENANCE, ANNUAL INSPECTION & TESTING** at any time after **January 8, 2024**.

\_\_\_\_\_  
**Signature**

**Date:** \_\_\_\_\_

\_\_\_\_\_  
**Print**

**OR**

I certify that Proposer or Proposer's representatives have communicated after **January 8, 2024** with a City Councilmember concerning **IFB No. 24-05 FIRE EQUIPMENT MAINTENANCE, ANNUAL INSPECTION & TESTING**. A copy of all such communications is attached to this form for public distribution.

\_\_\_\_\_  
**Signature**

**Date:** \_\_\_\_\_

\_\_\_\_\_  
**Print**

**DISQUALIFICATION QUESTIONNAIRE**

The Contractor shall complete the following questionnaire:

Has the Contractor, any officer of the Contractor, or any employee of the Contractor who has proprietary interest in the Contractor, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer is yes, explain the circumstances in the following space.

**DISCLOSURE OF GOVERNMENT POSITIONS**

Each Proposer shall disclose below whether any owner or employee of Contractor currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months. List below or state "None."

### COMPANY PROFILE & REFERENCES

**Company Legal Name:**

Company Legal Status (corporation, partnership, sole proprietor etc.):

Active licenses issued by the California State Contractor's License Board:

Business Address:

Website Address:

Telephone Number:

Facsimile Number:

Email Address:

Length of time the firm has been in business:

Length of time at current location:

Is your firm a sole proprietorship doing business under a different name:  Yes  
 No

If yes, please indicate sole proprietor's name and the name you are doing business under:

Federal Taxpayer ID Number:

Regular Business Hours:

Regular holidays and hours when business is closed:

**Contact person in reference to this solicitation:**

Telephone Number:

Facsimile Number:

Email Address:

**Contact person for accounts payable:**

Telephone Number:

Facsimile Number:

Email Address:

**Name of Project Manager:**

Telephone Number:

Facsimile Number:

Email Address:

### COMPANY PROFILE & REFERENCES (Continued)

Submit the company names, addresses, telephone numbers, email, contact names, and brief contract descriptions of at least three clients, preferably other municipalities for whom comparable projects have been completed or submit letters from your references which include the requested information.

**Company Name:**

Contact Name:  
Contract Amount:  
Email:  
Address:  
Brief Contract Description:

**Company Name:**

Telephone Number:  
Contact Name:  
Contract Amount:  
Email:  
Address:  
Brief Contract Description:

**Company Name:**

Telephone Number:  
Contact Name:  
Contract Amount:  
Email:  
Address:  
Brief Contract Description:

**Company Name:**

Telephone Number:  
Contact Name:  
Contract Amount:  
Email:  
Address:  
Brief Contract Description:

**Company Name:**

Telephone Number:  
Contact Name:  
Contract Amount:  
Email:  
Address:  
Brief Contract Description:



**BIDDER/APPLICANT/CONTRACTOR CAMPAIGN CONTRIBUTION  
DISCLOSURE FORM**

Proposer/Consultant/Applicant is required to identify any campaign contribution or cumulative contributions greater than \$249 to any city council member in the twelve months prior to submitting an application, proposal, statement of qualifications or bid requiring approval by the City Council.

Date	Name of Donor	Company/Business Affiliation	Name of Recipient	Amount

Except as described above, I/we have not made any campaign contribution in the amount of \$250 or more to any Costa Mesa City Council Member in the twelve months preceding this Application/Proposal.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

\_\_\_\_\_ Bidder/Applicant/Proposer

\_\_\_\_\_ Date

**EXHIBIT B**

**CONTRACTOR'S PROPOSAL**

---



**EXHIBIT A**  
**REQUEST FOR PROPOSALS**

# PERFORMANCE TRUCK REPAIR INC.

892 W. Tenth St. Azusa, Ca 91702 | (626) 664-0995 | info@ptrcorp.com

January 17, 2024

CITY OF COSTA MESA

Public Works Department

IFB NO. 24-05

**To whom it may concern:**

Thank you for providing Performance Truck Repair Inc. the opportunity to respond to this IFB NO. 24-05, fire equipment maintenance, annual inspection and testing. We are confident that you will be very satisfied with the services we provide.

Performance Truck Repair Inc. succeeds in providing superior support with all your emergency equipment repair needs 24/7. PTR is a family-owned business and have been operating successfully for over 30 years. We offer after hour's field service technical support. We provide detailed analysis reports of all findings while performing any and all work on equipment. We at PTR Inc. take a lot of pride in our process of educating the equipment operator in proper preventative measures to ensure minimal equipment down time.

The accompanying proposal provides a comprehensive response to all of the requirements outlined. We have also enclosed a list of references as well as a copy of our liability insurance policy so that you are sure you are in good hands.

Again, thank you for your time and we look forward to working with you.

Sincerely,

David Killackey Sr.

PRESIDENT

PERFORMANCE TRUCK REPAIR INC.



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# CONSULTANT UNDERSTANDING

Understanding the scope of work is a key element in proper repair methods. It all begins with training.

The repair process begins with a phone call from the City of Costa Mesa indicating a complaint in the operation of a piece of equipment. Once we received this phone call our typical response time to the fire station in Costa Mesa would be approximately 1 1/2 to 2 hours. Once on scene with the vehicle in question we begin the repair process by interviewing The Costa Mesa city fire personnel member who can best describe the issues at hand. If available we would ask for a history Report of the vehicle in question. With a basic understanding of the complaint, we then go directly to the component most likely associated with the malfunction. First a visual inspection of component, and if applicable we connect your laptop computer to scan the control area network (CAN) to locate any known active or in active trouble codes. In this example we would then inspect any electronic modules, connectors and wiring for points of failure within those components.

If the malfunction is related to non-electronic components, we would begin with the visual inspection followed by exercising the malfunctioning component looking for the exact cause of failure.

During the replacement of components, we use only original equipment (OEM) parts.

The OEM parts are then installed using methods and techniques required by the OEM parts manufactures and apparatus manufacturers recommendations.

There are many examples of proper methods and techniques during repairs, below are just two.

1. One small but important example of proper repair methods involving wiring repairs. We NEVER use crimp-on wire connectors. Instead, we use solderable connectors and heat shrink insulating protectors.
2. Another example of proper methods and techniques is the proper use of silicone sealant. There is indeed a time and place for silicone sealant however during an engine or transmission overhaul would not be one of those times. Silicone sealant can enter into the hydraulic systems of components such as engines, transmissions, water pumps and valving. No doubt the silicone would end up in a place within those components that could cause a catastrophic failure to those assemblies.

We have found that there are very few exceptions to the outlines provided by the OEMs regards proper methods and techniques during maintenance and repair to fire apparatus. We strongly adhere to those recommendations.

# TECHNICAL PROPOSAL/EXECUTIVE SUMMARY

Thank you for your consideration,

Since 1995 Performance Truck Repair. (PTR) has successfully built a company and assembled a team that is second to none in the emergency equipment repair industry. At PTR we pride ourselves in holding the highest qualifications and certifications. In addition to being highly qualified we also have made an enormous investment in our facility and tooling. PTR's willingness to purchase any and all tools necessary to perform inspections and repairs combined with highly educated technicians inside a perfectly constructed and laid out shop make for a repair experience unmatched in So Cal.

PTR has the facility, equipment, and experienced crew to tackle any heavy truck overhaul repair. Our technicians are thoroughly trained in Allison transmission overhaul/repair, light-medium vehicle overhaul/repair, major engine overhaul on internal and external componentry, brake assemblies, clutch assemblies, drive-line overhaul/repair, off-highway equipment and aerial device overhaul/repair, just to name a few.

That being said we understand that the above mentioned is not always enough. We consider a quick response to the needs of our customers as critical to keeping their fleet in service. Due to our quality of work and response time we have had the privilege of obtaining the fire fleet maintenance contracts with Arcadia fire department, West Covina Fire Department, Alhambra Fire Department and Los Angeles County Fire Department, just to name a few. We also have been working with OES for many years.

Accessibility is key therefore we are available to our customers 24/7. In addition to our shop PTR Maintains multiple service trucks for on-site repairs for regular and after hours repair needs including weekends and holidays.

PTR operates a full line welding shop and fabrication shop. Our employees have acquired all certifications needed to rebuild and repair all styles of water pump applications (Hale, Waterous, Darley, ect.). We have acquired all certifications in recertifying and testing aerial apparatus as well as certifications with Cummins, Detroit diesel, CAT, Allison, Bendix, Foam Pro, CAFS systems, TAK-4, steering, air brake, electronics, suspension, ect. (All certifications are available upon request). PTR is also a service center and vehicle sales dealer for E-one.

PTR is family owned and operated therefore we enjoy the "family" style approach to running our business with not only professionalism and expertise but also a strong sense of concern for the needs of the customers as well as our vendors. Maintaining a sense of urgency throughout the repair process until the equipment is returned to service is critical to both the success of the customer and PTR.

PTR's is financially solid and do not have any loans, We also have never been through a bankruptcy. Due to the fact that we pay our bills on time we have developed a strong relationship with our vendors ensuring that we receive parts on a timely manner.

PTR personnel has a deep sense of appreciation to the commitment displayed throughout the fire fighter community. We feel it is our duty to contribute all of our efforts in keeping the equipment in proper working condition and do to so in a cost effective manner.

**DISQUALIFICATION QUESTIONNAIRE**

The Contractor shall complete the following questionnaire:

Has the Contractor, any officer of the Contractor, or any employee of the Contractor who has proprietary interest in the Contractor, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

Yes No 

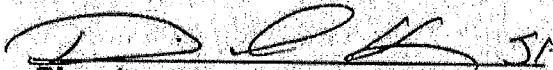
If the answer is yes, explain the circumstances in the following space.



**EX PARTE COMMUNICATIONS CERTIFICATION**

Please indicate by signing below one of the following two statements. **Only sign one statement.**

I certify that Proposer and Proposer's representatives have not had any communication with a City Councilmember concerning **IFB No. 24-05 FIRE EQUIPMENT MAINTENANCE, ANNUAL INSPECTION & TESTING** at any time after **January 8, 2024**.

  
Signature

Date: 1-18-24

David Killoway Jr.  
Print

OR

I certify that Proposer or Proposer's representatives have communicated after **January 8, 2024** with a City Councilmember concerning **IFB No. 24-05 FIRE EQUIPMENT MAINTENANCE, ANNUAL INSPECTION & TESTING**. A copy of all such communications is attached to this form for public distribution.

\_\_\_\_\_  
Signature

Date: -----

\_\_\_\_\_  
Print



**TO THE CITY OF COSTA MESA:**

The Undersigned hereby offers and shall furnish the material, labor, special equipment and permits or service in compliance with all terms, Scope of Services, conditions, specifications, and amendments in the Request for Bids which is incorporated by reference as if fully set forth herein. All material is guaranteed to be as specified, all work to be completed in a workmanlike manner according to standard practices, according to terms and conditions on the attached hereon and made a part thereof.

A Purchase Order will not be issued until the insurance certificate is approved by Risk Management. Bid may be withdrawn by Contractor if not accepted within 30 days.

For clarification of this offer, contact:

Performance Truck Repair Inc.

Company Name

892 W. Tenth St

Address

Azusa CA 91702

City State Zip

  
Signature of Person Authorized to Sign

David Killackey Jr.

Printed Name

Vice President

Title

Name: David Killackey Jr.

Title: Vice President

Phone: (626)664-0995

Fax: \_\_\_\_\_

E-mail: Davidjr@ptrcorp.com

## APPENDIX B BID SHEET

Description is given for bidding purposes only and does not constitute a minimum or maximum quantity. Bidders shall complete Bid Sheet in its entirety. Items not available, shall be identified as not available and does not disqualify the Bidder.

Pricing shall remain firm for a minimum of two (2) years. Any and all invitations for pricing adjustments for follow-on contract renewal periods shall be provided no later than thirty (30) days prior to the end of the contract period. Any such proposed price adjustments shall not exceed The Bureau of Labor Statistics Consumer Price Index (CPI) data for Los Angeles-Riverside-Orange County, CA, All Items, Not Seasonally Adjusted, "annualized change comparing the original Bid month and the same month in the subsequent year. (This information may be found on the U.S. Department of Labor's website at [www.bls.gov](http://www.bls.gov).)

ITEM	DESCRIPTION	EST. HOURS	RATE PER HOUR	TOTAL COST
1	Labor rate - Regular Hours *Beyond Warranty & Recall Work	150	\$125 Hour	\$18,750
2	Labor Rate - After Hours & Holidays	50	\$135 Hour	\$6,750
3	Parts/Material Mark-up percentage	Cost Plus <u>20</u> %		

Note: No charges will be paid by the City if not listed in the vendor's proposed pricing. Any additional charges listed in the vendor's proposal will be taken into consideration as part of the award evaluation.

Bidder acknowledges by signing below that bidder has read, understands, and agrees to the conditions contained herein and on all of the attachments and addenda.

**Names & Titles of Corporate Board Members**

(Also list Names & Titles of persons with written authorization/resolution to sign contracts)

Names	Title	Phone
David Killackey Sr	President	(626)393-6003
David Killackey Jr.	Vice President	(626)664-0995
Kimberly Killackey -----	Secretary	(626)391-8186

Federal Tax Identification Number: [REDACTED] -----

City of Costa Mesa Business License Number: \_\_\_\_\_

(If none, JOJ must obtain a Costa Mesa Business License upon award of contract)

City of Costa Mesa Business License Expiration Date: \_\_\_\_\_



VENDOR APPLICATION FORM  
FOR  
IFB NO. 24-05 FIRE EQUIPMENT MAINTENANCE, ANNUAL INSPECTION & TESTING

TYPE OF APPLICANT:  NEW  CURRENT VENDOR

Legal Contractual Name of Corporation: Performance Truck Repair

Contact Person for Agreement: David Killackey Jr

Title: Vice President E-Mail Address: Davidjr@ptrcorp.com

Business Telephone: (626)664-0995 Business Fax N/A

Corporate Mailing Address: 892 W. Tenth St.

City, State and Zip Code: Azusa, CA 91702

Contact Person for Proposals: David Killackey Jr.

Title: Vice President E-Mail Address: Davidjr@ptrcorp.com

Business Telephone: (626)664-0995 Business Fax N/A

Is your business: (check one)

NON PROFIT CORPORATION is your  FOR PROFIT CORPORATION  
business: (check one)

CORPORATION

LIMITED LIABILITY PARTNERSHIP

INDIVIDUAL

SOLE PROPRIETORSHIP

PARTNERSHIP

UNINCORPORATED ASSOCIATION

### COMPANY PROFILE & REFERENCES

**Company Legal Name:**

Company Legal Status (corporation, partnership, sole proprietor etc.): **Corporation**

Active licenses issued by the California State Contractor's License Board: **Business**

Address: **892 W. Tenth St., Azusa CA 91702**

Website Address: **PTRCORP.com**

Telephone Number: **(626)664-0995**

Email Address: **Davidjr@ptrcorp.com**

Length of time the firm has been in business: **30 Years**

Length of time at current location: **11 Years**

Is your firm a sole proprietorship doing business under a different name: **No**

If yes, please indicate sole proprietor's name and the name you are doing business under:

Federal Taxpayer ID Number 

Regular Business Hours: **MON. - FRI. 7 a.m. to 4 p.m. but on call 24/7**

Regular holidays and hours when business is closed: **N/A**

**Contact person in reference to this solicitation:**

Telephone Number: **(626)664-0995**  
Email Address: **DavidJr@ptrcorp.com**

Facsimile Number: **N/A**

**Contact person for accounts payable: David Killackey Jr.**

Telephone Number: **(626)664-0995**

Facsimile Number: **N/A**

**Name of Project Manager: Joe Avina**

Telephone Number: **(626)367-7520**  
Email Address: **Joea@ptrcorp.com**

Facsimile Number: **N/A**

**COMPANY PROFILE & REFERENCES (Continued)**

Submit the company names, addresses, telephone numbers, email, contact names, and brief contract descriptions of at least three clients, preferably other municipalities for whom comparable projects have been completed or submit letters from your references which include the requested information.

**Company Name: West Covina Fire Department**

Telephone Number: (626)221-9943

Contact Name: Chief Vincent Capelli

Contract Amount:

Email: [wafd@westcovina.org](mailto:wafd@westcovina.org)

Address: 825 S. Sunset Ave., West Covina, CA 91791

Brief Contract Description: PTR holds the contract to perform vehicle maintenance and repair on all fire department vehicles

**Company Name: Arcadia Fire Department**

Telephone Number: (626)260-3464

Contact Name: Tom Devlin

Contract Amount:

Email: [Tdevlin@arcadiaca.gov](mailto:Tdevlin@arcadiaca.gov)

Address: 710 S. Santa Ana Ave., Arcadia, CA 91007

Brief Contract Description: PTR holds the contract to perform vehicle maintenance and repair on all fire department vehicles

**Company Name: Alhambra Fire Department**

Telephone Number: (805)795-5656

Contact Name: Dustin Pierson

Contract Amount:

Email: [Dpierson@alhambrafire.org](mailto:Dpierson@alhambrafire.org)

Address: 301 N. First St., Alhambra, CA 91801

Brief Contract Description: PTR holds the contract to perform vehicle maintenance and repair on all fire department vehicles

**Company Name: Long Beach Fire Department**

Telephone Number: (626)590-1828

Contact Name: John Williams

Contract Amount:

Email: [John.a.williams@longbeach.gov](mailto:John.a.williams@longbeach.gov)

Address: 2600 Temple Ave., Long Beach, CA 90806

Brief Contract Description: PTR perform's vehicle maintenance and repair on fire department vehicles

**Company Name: El Segundo Fire Department**

Telephone Number: (626)590-1828

Contact Name: Evan Siefke

Contract Amount:

Email: [esiefke@elsegundo.org](mailto:esiefke@elsegundo.org)

Address: 150 Illinois St., El Segundo, CA 90245

Brief Contract Description: PTR holds the contract to perform vehicle maintenance and repair on all fire department vehicles

# Request for Taxpayer Identification Number and Certification

Give Form to the  
 requester. Do not  
 send to the IRS.

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  
David Killiankey Jr.

2 Business name/deregarded entity name, if different from above  
Performance Enterprises

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

Individual/sole proprietor or single-member LLC  
 C Corporation  
 S Corporation  
 Partnership  
 Trust/estate

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ \_\_\_\_\_  
 Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

Other (see instructions) ▶ \_\_\_\_\_

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  
 Exempt payee code (if any) \_\_\_\_\_  
 Exemption from FATCA reporting code (if any) \_\_\_\_\_  
*(Apply to accounts maintained outside the U.S.)*

5 Address (number, street, and apt. or suite no.) See instructions.  
892 W. Tenth St.

6 City, state, and ZIP code  
Azusa, CA 91702

7 List account number(s) here (optional)

Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number  
 [Redacted]

OR  
 Employer identification number  
 [Redacted]

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification Instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person ▶ [Signature] Date ▶ 1/16/24

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
  - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
  - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
  - Form 1099-S (proceeds from real estate transactions)
  - Form 1099-K (merchant card and third party network transactions)
  - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
  - Form 1099-C (canceled debt)
  - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.
- If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

**Declarations**

This Policy (and any documents referred to in it) contains the whole agreement between Underwriters and the Named Insured relating to the insurance provided by this Policy; and supersedes all previous understandings and agreements between Underwriters and the Named Insured relating to the terms and conditions of this Policy.

Previous No: NA  
Authority Ref. No: B1551JEE64G23A000  
Certificate No: GLL-11095-00

**ITEM 1 NAMED INSURED:** Performance Truck Repair Inc

**ADDRESS:** 892 W 10th St  
Azusa, CA 91702

**BUSINESS DESCRIPTION:** Automobile Repair or Service Shops

**ITEM 2 POLICY PERIOD:** Inception Date: April 14, 2023      Expiration Date: April 14, 2024  
(both days at 12:01 A.M. standard time at the address shown in ITEM 2)

**ITEM 3 Certain Underwriters at Lloyd's, London (Please refer to Security Schedule Endt. for details)**

**ITEM 4 COVERAGE:**

Commercial General Liability - Occurrence

Bodily Injury and Property Damage Each Occurrence	\$1,000,000
Personal & Advertising Injury Each Offense	\$1,000,000
Damage to Premises Rented to You	\$100,000
Medical Payments	\$5,000
General Aggregate	\$3,000,000
Products/Completed Operations Aggregate	\$3,000,000

**Hired/Non-Owned Auto:**

Per Occurrence	\$1,000,000
Aggregate	\$1,000,000
Deductible	\$5,000

**Garagekeepers:**

Each Auto:	\$500,000
Each Location:	\$1,000,000
All Locations Aggregate:	\$1,000,000
Deductible per vehicle	\$5,000

Other limits of liability may be indicated on attached coverage parts or endorsements.

**ITEM 5 DEDUCTIBLE:**

Both BI & PD      \$5,000      per occurrence

**ITEM 6 PREMIUM:**

GLL4001042021

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with its permission

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**DISCLOSURE OF GOVERNMENT POSITIONS**

Each Proposer shall disclose below whether any owner or employee of Contractor currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months. List below or state "None."

NONE

**EXHIBIT C**

**CITY COUNCIL POLICY 100-5**

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SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

**BACKGROUND**

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

**PURPOSE**

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

**POLICY**

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

- b. Establishing a Drug-Free Awareness Program to inform employees about:
  - 1. The dangers of drug abuse in the workplace;
  - 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
  - 3. Any available drug counseling, rehabilitation and employee assistance programs; and
  - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
  - 1. Abide by the terms of the statement; and
  - 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
  - 1. Taking appropriate personnel action against such an employee, up to and including termination; or
  - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	3 of 3

- g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
    - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
    - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
    - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
  3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.