

City of Kelso

Janitorial Services Contract

Request for Proposals



Due: September 10, 2019 - 10:00 am
2nd Fl. City Hall
203 S. Pacific Ave. Kelso, WA 98626

The City of Kelso is requesting proposals for a janitorial services contract for the City's buildings for an initial period of three years from October 1, 2019 to September 30, 2022, with the option for two one-year renewal periods.

All proposals must be submitted on the regular form furnished with the specifications in a sealed envelope clearly marked with the name of the bidder, the name of the RFP, and the date and time of the bid opening.

The City of Kelso in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on grounds of race, color, national origin, or sex in consideration for an award.

The City of Kelso reserves the right to reject any or all bids, waive informalities or irregularities and to accept any bid for the project, which appears to serve the best interest of the City.

Pre-Bid Site Visit

In order to fully understand the City's needs, Prospective Bidders are strongly encouraged to attend the following site visit. The submission of a bid shall constitute an acknowledgement upon which the City may rely that the bidder has thoroughly examined and is familiar with the Contract Provisions, including addenda, work site identified in such documents, and all applicable statutes, regulations, ordinances, and resolutions dealing with or related to the work and services to be provided herein. The failure or neglect of a bidder to examine such documents, work site(s), statutes, regulations, ordinances, or resolutions shall in no way relieve the bidder from any contract obligations. No claim for additional compensation will be allowed based upon lack of knowledge or due diligence.

Date/Time: Thursday, August 29, 2019 at 9:00 am

Location: Kelso City Hall
203 S. Pacific Ave. (2nd Floor)
Kelso, WA 98626

Contact: Jason Gorans (360) 957-6872 or jgorans@kelso.gov

The site visit will include the Kelso City Hall, Train Depot, Operations Shop, and Library. The site visit is anticipated to take less than two hours.

Bidder Responsibility

Responsible bidders, as defined in RCW 39.04.010 and 39.04.350, must meet the following criteria:

- Be a registered contractor, tradesperson or business
- Have a current Unified Business Identifier (UBI) number
- Have industrial insurance/workers' comp coverage
- Have an Employment Security Department (ESD) account
- Have a state excise tax registration number
- Not be disqualified from bidding under RCW 39.06.010 or 39.12.065(3)
- Not have any apprenticeship violations, if applicable
- Certify through a sworn statement that they are not a willful violator of labor laws in reference to RCW 49.48.082 within the past three years.
- Have received, or be exempt from, training provided by the Department of Labor and Industries or by a provider whose curriculum has been approved by L&I, on the requirements related to public works and prevailing wages. (See ESSHB 1673.)

This project is a Public Work as defined in RCW 39.04.010. The Awarded Contractor shall comply with all state laws relating to employment and wages. The hourly wages to be paid laborers, workers, or mechanics shall not be less than the prevailing rates for an hour's work in the same trade or occupation in Cowlitz County. The State of Washington prevailing wage rates applicable for this public works project may be found at the following website address of the Department of Labor and Industries, and is made part of this contract:

<http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp>

The applicable effective date for prevailing wages for this project is the bid submittal date. A copy of the applicable prevailing wage rates are also available for viewing at City Hall. Upon request, the City will mail a hard copy of the applicable prevailing wages for this project.

The cost of filing Prevailing Wage forms with the State Department of Labor and Industries shall be borne by the bidder and at no additional cost to the City.

No payment will be made on this contract until the contractor and each and every subcontractor has submitted a 'Statement of Intent to Pay Prevailing Wages' that has been approved by the Department of Labor and Industries. No final payment or release of any retainage will be made until the contractor and each and every subcontractor has submitted an 'Affidavit of Wages Paid' following L&I filing requirements, and that has been approved by the Department of Labor and Industries.

Contractor is responsible for filing forms pursuant to L&I requirements. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve month period of the contract.

The City shall adjust the prevailing wages (hourly wage rates and fringe benefits) annually. In order to calculate the change in prevailing wages due to the Awarded Contractor, the Awarded Contractor shall provide to the City a breakdown of the fully loaded labor rates for each classification of labor including hourly wage rates, fringe benefits, overhead and profit. The City shall not pay for any price escalation for overhead, profit, equipment, material, or any other costs except for changes in the prevailing wages (hourly wage rates and fringe benefits).

Service Company Qualifications

The following requirements shall be provided in the prospectus and considered as the minimum standards for a service company to be considered as qualified to provide services under this contract, and shall be a prerequisite to any award.

1. A period of five (5) years' experience in the performance of commercial janitorial services as specified shall be considered a minimum.
2. Services that are to be provided shall be performed by qualified and trained service personnel that are directly employed by the service company.

Locations and Services List

The following equipment and locations shall be included:

Public Library (351 Three Rivers Mall Drive)

- Building – 11,627 sq. ft.
- Carpet – 11,000 sq. ft.

Train Depot (501 S. 1st Ave)

- Building – 6,740 sq. ft.
- Carpet – 780 sq. ft.

Operations (2300 Parrott Way)

- Building – 2,000 sq. ft.
- Carpet – 1,290 sq. ft.

City Hall (203 S. Pacific Ave)

- Building - 26,423 sq. ft.
- Carpet – 20,000 sq. ft.

Specific Requests/Expectations:

DAILY (Each weekday, except for the Train Depot which also includes weekend service)

- Clean entryway glass doors; inside and out
- Clean the window glass to the Police Department reception office
- Empty all waste receptacles and remove all cardboard
- Clean and disinfect restrooms, shower and kitchen areas; including all fixtures, mirrors, sinks, and floors
- Clean and sanitize water fountains
- Refill paper products and soap dispensers as needed including dispensers in shower room
- Clean the counter tops in reception areas, break rooms, City Hall entry, and council chambers
- Clean all table tops in conference, kitchen, lunch and break rooms
- Clean all work area desk tops
- Spot sweep, vacuum, and mop as needed
- Spot damp mop as needed
- Spot clean carpets as needed
- Spot clean work surfaces
- Sanitize all stair rails, door handles, bars and plates, including restroom stalls
- Secure **all** buildings upon departure

WEEKLY (all locations)

- Dust all surfaces
- Damp mop
- Sweep exterior entry, remove cigarette butts and clean ashtrays in smoking area
- Sweep stairways, floors, and entryways
- Vacuum all carpet areas including throw rugs, offices, exercise equipment area, elevator and edging; including cubicles
- Sweep shop floor and wipe down all handrails at PW Operations
- Clean out and wipe down refrigerators and microwaves

MONTHLY (all locations)

- Clean outside fixtures bulbs & globes; under 8' tall
- Dust wainscotings and chair rail in all rooms
- High dusting for cobweb control (excludes Operations equipment bays and City Hall atrium)
- Dust walls
- Spot clean interior windows
- Clean door trim, light switches, walls, woodwork, file cabinets and shelving
- Clean and sanitize telephones
- Vacuum cloth covered chairs/couches
- Wipe lockers and vending machines
- Wax all maroleum/vinyl floors according to specifications (Johnson Wax product as recommended by manufacturer)

EVERY THREE (3) MONTHS (all locations)

- Clean interior windows

EVERY SIX (6) MONTHS (all locations)

- Oil woodwork

- Clean light diffusers and fixtures
- Dust blinds and window coverings and sills

YEARLY (all locations)

- Shampoo all carpets
- Strip and wax all floors according to manufacturer recommendation

Supplies provided by the City of Kelso:

- Light bulbs
- Paper towels
- Toilet tissue
- Hand soap
- Shower soap
- Restroom deodorant spray
- Trash bags

Contractor shall provide equipment and all other supplies necessary to complete job assignments. All equipment and supplies shall meet OSHA requirements for the safety and protection of employees of the contractor as well as City staff.

Additional Terms and Conditions

- This service shall not be subcontracted.
- All workers shall have passed a background check prior to working on-site.
- Services shall be provided before or after business hours for each location.

Evaluation of Proposals and Award

Evaluation Procedure: An evaluation team will review each responsive proposal. Each proposal will be rated on a point system with the top-scoring proposal selected.

Evaluation Criteria: A maximum score of 100 points will be used to evaluate proposals. Each of the following elements shall have the stated maximum point value:

- A. Total Price/Fee Structure:.....30 Points
 - a. As provided in the proposal documents
- B. Qualifications and Past Performance40 Points
 - a. As gathered from the proposal documents and references
- C. Approach to Providing Services30 Points
 - a. As gathered from proposal documents

Award: The City reserves the right to award the contract to the Bidder deemed to offer the best overall proposal. The City is therefore not bound to accept any proposal solely on the basis of the lowest price. The City further reserves the right to cancel this RFP and to reject any and all proposals, waive any and all informalities and or irregularities.

Proposal Form

30 pts.

Janitorial Services Monthly/Annual/Total Costs

Bidder Name: _____

Year 1 Provide Detail Per Location

	Monthly Charge		Annual Charge
Public Library:		x 12	\$
Train Depot:		x 12	\$
Operations:		x 12	\$
City Hall:		x 12	\$
Subtotal Year 1:			\$

Years 2-3 Summary Subtotal All Locations

	Monthly Charge		Annual Charge
Year 2:		x 12	\$
Year 3:		x 12	\$
Subtotal Years 2-3:			\$

Total Proposal

Three Year Total:	\$
8.1% WSST	\$
Total Proposal:	\$

Cost Per Additional Carpet Cleaning Beyond Annual Service

	Charge
Public Library:	\$
Train Depot:	\$
Operations:	\$
City Hall (Police Dept):	\$
City Hall (Council Chambers)	\$
City Hall (Finance Department)	\$
City Hall (2nd Floor)	\$

Addenda Receipt Acknowledgement

Receipt of the following Addenda to the Drawings and/or Specifications is hereby acknowledged.

ADDENDUM #'s	DATES OF RECEIPT	SIGNED ACKNOWLEDGMENT

Failure to acknowledge receipt of addenda may be considered an irregularity in the proposal.

Non-Collusion Declaration

I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.
2. **That by signing the signature page of this proposal, I am deemed to have signed and have agreed to the provisions of this declaration.**

Name of Bidder (Company)

E-mail

Physical WA State Mailing Address

Telephone

City State and Zip

ESD Account No.

Washington Registration Number

Expiration Date

Name of Bidder's Representative

UBI No.

Signature of Bidder's Representative

Date

Qualifications and Past Performance

40 pts.

Name of Business: _____

Number of years in business under present name: _____

Number of regular full-time employees: _____

Ratio of field supervisors to workers: _____

Has the bidder, or any representative thereof:

Failed to complete a contract? Yes No

Been found guilty of any violation of State or Federal Employment Laws? Yes No

Ever filed for Chapter Eleven or other bankruptcy? Yes No

Have had any adverse legal judgments rendered in past five years? Yes No

Filed any claims with Washington State Workman's Compensation? Yes No

Had a prior contract terminated early? Yes No

Provide details on any question answered "yes" above:

List a minimum of three public contracts of a similar nature which have been performed by the bidder within the last five years and the gross dollar amount of each project:

Business Name, Contact Name and Phone Number	Contract Type	Contract Amount	Dates of Performance

Approach to Providing Services

30 pts.

Bidders must provide a detailed plan indicating how they intend to service each location being bid on relevant to the detailed specifications, that explains:

Transition – Describe the plan for overtaking service(s) from current Contractor to your company. *If Bidder is current Contractor, so indicate and provide a transition plan from current contract to the anticipated new contract.*

Implementation – Describe how you plan to provide the service(s) without disrupting the current service level(s). *If Bidder is current Contractor, and provide an implementation plan from current contract to the anticipated new contract.*

Contingency – Describe your plan to still provide the service(s) due to any unforeseen circumstance (i.e. staff no show, equipment failure, etc.).

Staffing – Number, titles, and responsibility of staff needed to provide service, with estimated man-hours needed to perform the service

Quality Assurance - How will you verify that your staff adequately performs work for the delivery of the services described under this RFP? Also describe your process for responding to and resolving customer complaints.



Certification of Compliance with Wage Payment Statutes

Effective July 23, 2017, before award of a public works contract, the bidder under consideration for award of a public works project must submit to the public agency a sworn statement that they have not willfully violated wage payment laws within the past three years in order to be considered a responsible bidder. (See [RCW 39.04.350](#) as modified by [SSB 5301](#), Laws of 2017, ch. 258.)

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date (9/10/19), the bidder is not a “willful” violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Bidder’s Business Name

Signature of Authorized Official*

Printed Name

Title

Date

City

State

Check One:

Sole Proprietorship Partnership Joint Venture Corporation*

State of Incorporation, or if not a corporation, State where business entity was formed:

If a co-partnership, give firm name under which business is transacted:

** If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, proposal must be executed by a partner.*

Sample Contract



CITY OF KELSO – JANITORIAL SERVICES AGREEMENT

This Agreement is entered into by and between [REDACTED], hereinafter referred to as the “Contractor”, and the City of Kelso, a municipal corporation of the State of Washington, hereinafter referred to as the “Owner”.

The City seeks the temporary maintenance services of a skilled independent contractor capable of providing such service without direct supervision, is experienced in providing this service, and is familiar with the City’s municipal code, resolutions, regulations and policies.

The Contractor has the requisite skill and experience necessary to provide such services.

NOW, THEREFORE, the Parties agree to the following terms and conditions:

1. SERVICES.

1.1 Description of Services. Contractor agrees to furnish all personnel, materials, and services and to otherwise do all things necessary for or incidental to the performance of the work set forth and more particularly described [[as follows]] or [[in Attachment “A” attached hereto and incorporated by this reference]] (“Services”). [[insert description of work here or attach Exhibit A describing scope of work]]

1.2 Compliance with Laws. All duties of the Contractor or designees shall be performed in accordance with all applicable federal and state laws and city ordinances as now existing or hereafter adopted or amended.

1.3 The Contractor shall control and direct the performance of the Service. The City reserves the right to inspect, review and approve the Service to assure that it has been completed as specified prior to payment.

1.4 Clean Up. At any time during the term of the Agreement, the City may order, and the Contractor shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the Contractor’s performance of the Service. In the event that the Contractor fails to comply with the clean up order, the City may, but is not obligated to perform the necessary clean up, and the costs thereof shall be immediately paid by the Contractor to the City, or the City may deduct its costs from any payments due to the Contractor.

1.5 Performance Standard. All duties by the Contractor or his designees shall be performed in a manner consistent with accepted practices for other similar services, performed to the City’s satisfaction, within the time period prescribed by this Agreement and pursuant to the direction of the City Manager or designee.

2. TERM.

The Term of this Agreement shall commence on October 1, 2019. The contract will automatically renew for up to four additional terms in one-year increments for a total possible life of five terms, and shall terminate automatically on October 1, 2024 This Agreement may be extended for additional periods of time upon the mutual written agreement of the City and the Contractor and according to the Procurement Policies of the City.

3. TERMINATION.

3.1 During any term, this Agreement may be terminated, with or without cause by either Party, by giving prior to expiration of the term, this Agreement may be terminated immediately, with or without cause, by the City. The Contractor may cancel this Agreement only upon thirty (30) days prior written notice to the City.

4. COMPENSATION.

4.1 Total Compensation. In consideration of the Contractor performing the Services, the City agrees to pay an amount not to exceed \$ [REDACTED].

4.2 Compensation Rates. Compensation for Services shall be in accordance with the rates set forth in bidders proposal.

4.3 Method of Payment. Payment by the City for the Services will only be made after the Services have been performed and an itemized billing statement has been submitted in the form specified by the City and

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approved by the appropriate City representative, which shall specifically set forth the Services performed, the name of the person performing such Services, and the hourly labor charge rate for such person. Payment shall be made on a monthly basis thirty (30) days after receipt of such billing statement.

4.4 Contractor Responsible for Taxes. The Contractor shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of performance and payment under this Agreement.

5. REPRESENTATION AND WARRANTY.

5.1 The Contractor warrants that it has the requisite training, skill and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities.

5.2 The Contractor has a Business License from the City of Kelso, if applicable.

5.3 The Contractor shall at its own cost and expense, correct all work performed that the City deems, in its sole discretion, to have defects in workmanship or materials, which is discovered within one year of the termination of the Agreement.

6. INDEPENDENT CONTRACTOR.

6.1 It is the intention and understanding of the Parties that the Contractor shall be an independent contractor. The Contractor or his or her employees or agents performing under this Agreement are not employees or agents of the City. The Contractor will not hold himself or herself out as nor claim to be an officer or employee of the City. The Contractor will not make any claim of right, privilege, or benefit which would accrue to an employee under law. The City shall neither be liable for nor obligated to pay sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax which may arise as an incident of employment. The Contractor shall pay all income and other taxes as due. Industrial or any other insurance which is purchased for the benefit of the Contractor shall not be deemed to convert this Agreement to an employment contract.

6.2 It is recognized that the Contractor may or will be performing maintenance services during the term for other parties and that the City is not the exclusive user of the Contractor's services; provided, however, that the performance of other professional services shall not conflict with or interfere with the Contractor's ability to perform the Services. The Contractor agrees to resolve any conflict in favor of the City.

7. CHANGE ORDERS.

7.1 The City may, at any time, without notice to sureties, order changes within the scope of the service. Contractor agrees to fully perform any such alterations or additions to the service. All such change orders shall be in the form of a Supplemental Agreement, a form provided by the City, which shall be signed by both the Contractor and the City, and shall specifically state the change of the Service, the completion date for such changed Service, and any increase or decrease in the compensation to be paid to Contractor as a result of such change in the Service. Oral change orders shall not be binding upon the City unless confirmed in writing by the City. If any change hereunder causes an increase or decrease in the Contractor's cost of, or time required for, the performance or any part of the Service under this Contract, an equitable adjustment will be made and the Contract modified in writing accordingly.

7.2 If the Contractor intends to assert a claim for an equitable adjustment hereunder, it shall, within five (5) days after receipt of a written change order from the City or after giving the City the written notice required above, as the case may be, submit to the City a written statement setting forth the general nature and monetary extent of such claim; provided the City, in its sole discretion, may extend such five (5) day submittal period upon request by the Contractor. The Contractor shall supply such supporting documents and analysis for the claims as the City may require to determine if the claims and costs have merit. No claim will be allowed for any costs incurred more than five (5) days before the Contractor gives written notice as required. No claim by the Contractor for an equitable adjustment hereunder will be allowed if asserted after final payment under this Contract.

8. INDEMNIFICATION.

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8.1 Contractor Indemnification. The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

9. INSURANCE.

9.1 Insurance Term. The Contractor shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Contractor's work through the term of the contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.

9.2 No Limitation. Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the Owner's recourse to any remedy available at law or in equity.

9.3 Minimum Scope of Insurance. Contractors required insurance shall be of the types and coverage as stated below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

2. Commercial General Liability insurance shall be as least at broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The Owner shall be named as additional an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the Owner using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

9.4 Minimum Amounts of Insurance. Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit.

9.5 Owner Full Availability of Contractor Limits. If the Contractor maintains higher insurance limits than the minimums shown above, the Owner shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate of insurance furnished to the Owner evidences limits of liability lower than those maintained by the Contractor.

9.6 Other Insurance Provision. The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect the

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Owner. Any insurance, self-insurance, or self-insured pool coverage maintained by the Owner shall be excess of the Contractor's insurance and shall not contribute with it.

9.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

9.8 Verification of Coverage. Contractor shall furnish the Owner with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the insurance requirements of the Contractor before commencement of the work. Upon request by the Owner, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractors' coverage.

9.9 Subcontractors' Insurance. The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure that the Owner is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement at least as broad as ISO Additional Insured endorsement CG 20 38 04 13.

9.10 Notice of Cancellation. The Contractor shall provide the Owner and all Additional Insureds for this work with written notice of any policy cancellation within two business days of their receipt of such notice.

9.11 Failure to Maintain Insurance. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the Owner may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Owner on demand, or at the sole discretion of the Owner, offset against funds due the Contractor from the Owner.

10. EQUAL OPPORTUNITY EMPLOYER.

In the performance of all Services under this Agreement, the Contractor, or its employees, agents, subcontractors or representatives, shall not discriminate against any person because of sex, age (except minimum age and retirement provisions), race, color, creed, national origin, marital status or the presence of any disability, including sensory, mental, or physical handicaps, based upon a bona fide occupational qualification in relationship to hiring and employment. The Contractor shall comply with the Washington Law Against Discrimination (Chapter 49.60 RCW) and with any other applicable federal or state law or local ordinance regarding non-discrimination. Any material violation of this provision shall be grounds for immediate termination of this Agreement by the City and, in the case of the Contractor's breach, may result in ineligibility for further City agreements.

11. PREVAILING WAGES.

The Contractor agrees that all laborers, workers, or mechanics employed by it or by any subcontractor in the work of this Contract will be paid not less than the prevailing rate of wage for an hour's work in accordance with the provisions of Ch. 39.12, R.C.W. and all such rules and regulations as may be promulgated thereto by the Washington Department of Labor and Industries.

In case any dispute arises as to what the prevailing rates of wage for work of a similar nature are and such dispute cannot be adjusted by the parties involved, the matter shall be referred to the Director of the Department of Labor and Industries of the State of Washington for arbitration, and the director's decision therein shall be final and conclusive and binding on all parties involved in the dispute.

12. CONFIDENTIALITY.

The Contractor agrees that all materials containing confidential information received pursuant to this Agreement shall not be disclosed without the City's express written consent. Contractor agrees to provide the City with

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immediate written notification of any person seeking disclosure of any confidential information obtained for the City.

13. SERVICE PRODUCT.

All Service product, including records, files, documents, plans, computer disks, magnetic media or material which may be produced or modified by the Contractor while performing the Services shall belong to the City. Upon written notice by the City during the Term of this Agreement or upon the termination or cancellation of this Agreement, the Contractor shall deliver all copies of any such Service product remaining in the possession of the Contractor to the City.

14. BOOKS AND RECORDS.

The Contractor agrees to maintain books, records, and documents that sufficiently and properly reflect all direct and indirect costs related to the performance of the Services and maintain such accounting procedures and practices as may be deemed necessary by the City to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject, at all reasonable times, to inspection, review, or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

15. NON-APPROPRIATION OF FUNDS.

If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the City will not be obligated to make payments for Services or amounts incurred after the end of the current fiscal period, and this Agreement will terminate upon completion of all remaining Services for which funds are allocated. No penalty or expense shall accrue to the City in the event this provision applies.

16. GENERAL PROVISIONS.

16.1 Entire Agreement. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.

16.2 Modification. No provisions of this Agreement may be amended or modified except by written agreement signed by the Parties.

16.3 Full Force and Effect. Any provision of this Agreement which is declared invalid or illegal, shall in no way affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect.

16.4 Assignment. Neither the Contractor nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other party.

16.5 Successors in Interest. Subject to the foregoing Subsection, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns.

16.6 Attorney Fees. In the event either party brings a lawsuit to enforce the terms of this Agreement, or arising from a breach of this Agreement, the prevailing party shall be entitled to its costs and attorneys' fees for bringing or defending against the action.

16.7 No Waiver. Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default.

16.8 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington.

16.9 Venue. The venue for any dispute related to this Agreement or for any action to enforce any term of this Agreement shall be Cowlitz County, Washington.

16.10 Authority. Each individual executing this Agreement on behalf of the City and the Contractor represents and warrants that such individuals are duly authorized to execute and deliver this Agreement on behalf of the Contractor or the City.

CITY OF KELSO – JANITORIAL SERVICES AGREEMENT

16.11 Notices. Any notices required to be given by the Parties shall be delivered at the addresses set forth below. Any notices may be delivered personally or may be deposited in the United States mail, postage prepaid, to the address set forth below. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.

16.12 Performance. Time is of the essence of this Agreement in each and all of its provisions in which performance is a factor.

16.13 Remedies Cumulative. Any remedies provided for under the terms of this Agreement are not intended to be exclusive but shall be cumulative with all other remedies available to the City at law or in equity.

16.14 Counterparts. This Agreement may be executed in any number of counter-parts, which counterparts shall collectively constitute the entire Agreement.

16.15 Conflicting Provisions. In the event of a conflict between the terms of any Contract Documents, the City Manager or designee shall issue an interpretation to resolve the conflict, which shall be final and binding.

17. BACKGROUND CHECK

Contractor agrees to provide Owner with signed waivers from all employees who will be performing the work hereunder. Owner then shall conduct a background investigation of all such employees. Prior to performing any work hereunder, each employee must successfully pass the background check. Owner agrees to perform the background checks in a timely fashion.

Further, Contractor agrees that they will not allow any employee to perform any of the services herein without said employee first having passed the background check required herein.

Executed on the dates written below.

CONTRACTOR

CITY OF KELSO

By:

By:

Signature

Signature

Printed Name

Brian Butterfield

Printed Name

Interim City Manager

Title

Title

Date

Date

Attest/Authentication:

Approved as to form

City Clerk

Brian Butterfield

City Attorney

Janean Parker