NOTICE TO CONTRACTORS

AGENCY: City of Albany, California

DEPARTMENT: Public Works Department

CONTACT: Gale Rossi, Public Works Department, (510) 524-8170

DATE OF POSTING: October 4, 2017

PROJECT TITLE: CITYWIDE STREET SWEEPING SERVICES, CONTRACT C18-4

REQUEST FOR PROPOSAL: This Request for Proposal and any associated contract documents will be posted on the City website under the Doing Business section: http://www.albanyca.org/index.aspx?page=1201

DESCRIPTION OF WORK: The proposed service contract will include the regular sweeping of all City streets with curbs as well as medians and islands. The frequency of sweeping shall be once per month for residential streets and four times per month for commercial streets. City street map and schedule are included as part of the Request for Proposal.

TERM OF CONTRACT: The contract will be a three-year term with two mutual one-year extension options to renew under the same terms and conditions as provided in the contract awarded hereunder, subject to the price and scope modifications that have been agreed upon by the City and Contractor pursuant to the provisions in these contract documents entitled “Unit Cost Adjustment”.

LIVING WAGE/PREVAILING WAGE: The Contractor and all subcontractors on this Contract will be subject to the requirements set forth in Albany Municipal Code Chapter 2-26. The Living Wage Ordinance contains an exemption for contracts that are subject to state prevailing wage laws, if prevailing wage rates are higher than living wage rates.

PROPOSAL REQUIREMENTS: Sealed proposals must be received at the office of the City Clerk in City Hall, 1000 San Pablo Avenue, Albany, CA 94706, no later than 2:00 PM on November 7, 2017. Proposals must be submitted on a Proposal Form. Bid bond is not required. Proposals shall be clearly marked “CITYWIDE STREET SWEEPING SERVICES PROPOSAL”.

SCHEDULE OF SERVICES: This contract will commence in December 2017.

For questions pertaining to this RFP, please contact Gale Rossi in the Public Works Department at (510) 524-8170 or grossi@albanyca.org.

Mark Hurley
Public Works Director/City Engineer
I. CITY OVERVIEW

The City of Albany was incorporated in 1908 and has been a charter city in Alameda County since 1927. The City has a permanent staffing level of approximately 84 City employees and serves an estimated 18,430 residents. The City is 1.7 square miles. The City provides a full range of services including police and fire protection, paramedic service, street and sewer maintenance, recreational activities and cultural events. Citywide street sweeping began in 2005 and consists of monthly service for residential streets and weekly nighttime service for commercial streets.

II. DESCRIPTION OF WORK AND SPECIAL PROVISIONS

WORK

The estimated curb miles required to be swept is calculated as twice the length of applicable City streets (not including length of intersection) and medians multiplied by the number of sweeps per year. Monthly residential sweeping will be approximately 618 curb miles/year, weekly commercial sweeping will be approximately 182 miles/year, and an additional monthly street sweeping around Albany High School will be 13 miles/year. The contract will also include 25 hours for additional street sweeping, as needed. Contractor is expected to track actual number of curb miles swept. A map showing commercial and residential routes is included as Exhibit B.

The existing City street sweeping schedule is included as Exhibit A. Contractor may base its proposal on the existing schedule, a revised schedule or provide proposals for both (existing and revised), if the unit costs differ. A proposed revision to the schedule CANNOT include changes in schedule for streets shown as “Monthly Sweep with Parking Enforcement” in Exhibit B. Changes may only be made to areas without Parking Enforcement. A statement of whether Contractor intends to keep the same schedule or is proposing a new schedule is required in Exhibit E, Proposal Form.

Except in commercial areas, hours of operation shall be between 8 AM and 5:00 PM. Sweeping in commercial areas must be performed between 10 PM and 7 AM.

STANDARD OF PERFORMANCE

Contractor warrants that it possesses, or has arranged through subcontracts, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all federal, state, county, local, and special district laws, ordinances, and regulations.

Contractor must be fully informed of and observe and comply with all applicable state and federal laws and local ordinances, regulations and adopted codes during its performance of the work. Contractor must conform to the rules and regulations pertaining to safety established by OSHA and the California Division of Industrial Safety.

Contractor must provide and install suitable safeguards to protect City property from injury or damage. If City property is injured or damaged as a result of the Contractor operations, Contractor must replace or restore at their expense. The facilities shall be replaced or restored to a condition as good as when the Contractor began work.
Contractor shall so conduct operations as to cause the least possible obstruction and inconvenience to public traffic. Sweeping shall be accomplished in the same direction as traffic flow at all times during sweeping.

Contractor is responsible for a minimum 8-foot swept width, as close as practicable to each curb face. All debris along the sweeping path, not matter what quantity, is to be removed from the public right of way and properly disposed of. Sweeping shall normally consist of a single pass over an area; however, Contractor shall make additional passes, or such extra effort as may be required to reasonably clean the street. The City shall be notified immediately of the occurrence of unusually heavy debris that cannot be removed by extra sweeping effort. Extra effort shall be required to remove dirt/silt smear remaining in the swept pathway. Extra effort is expected during bad weather. The cost for extra effort shall be included in the contract price and no additional compensation will be given.

Contractor shall remove loose debris and material normally picked up and removable by a fully operational mechanical or vacuum street sweeper. This includes, but is not limited to: sand, gravel, glass, nails, bottles, cans, leaves, silt, mud and litter. Contractor shall immediately remove debris swept onto driveway aprons, sidewalks and access ramps. The cost for manually removing debris swept from the roadway onto driveway aprons, sidewalks and access ramps shall be included in the contract price and no additional compensation will be provided.

Non-swept or non-sweepable items such as small tree limbs, rocks, silt, mud, trash and debris shall be collected and removed by Contractor from the normal sweeping path. Larger obstructions such as tree limbs, construction or landscape debris, shall be immediately reported to the City.

Street sweeper shall leave designated areas of sweeping free of dirt, litter, debris, obstructions, smears and visible dust to the maximum extent practicable. For streets that do not meet the maximum extent practicable standard for sweeping on the scheduled sweeping day, Contractor shall sweep deficient street within 48 hours after the normal sweeping day at no cost to City. The determination of maximum extent practicable shall be at the sole discretion of the City. Contractor shall immediately notify City when a street or section of streets will be or had been missed during regularly scheduled street sweeping. Contractor shall notify City when re-sweeps are scheduled.

Contractor shall properly obtain potable water (or water of similar quality) used for dust control, and no additional compensation will be allowed therefore. Dust suppression shall be employed during sweeping operations to comply with all state and local regulations for dust control.

Contractor shall properly dispose of all debris collected by the sweeping operations. The cost of disposal shall be included in unit costs and no additional compensation will be allowed therefore. Documentation of the quantity of disposed debris must be kept on record. Contractor shall provide monthly summary reports, enclosed with invoice to the City. Reports shall summarize total street miles swept, amount of debris collected (tons), and note any issues encountered while sweeping. Should contractor notice any catch basins or other public facilities requiring maintenance while sweeping, contractor will notify City representative of location and issue.
City will notify Contractor of needed corrections and any re-sweeps required following complaints received by the City. In the event that the re-sweeps are considered unsatisfactory by the City, or sweeping was performed before or after the no parking hours posted City will notify Contractor of exact location and description of deficiency. The Contractor shall re-sweep the unsatisfactory area at its sole expense within the time limits specified.

Contractor shall furnish City with every reasonable opportunity for City to ascertain that the services of the Contractor are being performed in accordance with the requirements and intentions of this contract. All work done and all materials furnished, if any, shall be subject to City's inspection and approval. The inspection of such work shall not relieve Contractor of any of its obligations to fulfill its contract requirements.

Contractor shall coordinate with the designated City staff member regarding any issues along sweeping routes including but not limited to inaccessible sweeping areas due to parked vehicles, or low hanging tree limbs. Certain areas may require more or less intensive sweeping, and other conditions may arise which could impact the regular progress of the sweeping operation.

EQUIPMENT
Quality and quantity of the equipment used for the sweeping of streets shall be sufficient to perform the work required herein within the hours of work specified herein, and an absolute minimum of one primary sweeper shall be provided. In the event that the primary sweeper or sweeper operator is unable to perform, the Contractor shall provide another sweeper with competent operator without interruption of service. No additional compensation will be provided for supplying another sweeper and/or operator. All sweepers shall be capable of performing to the minimum criteria outlined herein and below, and shall be maintained both mechanically and visually throughout the term of the agreement with capability to insure scheduled routine maintenance and proper adjustment for sweepers.

Sweepers must be capable of sweeping a minimum eight-foot width as measured from the outside edge of the gutter broom in a single pass. Sweeper must also be equipped with a left gutter broom for median work. Street sweepers must have a minimum hopper capacity of 3 cubic yards. Mechanical brushes and brooms shall be maintained in proper condition and shall be replaced as recommended by the manufacturer or when performance becomes impaired. Sweeping equipment shall be equipped with adequate warning devices and lights for safe operation and shall meet all vehicle operation requirements of the State of California Department of Motor Vehicles and the California Highway Patrol. All sweepers shall be clearly and prominently marked with the Contractor’s name and unit number.

Recommended sweeper speed is 3 to 5 miles per hour. Contractor shall adjust sweeping speed to street and debris conditions. Contractor will not be compensated for streets swept while vehicle exceeds six miles per hour.

Sweeper operator must be skilled and experienced in the proper use of the sweeper, have a valid California Driver's License, be able to work closely and cooperatively with City staff, and speak and understand English fluently in order to effectively communicate with City Public Works and Police personnel. The work of the operator shall never be impaired by alcohol or drugs. No sweeper
operator shall engage in inappropriate, erratic, or illegal behavior. If any person employed or retained by the Contractor shall appear to be alcohol- or drug-impaired, or incompetent, or to act in a disorderly or improper manner, the said person shall be discharged immediately from work on the program. The discharged person(s) shall not again be employed to perform work under the contract. Any violation of the above requirements will be grounds for the City’s immediate cancellation of the agreement with the Contractor, and may give rise to criminal and/or civil action against the operator and/or the Contractor.

**DELAY IN SWEEPING SCHEDULE**
In the event of inclement weather, as determined by the City, Contractor shall not be required to perform the regular sweeping schedule but shall make up the missed schedule when the inclement weather subsides. There shall be no additional cost to the City should these circumstances occur. In the event of a mechanical breakdown, Contractor must have a back-up sweeper available in 2 hours. The City is not responsible for repairs, lost time, overtime, or any other costs associated with equipment failure. Scheduled work that falls on a Holiday shall be completed or rescheduled within 48 hours at no additional cost to the City.

**PAYMENT**
Contractor shall submit invoices in a format specified by the City. Data contained in each invoice shall be sufficient for City to determine work performed; manpower, materials and equipment used; and applicable unit prices. Invoices shall also include volume, in cubic yards and tons, of material removed from the street and delivered to landfill. City shall pay Contractor within 30 days of receipt of these monthly invoices, if invoices are approved by City. If invoices are not approved by the City, the City shall notify the Contractor of discrepancies in invoice within 30 days of receipt of invoice.

The City reserves the right to withhold payments on account of:
- Defective work not remedied;
- Default by the Contractor in the performance of any of the terms and conditions of the contract;
- Work performed without City authorization;
- Un-approved invoices.

**RECORD KEEPING**
Contractor shall keep files and records of work orders, payroll, subcontracts, material and contractual service invoices and equipment rental invoices. All such records and files shall, upon demand, be made available by the Contractor to the City for inspection. Contractor shall maintain these records for three years from the date of completion and/or termination of the contract.

**UNIT COST ADJUSTMENT**
If contract extensions are exercised, the Contractor may request an adjustment of the contract prices 6 months, at minimum, prior to the start of each renewal period. Such prices shall be negotiated by the City and Contractor, and shall not be increased or decreased by more than the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose Metropolitan Statistical Areas. Any cost adjustment beyond the Consumer Price Index for all
urban consumers in the San Francisco-Oakland-San Jose Metropolitan Statistical Areas would be subject to potential re-bidding of project.

**Termination of Contract with Cause**

The City may terminate this contract if the Contractor:

a. Persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
b. Fails to make payments to laborers, material suppliers or subcontractors in accordance with the respective agreements;
c. Persistently disregards laws, ordinances or rules, regulations or orders of the City;
d. Fails to execute the work properly or fails to complete the work in the time provided in the contract;
e. Fails to perform any provision of the contract;
f. Causes damage to public or private property due to negligence.

When any of the above causes exist, the City may, without prejudice to any other rights or remedies of the City, and after giving the Contractor seven days written notice, terminate the contract and finish the work by whatever reasonable method the City may deem expedient by either using City labor or by contracting the work to another entity. If the City terminates the contract, the Contractor is entitled to receive payment for work complete as of the date of termination.

**Resolution of Contract Disputes:**

a. All claims, disputes and other matters in question between the City and Contractor arising out of or relating to this contract, or the breach thereof, shall be submitted to non-binding mediation to a mediator agreed to by the City and the Contractor prior to the initiation of any litigation unless the City and Contractor mutually agree otherwise.
b. The cost of non-binding mediation shall be split evenly between City and Contractor.

**III. STANDARD SPECIFICATIONS**

**Acknowledgement of RFP Amendment:** Anyone submitting a proposal shall acknowledge receipt of any amendment to the Request for Proposal by signing and returning the amendment form with the proposal. Any amendment to the Request for Proposal and form to acknowledge any amendment will be posted under the Doing Business section of the City of Albany website: [http://www.albanyca.org/index.aspx?page=1201](http://www.albanyca.org/index.aspx?page=1201).

**Proposal Acceptance Period:** Any proposal submitted as a result of this solicitation shall be binding on the proposer for 60 calendar days following the proposal due date. Any proposal for which the proposer specifies a shorter acceptance period may be rejected.

**Proposal Procedures:** Along with this Notice to Contractors the Bid Proposal consists of 6 Exhibits. Exhibit A “Scope of Work”, Exhibit B “Street Map noting parking enforcement” Exhibit C “Compensation and Unit Detail”, Exhibit D “Insurance Requirements”, Exhibit E “Proposal Form”, Exhibit F “Sample of Contract”.

The Contractor must complete all sections of the Proposal Form contained in Exhibit E, and provide signature where requested on Exhibit C and E.

City of Albany
RFP Citywide Street Sweeping, Contract C18 - 4
Proposal envelope is sealed and addressed to: City of Albany City Clerk, 1000 San Pablo Avenue, Albany, CA 94706. Proposals shall be clearly marked “RFP FOR CITYWIDE STREET SWEEPING SERVICES”. Proposals must be received no later than 2:00 PM on November 7, 2017.

At 2:00PM, the proposals will be taken by the City Clerk of the City of Albany. The proposals will not be opened or publicly read by the City Clerk. The proposals will be reviewed by City staff.

Proposal Cost: All costs incurred during proposal preparation or in any way associated with the Contractor’s preparations, submission, presentation, or oral interview shall be the sole responsibility of the Contractor.

Collusion Among Proposers: Each proposer, by submitting a proposal, certifies that it is not a party to any collusive action or any action that may be in violation of the Sherman Antitrust Act. Any or all proposals shall be rejected if there is any reason for believing that collusion exists among proposers. Nothing in this clause shall preclude a firm acting as a subcontractor to be included as a subcontractor for two or more primary Contractors submitting a proposal for the work.

Late Submissions: A proposal received at the place designated in the solicitation for receipt of proposals after the exact time specified for receipt will not be considered.

Qualification of Proposer: The proposer may be required before the award of any contract to show to the complete satisfaction of the City of Albany that it has the necessary facilities, ability, and financial resources to provide the service specified therein in a satisfactory manner. The proposer may also be required to give a past history and references in order to satisfy the City of Albany in regards to the proposer’s qualifications. The City of Albany may make reasonable investigations deemed necessary and proper, including visiting the proposer’s facilities and contracting references, to determine the ability of the proposer to provide the equipment and service. The proposer shall furnish the City of Albany all information for this purpose that may be requested. The City of Albany reserves the right to reject any proposal if the evidence submitted by, or investigation of, the proposer fails to satisfy the City of Albany that the proposer is properly qualified to carry out the obligations of the contract and to provide the equipment and service described herein. Evaluation of the proposer’s qualifications shall include:
   a. The ability, capacity, skill, and financial resources to perform the work or provide equipment required;
   b. The ability of proposer to provide equipment or provide service promptly or within time specified, without delay or interference;
   c. The character, integrity, reputation, judgment, experience, and efficiency of the bidder; and
   d. The quality of performance of previous contracts or services.

IV. BONDS

Bid, Performance or Payment Bonds are not required for this contract.
V. INSURANCE

Contractor shall procure and maintain for the duration of the contract such insurance, in the forms and amounts specified below, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his/her agents, representatives, employees or subcontractors:

Minimum Scope and Limits of Insurance. Contractor shall maintain minimum limits of Insurance as follows:

1. General Liability: $2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: $2,000,000 combined single limit per accident for bodily injury and property damage.


Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, consultants and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions. The general liability and automobile policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees, consultants, and volunteers are to be covered as insured with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operation. General liability coverage can be proved in the form of an endorsement to the Contractor’s insurance or as a separate owner’s policy.

2. For any claims related to this project, the Contractor’s insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor’s insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days’ prior written notice by certified mail, return receipt requested has been given to the City.

Acceptability of Insurers. Insurance is to be placed with a current A.M. Best’s rating of no less than A:II.

Verification of Coverage. Contractor shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the entity’s forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies including endorsements effecting the coverage required by these specifications at any time.

Subcontractors. Contractor shall include all subcontractors as insureds under its policies or each subcontractor shall furnish separate certificates and endorsements. All coverages for subcontractors shall be subject to all of the requirements stated herein.

VI. AWARD OF CONTRACT

Final award of the proposal is at the sole discretion of the City of Albany. The right is reserved to reject any and all proposals. The award of the contract, if awarded, will be to the best qualified bidder that will provide services in a manner most advantageous to the City. In determining the successful bidder, the following will be considered in addition to price:

a. Ability to comply with all Federal, State, County and City laws, ordinances and regulations governing pollution emissions including noise, air and water;
b. Previous and existing compliance by the bidder with laws and ordinances relating to the subject of the contract;
c. Ability, capacity and skill of bidder to perform the services required in the contract without delay;
d. Sufficiency of the bidder’s financial resources and the effect thereof on his/her ability to perform the services in the contract;
e. Character, integrity, reputation, experience and efficiency of the bidder;
f. Quality of the bidder’s performance on previous orders or contracts with the City;
g. Bidder proposed sweeping schedule.
EXHIBIT A  SCOPE OF WORK

O.DD-NUMBERED side of the street
Third Wednesday of each month
8:00 AM - 12:00 NOON

O.EVEN-NUMBERED side of the street
Fourth Wednesday of each month
8:00 AM - 12:00 NOON

O.ODD-NUMBERED side of the street
Third Wednesday of each month
10:00 AM - 2:00 PM

O.EVEN-NUMBERED side of the street
Fourth Wednesday of each month
10:00 AM - 2:00 PM

O.ODD-NUMBERED side of the street
Third Thursday of each month
12:00 NOON - 4:00 PM

O.EVEN-NUMBERED side of the street
Fourth Thursday of each month
12:00 NOON - 4:00 PM

Note: Days that coincide with holidays are subject to change.
## Unit Price for Street Sweeping Services

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Unit of Measure</th>
<th>Annual Estimated Quantity</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Street Sweeping (Monthly, performed during Business Hours)</td>
<td>Curb Mile</td>
<td>618</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Commercial Street Sweeping (Weekly, performed at night)</td>
<td>Curb Mile</td>
<td>182</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Buchanan from Hwy 80 to foot of Buchanan Circle</td>
<td>Curb Mile</td>
<td>15</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Additional Street Sweeping Around High School (Monthly, to be performed per agreed schedule)</td>
<td>Curb Mile</td>
<td>13</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Total Annual Miles:</td>
<td></td>
<td></td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Additional Sweeping, as needed</td>
<td>Hours</td>
<td>25</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

*Estimated length is calculated based on twice the length of City streets (not including length of intersection) multiplied by number of sweeps per year. Estimated length includes length of medians. Contractor is expected to track actual number of curb swept miles.*

Firm Name

X

City of Albany
RFP Citywide Street Sweeping, Exhibit C: Compensation
### CITY OF ALBANY
### CITYWIDE STREET SWEEPING SERVICES
### CONTRACT NO. C18-4

**Exhibit C**
**UNIT DETAIL**

<table>
<thead>
<tr>
<th>Description</th>
<th>feet</th>
<th>Both Sides</th>
<th>52 Weeks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solano and San Pablo Pavement Length</td>
<td>8356</td>
<td>16,712</td>
<td>869,024</td>
</tr>
<tr>
<td>Medians on San Pablo (both sides)</td>
<td>1762</td>
<td>NA</td>
<td>91,624</td>
</tr>
<tr>
<td>Buchanan Ave West of Hwy 80</td>
<td>760</td>
<td>1520</td>
<td>79040</td>
</tr>
<tr>
<td><strong>TOTAL FEET</strong></td>
<td></td>
<td></td>
<td><strong>1039,688</strong></td>
</tr>
</tbody>
</table>

**COMMERCIAL**

<table>
<thead>
<tr>
<th>Description</th>
<th>TOTAL MILES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TOTAL FEET</strong></td>
<td><strong>197</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>feet</th>
<th>261,510</th>
<th>3,138,120</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solano and San Pablo Pavement Length</td>
<td>8356</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non Commercial Pavement</td>
<td>130755</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Median Length (both sides)</td>
<td>12376</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medians on San Pablo (both sides)</td>
<td>1762</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non Commercial Median Length</td>
<td>10614</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL FEET</strong></td>
<td>3,265,488</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**RESIDENTIAL**

<table>
<thead>
<tr>
<th>Description</th>
<th>TOTAL MILES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TOTAL FEET</strong></td>
<td><strong>618</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>feet</th>
<th>54,168</th>
<th>15,888</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional Sweep At High School Pavement</td>
<td>2257</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Median</td>
<td>1324</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL FEET</strong></td>
<td>70,056</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Insurance. No later than ten days following issuance of the notice of award, Contractor is required to procure and provide proof of the insurance coverage required by this section in the form of certificates and endorsements. The required insurance must cover the activities of Contractor and its Subcontractors relating to or arising from the performance of the Work, and must remain in full force and effect at all times during the period covered by the Contract until the date of recordation of the notice of completion. All required insurance must be issued by a company licensed to do business in the State of California, and each such insurer must have an A.M. Best's financial strength rating of “A” or better and a financial size rating of “VIII” or better. If Contractor fails to provide any of the required coverage in full compliance with the requirements of the Contract Documents, the City may, at its sole discretion, purchase such coverage at Contractor’s expense and deduct the cost from payments due to Contractor, or terminate the Contract for default.

(A) Policies and Limits. The following insurance policies and limits are required for this Contract unless otherwise specified in the Special Conditions:

1. Commercial General Liability Insurance (“CGL”): The CGL policy must be issued on an occurrence basis, written on a comprehensive general liability form, and will include coverage for liability arising from Contractor’s or its Subcontractor’s acts or omissions in the performance of the Work, including contractor’s protected coverage, blanket contractual, completed operations, vehicle coverage and employer’s non-ownership liability coverage, with limits of at least $2,000,000.00 per occurrence. The CGL policy must name the City as an additional insured for all liability arising out of the operations by or on behalf of the named insured, and must protect the City, its officers, employees, and agents against any and all liability for personal injury, death, or property damage or destruction arising directly or indirectly in the performance of the Contract. The CGL coverage may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella policies, provided each such policy complies with the requirements set forth herein.

2. Builder’s Risk Insurance: The Builder’s Risk Insurance policy must be issued on occurrence basis, for all-risk coverage on a 100% completed value basis on the insurable portion of the Project for the benefit of the City.

1. Workers’ Compensation Insurance and Employer’s Liability: The policy must comply with the requirements of the California Workers’ Compensation Insurance and Safety Act, with at least $1,000,000.00. If Contractor is self-insured, Contractor must provide its Certificate of Permission to Self-Insure, duly authorized by the Department of Industrial Relations.

(B) Notice. Each certificate of insurance must state that the coverage afforded by the policy or policies will not be reduced, cancelled or allowed to expire without at least 30 days written notice to the City, unless due to non-payment of premiums, in which case ten days written notice must be made to the City.

(C) Waiver of Subrogation. Each required policy must include an endorsement providing that the carrier agrees to waive any right of subrogation it may have against the City.

(D) Required Endorsements. The CGL Policy and the Builder’s Risk Policy must include the following specific endorsements:

1. The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.

2. The insurance provided is primary and no insurance held or owned by the City may be called upon to contribute to a loss.

3. This policy does not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.
In submitting this proposal, Contractor is presumed to have read the Contract Documents for this project in their entirety. Contractor acknowledges the selection process contained in the Contract Documents and is aware that a completed Proposal Form is required for the proposal to be accepted. Contractor further acknowledge the selection criteria and understands that the City is not required to select the lowest responsible bidder. All pages of this Proposal Form shall be returned, with all blanks filled in and all documentation provided as requested.

### A. Firm Information

<table>
<thead>
<tr>
<th>Name of Proposing Firm (as it appears on Business License):</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Firm is a: (Individual, Partnership, or Corporation)</td>
<td></td>
</tr>
<tr>
<td>Name of Firm Owner(s):</td>
<td></td>
</tr>
<tr>
<td>Business Address:</td>
<td></td>
</tr>
<tr>
<td>Telephone Number:</td>
<td></td>
</tr>
<tr>
<td>Email Address of Point of Contact:</td>
<td></td>
</tr>
<tr>
<td>License Expiration Date:</td>
<td></td>
</tr>
<tr>
<td>Size of Firm (No. of Employees):</td>
<td></td>
</tr>
<tr>
<td>Year Company Formed:</td>
<td></td>
</tr>
</tbody>
</table>

### B. Previous Experience

State below what work of similar magnitude or character Firm has done in the past five years and give references that will enable the City of Albany to judge Firm’s experience, skill and business standing and Firm’s ability to conduct the work required under the terms of this contract.

<table>
<thead>
<tr>
<th>1. Agency/Owner:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency Project Manager:</td>
<td></td>
</tr>
<tr>
<td>Phone:</td>
<td></td>
</tr>
<tr>
<td>Years of Contract:</td>
<td></td>
</tr>
<tr>
<td>-------------------</td>
<td>---</td>
</tr>
<tr>
<td>Project Description:</td>
<td></td>
</tr>
</tbody>
</table>

2. **Agency/Owner:**

<table>
<thead>
<tr>
<th>Agency Project Manager:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone:</td>
<td></td>
</tr>
<tr>
<td>Years of Contract:</td>
<td></td>
</tr>
<tr>
<td>Project Description:</td>
<td></td>
</tr>
</tbody>
</table>

3. **Agency/Owner:**

<table>
<thead>
<tr>
<th>Agency Project Manager:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone:</td>
<td></td>
</tr>
<tr>
<td>Years of Contract:</td>
<td></td>
</tr>
<tr>
<td>Project Description:</td>
<td></td>
</tr>
</tbody>
</table>

4. **Agency/Owner:**

<table>
<thead>
<tr>
<th>Agency Project Manager:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone:</td>
<td></td>
</tr>
<tr>
<td>Years of Contract:</td>
<td></td>
</tr>
<tr>
<td>Project Description:</td>
<td></td>
</tr>
</tbody>
</table>
C.  **Questionnaire**
Answers to the following questions will enable the City of Albany to evaluate the Firm’s understanding of the project, ability to deliver required services, and approach to service delivery. Attach and initial additional sheets, if necessary.

1. The current street sweeping schedule for the City of Albany is included in Exhibit A. Please state whether you intend to keep the same schedule or are proposing a new schedule. If you are proposing a new schedule, please describe in detail what the new schedule will be and how this would benefit the City.

2. How many sweepers will be assigned to this contract? Describe the types and length of experience for the employees to be assigned to the City of Albany?

3. Are background and current Driver License checks performed on your employees? How often?

4. How many years have your Firm performed street sweeping for municipalities or other public entities?
5. Describe your Firm’s customer service program and your anticipated program for the City of Albany. Include details on how you will provide a seamless transition with customers during start-up, maintain positive customer relations, monitor customer satisfaction and continuously improve your service.

6. State exceptions, if any, to the standard services agreement of the City of Albany contained in Exhibit D.

D. **Equipment**
Firm agrees to commit the following equipment’s availability to this project for the duration of the contract. Substitutions are subject to City of Albany approval.

<table>
<thead>
<tr>
<th>Description</th>
<th>Year</th>
<th>Make</th>
<th>Model</th>
<th>Own/Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Signature of Proposer

____________________________________

____________________________________

Date
STATEMENT OF NON-COLLABORATION

I, __________________________________________, ________________________
(Name) (Title)
of _______________________________________________________________

(Name of Company)

Hereby certify all of the following:

1. That all statements of fact in this proposal are true.

2. That this proposal was not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization, or corporation:

3. That this proposal is genuine and not collusive or sham;

4. That this proposer has not, directly or indirectly, by agreement, communication, or conference with anyone, attempted by induce action prejudicial to the interest of the City of Albany, or of any other proposer or anyone else interested in the proposed Contract; and further

5. That prior to the opening of proposals, this proposer:

   A. Did not, directly or indirectly, induce or solicit anyone else to submit a false or sham proposal;

   B. Did not, directly or indirectly, collude, conspire, connive, or agree with anyone else that said bidder or anyone else would submit a false or sham proposal, or that anyone should refrain from bidding or withdraw his/her/its proposal.

   C. Did not, in any manner, directly or indirectly, seek by agreement, communication, or conference with anyone to raise or fix the proposal price of said bidder or of anyone else, or to raise or fix any overhead, profit, or cost element of his/her/its proposal price, or of that of anyone else.

   D. Did not, directly or indirectly, submit his/her/its proposal price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any individual or group of individuals, except to the City of Albany, or to any person or persons who have a partnership or other financial interest with said bidder in his/her/its business.

Date: _________________________ By: __________________________
This AGREEMENT FOR CONTRACTOR SERVICES ("AGREEMENT"), is made and entered into this ____ day of ___________ 20__ by and among the CITY of Albany a California charter city ("CITY") and ____________________________ a [California corporation, partnership, LLC or LLP, or individual] ("CONTRACTOR").
Subject to any limitations set forth in this AGREEMENT, CITY agrees to pay CONTRACTOR the unit pricing specified in EXHIBIT "C" "COMPENSATION" and made a part of this AGREEMENT. The total compensation in any given three-year period shall not exceed_________________ dollars ($________________), unless additional compensation is approved in writing by the City Council or City Manager.

If contract extensions are exercised, CONTRACTOR may request an adjustment of the contract unit prices six (6) months, at minimum, prior to the start of each extension period. Such prices shall be negotiated by CITY and CONTRACTOR, and shall not be increased or decreased by more than the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose Metropolitan Statistical Areas. Any cost adjustment beyond the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose Metropolitan Statistical Areas may be subject to potential re-bidding of project.

Each month CONTRACTOR shall furnish to CITY an original invoice for all work performed in the preceding month. CITY shall independently review each invoice submitted by the CONTRACTOR to determine whether the work performed and expenses incurred are in compliance with the provisions of this AGREEMENT. Data contained in each invoice shall be sufficient for CITY to determine work performed; manpower, materials and equipment used; and applicable unit prices. Invoices shall also include volume, in cubic yards and tons, of material removed from the street and delivered to landfill. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth below. In the event any charges or expenses are disputed by CITY, the original invoice shall be returned by CITY to CONTRACTOR for correction and resubmission.

Except as to any charges for work performed or expenses incurred by CONTRACTOR which are disputed by CITY, CITY will use its best efforts to cause CONTRACTOR to be paid within thirty (30) days of receipt of CONTRACTOR’s invoice.

CITY reserves the right to withhold payments on account of defective work not remedied; default by the CONTRACTOR in the performance of any of the terms and conditions of the contract; work performed without CITY authorization; for un-approved invoices.

CONTRACTOR or subcontractor is obligated to pay prevailing wages under the California Labor Code. CONTRACTOR or subcontractor agrees to indemnify, defend and hold CITY harmless from any claim that prevailing wages should have been paid, and shall be liable for the payment of the same and any penalties thereon. It is the responsibility of the CONTRACTOR to be familiar with the California Labor Code, and failure or neglect of the CONTRACTOR to understand the California Labor Code shall in no way relieve him from any obligations.
CONTRACTOR warrants on behalf of itself and all subcontractors engaged for the performance of this work that only persons authorized to work in the United States pursuant to the Immigration Reform and Control Act of 1986 and other applicable laws shall be employed in the performance of the work hereunder.

The contract prices shall include full compensation for all taxes which the CONTRACTOR is required to pay.

CITY shall have the option of inspecting and/or auditing all records and other written materials used by CONTRACTOR in preparing its invoices to CITY as a condition precedent to any payment to CONTRACTOR.

SECTION 6. OWNERSHIP OF DOCUMENTS.

Not Applicable to this contract

SECTION 7. CONTRACTOR 'S BOOKS AND RECORDS.

(a) CONTRACTOR shall maintain any and all documents and records demonstrating or relating to CONTRACTOR’s performance of services pursuant to this AGREEMENT. CONTRACTOR shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to CITY pursuant to this AGREEMENT. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by CONTRACTOR pursuant to this AGREEMENT. Any and all such documents or records shall be maintained for three years from the date of execution of this AGREEMENT and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon written request by CITY or its designated representative. Copies of such documents or records shall be provided directly to the CITY for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at CONTRACTOR’s address indicated for receipt of notices in this AGREEMENT.

(c) Where CITY has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of CONTRACTOR’s business, CITY may, by written request, require that custody of such documents or records be given to the requesting party and that such documents and records be maintained by the requesting party. Access to such documents and records shall be granted to CITY, as well as to its successors-in-interest and authorized representatives.
SECTION 8. STATUS OF CONTRACTOR.

(a) CONTRACTOR is and shall at all times remain a wholly independent CONTRACTOR and not an officer, employee or agent of CITY. CONTRACTOR shall have no authority to bind CITY in any manner, nor to incur any obligation, debt or liability of any kind on behalf of or against CITY, whether by contract or otherwise, unless such authority is expressly conferred under this AGREEMENT or is otherwise expressly conferred in writing by CITY.

(b) The personnel performing the services under this AGREEMENT on behalf of CONTRACTOR shall at all times be under CONTRACTOR’s exclusive direction and control. Neither CITY, nor any elected or appointed boards, officers, officials, employees or agents of CITY, shall have control over the conduct of CONTRACTOR or any of CONTRACTOR’s officers, employees or agents, except as set forth in this AGREEMENT. CONTRACTOR shall not at any time or in any manner represent that CONTRACTOR or any of CONTRACTOR's officers, employees or agents are in any manner officials, officers, employees or agents of CITY.

(c) Neither CONTRACTOR, nor any of CONTRACTOR's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to CITY’s employees. CONTRACTOR expressly waives any claim CONTRACTOR may have to any such rights.

(d) This agreement is non-exclusive. CITY reserves the right to retain, employ, contract with other qualified street sweeping CONTRACTORs during the term of this agreement on such occasions and in such circumstances as CITY shall determine are appropriate.

(e) This AGREEMENT is not assignable by CONTRACTOR without the CITY’s prior consent in writing.

SECTION 9. STANDARD OF PERFORMANCE.

(a) CONTRACTOR warrants that it possesses, or has arranged through subcontracts, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all federal, state, county, local, and special district laws, ordinances, and regulations.

(b) CONTRACTOR shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this AGREEMENT, CONTRACTOR shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of CONTRACTOR under this AGREEMENT.
(c) CONTRACTOR shall provide and install suitable safeguards, approved by CITY, to protect CITY property from injury or damage. If CITY property is injured or damaged as a result of the CONTRACTOR’s operations, it shall be replaced or restored at the CONTRACTOR’s expense. The facilities shall be replaced or restored to a condition as good as when the CONTRACTOR began work.

(d) CONTRACTOR shall so conduct his operations as to cause the least possible obstruction and inconvenience to public traffic. Sweeping shall be accomplished in the same direction as traffic flow at all times during sweeping.

(e) CONTRACTOR is responsible for a minimum 8 foot swept width, as close as practicable to each curb face. All debris along the sweeping path, no matter what quantity, are to be removed from the public right of way and properly disposed of. Sweeping shall normally consist of a single pass over an area; however, CONTRACTOR shall make additional passes, or such extra effort as may be required to reasonably clean the street. The CITY shall be notified immediately of the occurrence of unusually heavy debris that cannot be removed by extra sweeping effort. Extra effort shall be required to remove dirt/silt smear remaining in the swept pathway. Extra effort is expected during bad weather. The cost for extra effort shall be included in the contract price, and no additional compensation will be given.

(f) CONTRACTOR shall remove loose debris and material normally picked up and removable by a fully operational mechanical or vacuum street sweeper. This includes, but is not limited to: sand, gravel, glass, nails, bottles, cans, leaves, silt, mud and litter. CONTRACTOR shall immediately remove debris swept onto driveway aprons, sidewalks and access ramps. The cost for manually removing debris swept from the roadway onto driveway aprons, sidewalks and access ramps shall be included in the contract price and no additional compensation will be provided.

(g) Non-swept or non-sweepable items such as small tree limbs, rocks, silt, mud, trash and debris shall be collected and removed by CONTRACTOR from the normal sweeping path. Larger obstructions such as tree limbs, construction or landscape debris, shall be immediately reported to the CITY.

(h) Street sweeper shall leave designated areas of sweeping free of dirt, litter, debris, obstructions, smears and visible dust to the maximum extent practicable. For streets that do not meet the maximum extent practicable standard for sweeping on the scheduled sweeping day, CONTRACTOR shall sweep deficient street within 48 hours after the normal sweeping day at no cost to CITY. The determination of maximum extent practicable shall be at the sole discretion of the CITY. CONTRACTOR shall immediately notify CITY when a street or section of streets will be or had been missed during regularly scheduled street sweeping. CONTRACTOR shall notify CITY when re-sweeps are scheduled.
(i) CONTRACTOR shall properly obtain potable water (or water of similar quality) used for dust control, and no additional compensation will be allowed therefore. Dust suppression shall be employed during sweeping operations to comply with all state and local regulations for dust control.

(j) CONTRACTOR shall properly dispose of all debris collected by the sweeping operations. Documentation of the quantity of disposed debris must be kept on record.

(k) CITY will notify CONTRACTOR of needed corrections and any re-sweeps required following complaints received by the CITY. In the event that the re-sweeps are considered unsatisfactory by the CITY, CITY will notify CONTRACTOR of exact location and description of deficiency. The CONTRACTOR shall re-sweep the unsatisfactory area at its sole expense within the time limits specified.

(l) CONTRACTOR shall furnish CITY with every reasonable opportunity for CITY to ascertain that the services of the CONTRACTOR are being performed in accordance with the requirements and intentions of this contract. All work done and all materials furnished, if any, shall be subject to CITY's inspection and approval. The inspection of such work shall not relieve CONTRACTOR of any of its obligations to fulfill its contract requirements.

(m) CONTRACTOR shall coordinate with the designated CITY staff member regarding any issues along sweeping routes including but not limited to parked cars, inaccessible sweeping areas, and tree limbs. Certain areas may require more or less intensive sweeping, and other conditions may arise which could impact the regular progress of the sweeping operation.

(n) Quality and quantity of the equipment used by CONTRACTOR for the sweeping of streets shall be sufficient to perform the work required herein within the hours of work specified herein, and an absolute minimum of one primary sweeper shall be provided. In the event that the primary sweeper or sweeper operator is unable to perform, the CONTRACTOR shall provide another sweeper with competent operator without interruption of service. No additional compensation will be provided for supplying another sweeper and/or operator. All sweepers shall be capable of performing to the minimum criteria outlined herein and below, and shall be maintained both mechanically and visually throughout the term of the AGREEMENT with capability to insure scheduled routine maintenance and proper adjustment for sweepers.

(o) Sweepers must be capable of sweeping a minimum eight-foot width as measured from the outside edge of the gutter broom in a single pass. Sweeper must also be equipped with a left gutter broom for median work. Street sweepers must have a minimum hopper capacity of 3 cubic yards. Mechanical brushes and brooms shall be maintained in proper condition and shall be replaced as recommended by the manufacturer or when performance becomes impaired. Sweeping equipment shall be equipped with adequate warning devices and lights for safe operation and shall meet all vehicle operation
requirements of the State of California Department of Motor Vehicles and the California Highway Patrol. All sweepers shall be clearly and prominently marked with the CONTRACTOR’s name and unit number.

(p) Recommended sweeper speed is 3 to 5 miles per hour. CONTRACTOR shall adjust sweeping speed to street and debris conditions. CONTRACTOR will not be compensated for streets swept while vehicle exceeds six miles per hour.

(q) Sweeper operator must be skilled and experienced in the proper use of the sweeper, have a valid California Driver's License, be able to work closely and cooperatively with CITY staff, and speak and understand English fluently in order to effectively communicate with CITY Public Works and Police personnel. The work of the operator shall never be impaired by alcohol or drugs. No sweeper operator shall engage in inappropriate, erratic, or illegal behavior. If any person employed or retained by the CONTRACTOR shall appear to be alcohol- or drug-impaired, or incompetent, or to act in a disorderly or improper manner, the said person shall be discharged immediately from work on the program. The discharged person(s) shall not again be employed to perform work under the contract. Any violation of the above requirements will be grounds for the CITY's immediate cancellation of the agreement with the CONTRACTOR, and may give rise to criminal and/or civil action against the operator and/or the CONTRACTOR.

(r) In the event of inclement weather, as determined by CITY, CONTRACTOR shall not be required to perform the regular sweeping schedule but shall make up the missed schedule when the inclement weather subsides. There shall be no additional cost to the CITY should these circumstances occur. In the event of a mechanical breakdown, CONTRACTOR must have a back-up sweeper available in 2 hours. The CITY is not responsible for repairs, lost time, overtime, or any other costs associated with equipment failure. Scheduled work that falls on a Holiday shall be completed or rescheduled within 48 hours at no additional cost to the CITY.

SECTION 10. COMPLIANCE WITH APPLICABLE LAWS, PERMITS, AND LICENSES.

CONTRACTOR shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this AGREEMENT. CONTRACTOR shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this AGREEMENT. Neither CITY, nor any elected or appointed boards, officers, officials, employees or agents of CITY, shall be liable, at law or in equity, as a result of any failure of CONTRACTOR to comply with this section.

CONTRACTOR shall obtain and maintain in full force and effect during the term of this AGREEMENT all permits and licenses pay all charges and fees, and give all notices necessary, including but not limited to a Business License from the CITY’s Finance Department.
SECTION 11. NONDISCRIMINATION.

CONTRACTOR shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this AGREEMENT.

SECTION 12. UNAUTHORIZED ALIENS.

CONTRACTOR hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should CONTRACTOR so employ such unauthorized aliens for the performance of work and/or services covered by this AGREEMENT, and should any liability or sanctions be imposed against CITY for such use of unauthorized aliens, CONTRACTOR hereby agrees to and shall reimburse CITY for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by CITY.

SECTION 13. CONFLICTS OF INTEREST.

(a) CONTRACTOR covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of CITY or which would in any way hinder CONTRACTOR’s performance of services under this AGREEMENT. CONTRACTOR further covenants that in the performance of this AGREEMENT, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. CONTRACTOR agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of CITY in the performance of this AGREEMENT.

(b) CITY understands and acknowledges that CONTRACTOR is, or may be, as of the date of execution of this AGREEMENT, independently involved in the performance of non-related services for other governmental agencies and private parties. CONTRACTOR is unaware of any stated position of CITY relative to such projects. Any future position of CITY on such projects shall not be considered a conflict of interest for purposes of this section.

SECTION 14. CONFIDENTIAL INFORMATION AND RELEASE OF INFORMATION.

(a) All information gained or work product produced by CONTRACTOR in performance of this AGREEMENT shall be considered confidential, unless such information is in the public domain or already known to CONTRACTOR. CONTRACTOR shall not release or disclose any such information or work product to
persons or entities other than CITY without prior written authorization from the CITY Administrator, except as may be required by law.

(b) CONTRACTOR, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of CITY, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this AGREEMENT. Response to a subpoena or court order shall not be considered "voluntary" provided CONTRACTOR gives CITY notice of such court order or subpoena.

(c) If CONTRACTOR, or any officer, employee, agent or subcontractor of CONTRACTOR, provides any information or work product in violation of this AGREEMENT, then CITY shall have the right to reimbursement and indemnity from CONTRACTOR for any damages, costs and fees, including attorney’s fees, caused by or incurred as a result of CONTRACTOR ‘s conduct.

(d) CONTRACTOR shall promptly notify CITY should CONTRACTOR, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this AGREEMENT and the work performed thereunder. CITY retains the right, but has no obligation, to represent CONTRACTOR or be present at any deposition, hearing or similar proceeding. CONTRACTOR agrees to cooperate fully with CITY and to provide CITY with the opportunity to review any response to discovery requests provided by CONTRACTOR. However, this right to review any such response does not imply or mean the right by CITY to control, direct, or rewrite said response.

SECTION 15. INDEMNIFICATION.

(a) CITY and its elected and appointed boards, officials, officers, agents, employees and volunteers (individually and collectively, "INDEMNITEES") shall have no liability to CONTRACTOR or any other person for, and CONTRACTOR shall indemnify, defend, protect and hold harmless INDEMNITEES from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively "CLAIMS"), which INDEMNITEES may suffer or incur or to which INDEMNITEES may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise occurring as a result of or allegedly caused by the CONTRACTOR’s performance of or failure to perform any services under this AGREEMENT or by the negligent or willful acts or omissions of CONTRACTOR, its agents, officers, directors, subcontractors or employees, committed in performing any of the services under this AGREEMENT.
(b) If any action or proceeding is brought against INDEMNITEES by reason of any of the matters against which CONTRACTOR has agreed to indemnify INDEMNITEES as provided above, CONTRACTOR, upon notice from CITY, shall defend INDEMNITEES at CONTRACTOR’s expense by counsel acceptable to CITY, such acceptance not to be unreasonably withheld. INDEMNITEES need not have first paid for any of the matters to which INDEMNITEES are entitled to indemnification in order to be so indemnified. The insurance required to be maintained by CONTRACTOR under SECTION 16 shall ensure CONTRACTOR’s obligations under this section, but the limits of such insurance shall not limit the liability of CONTRACTOR hereunder. The provisions of this section shall survive the expiration or earlier termination of this AGREEMENT.

(c) The provisions of this section do not apply to CLAIMS occurring as a result of the CITY’s sole negligence or willful acts or omissions.

SECTION 16. INSURANCE.

CONTRACTOR agrees to obtain and maintain in full force and effect during the term of this AGREEMENT the insurance policies set forth in “EXHIBIT ”D” INSURANCE” and made a part of this AGREEMENT. All insurance policies shall be subject to approval by CITY as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the CITY Administrator. CONTRACTOR agrees to provide CITY with copies of required policies upon request.

SECTION 17. ASSIGNMENT.

The expertise and experience of CONTRACTOR are material considerations for this AGREEMENT. CITY has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon CONTRACTOR under this AGREEMENT. In recognition of that interest, CONTRACTOR shall not assign or transfer this AGREEMENT or any portion of this AGREEMENT or the performance of any of CONTRACTOR’s duties or obligations under this AGREEMENT without the prior written consent of the CITY. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this AGREEMENT entitling CITY to any and all remedies at law or in equity, including summary termination of this AGREEMENT. CITY acknowledges, however, that CONTRACTOR, in the performance of its duties pursuant to this AGREEMENT, may utilize subcontractors.

SECTION 18. CONTINUITY OF PERSONNEL.

CONTRACTOR shall make every reasonable effort to maintain the stability and continuity of CONTRACTOR’s staff assigned to perform the services required under this AGREEMENT. CONTRACTOR shall notify CITY of any changes in CONTRACTOR’s staff assigned to perform the services required under this AGREEMENT, prior to any such performance.
SECTION 19. TERMINATION OF AGREEMENT.

(a) CITY may terminate this AGREEMENT, with or without cause, at any time by giving thirty (30) days written notice of termination to CONTRACTOR. In the event such notice is given, CONTRACTOR shall cease immediately all work in progress.

(b) CONTRACTOR may terminate this AGREEMENT at any time upon thirty (30) days written notice of termination to CITY. In the event such notice is given, CONTRACTOR shall cease immediately all work in progress.

(c) If either CONTRACTOR or CITY fail to perform any material obligation under this AGREEMENT, then, in addition to any other remedies, either CONTRACTOR, or CITY may terminate this AGREEMENT immediately upon written notice.

(a) The CITY may terminate this contract if the CONTRACTOR does any of the following:
1. Persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
2. Fails to make payments to laborers, material suppliers or subcontractors in accordance with the respective agreements;
3. Persistently disregards laws, ordinances or rules, regulations or orders of the CITY;
4. Fails to execute the work properly or fails to complete the work in the time provided in the contract;
5. Fails to perform any provision of the contract;
6. Causes damage to public or private property due to negligence.

When any of the above causes exist, the CITY may, without prejudice to any other rights or remedies of the CITY, and after giving the CONTRACTOR seven days written notice, terminate the contract and finish the work by whatever reasonable method the CITY may deem expedient by either using CITY labor or by contracting the work to another entity. If the CITY terminates the contract, the CONTRACTOR is entitled to receive payment for work complete as of the date of termination.

(b) Upon termination of this AGREEMENT by either CONTRACTOR or CITY, all property belonging exclusively to CITY which is in CONTRACTOR’s possession shall be returned to CITY. CONTRACTOR shall furnish to CITY a final invoice for work performed and expenses incurred by CONTRACTOR, prepared as set forth in SECTION 4 of this AGREEMENT. This final invoice shall be reviewed and paid in the same manner as set forth in SECTION 4 of this AGREEMENT.

SECTION 20. DEFAULT.

In the event that CONTRACTOR is in default under the terms of this AGREEMENT, the CITY shall not have any obligation or duty to continue compensating
CONTRACTOR for any work performed after the date of default and may terminate this AGREEMENT immediately by written notice to the CONTRACTOR.

SECTION 21. EXCUSABLE DELAYS.

Should the CONTRACTOR be obstructed or delayed in the work required to be done hereunder by changes in the work or by any default, act, or omission of CITY, or by strikes, fire, earthquake, or any other Act of God, or by the inability to obtain materials, equipment, or labor due to federal government restrictions arising out of defense or war programs, then the time of completion may, at CITY’s sole option, be extended for such periods as may be agreed upon by CITY and the CONTRACTOR. In the event that there is insufficient time to grant such extensions prior to the completion date of the contract, CITY may, at the time of acceptance of the work, waive liquidated damages which may have accrued for failure to complete on time, due to any of the above, after hearing evidence as to the reasons for such delay, and making a finding as to the causes of same.

SECTION 22. COOPERATION BY CITY.

All public information, data, reports, records, and maps as are existing and available to CITY as public records, and which are necessary for carrying out the work as outlined in the EXHIBIT “A” "SCOPE OF SERVICES", shall be furnished to CONTRACTOR in every reasonable way to facilitate, without undue delay, the work to be performed under this AGREEMENT.

SECTION 23. NOTICES.

All notices required or permitted to be given under this AGREEMENT shall be in writing and shall be personally delivered, or sent by telecopier or certified mail, postage prepaid and return receipt requested, addressed as follows:

To CITY: Penelope Crumpley  
City Manager  
City of Albany  
1000 San Pablo Ave  
Albany, CA 94706

To CONTRACTOR: __________________________  
________________________  
________________________

Exhibit F - 12 –
Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

SECTION 24. AUTHORITY TO EXECUTE.

The person or persons executing this AGREEMENT on behalf of CONTRACTOR represents and warrants that he/she/they has/have the authority to so execute this AGREEMENT and to bind CONTRACTOR to the performance of its obligations hereunder.

SECTION 25. BINDING EFFECT.

This AGREEMENT shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

SECTION 26. MODIFICATION OF AGREEMENT.

No amendment to or modification of this AGREEMENT shall be valid unless made in writing and approved by the CONTRACTOR and by the CITY. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

SECTION 27. WAIVER

Waiver by any party to this AGREEMENT of any term, condition, or covenant of this AGREEMENT shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this AGREEMENT shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of any provision of this AGREEMENT. Acceptance by CITY of any work or services by CONTRACTOR shall not constitute a waiver of any of the provisions of this AGREEMENT.

SECTION 28. LAW TO GOVERN; VENUE.

This AGREEMENT shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in Alameda County. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Northern District of California, in San Francisco.

SECTION 29. CLAIMS.
All claims, disputes and other matters in question between the CITY and CONTRACTOR arising out of or relating to this contract, or the breach thereof, shall be submitted to non-binding mediation to a mediator agreed to by the CITY and the CONTRACTOR prior to the initiation of any litigation unless the CITY and CONTRACTOR mutually agree otherwise.

The cost of non-binding mediation shall be split evenly between CITY and CONTRACTOR.

SECTION 30. ENTIRE AGREEMENT.

This AGREEMENT, including the attached EXHIBITS "A" through "C", is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between CONTRACTOR and CITY prior to the execution of this AGREEMENT. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding. No amendment to this AGREEMENT shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 31. SEVERABILITY.

If any term, condition or covenant of this AGREEMENT is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this AGREEMENT shall not be affected thereby and the AGREEMENT shall be read and construed without the invalid, void or unenforceable provision(s).
IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed the day and year first above written.

CITY OF ALBANY:

By___________________________
Penelope Crumpley, City Manager

CONTRACTOR:

By___________________________
 (Authorized Officer)
Name:
Title:

By___________________________
 (Authorized Officer)
Name:
Title:

APPROVED AS TO FORM:

By___________________________
Craig Labadie, City Attorney