AGREEMENT

36570

THIS AGREEMENT is made and entered, in duplicate, as of April 3, 2023, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on March 7, 2023, by and between ON-SITE TRUCK WASH, INC., a California corporation ("Contractor"), with a place of business at 6655 Silent Harbor Drive, Huntington Beach, California 92648, and the CITY OF LONG BEACH, a municipal corporation ("City").

9 WHEREAS, City requires specialized services requiring unique skills to be
10 performed in connection with vehicle washing services on a regular and as-needed basis
11 for City owned refuse trucks, roll-off trucks, and street sweeping vehicles ("Project"); and

WHEREAS, City has selected Contractor in accordance with City's administrative procedures using a Request for Proposals ("RFP"), attached hereto as Exhibit "A-1", and incorporated by this reference, and City has determined that Contractor and its employees are qualified, licensed, if so required, and experienced in performing these specialized services; and

WHEREAS, City desires to have Contractor perform these specialized
services, and Contractor is willing and able to do so on the terms and conditions in this
Agreement;

20 NOW, THEREFORE, in consideration of the mutual terms, covenants, and
21 conditions in this Agreement, the parties agree as follows:

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SCOPE OF WORK OR SERVICES.

A. Contractor shall furnish specialized services more particularly described in Exhibit "A-2", attached to this Agreement and incorporated by this reference, in accordance with the standards of the profession, and City shall pay for these services at the rates or charges shown in Exhibit "B" in the manner described below:

B. The annual amounts shall be as follows:

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i. An annual amount not to exceed One Hundred Twenty-Five Thousand Dollars (\$125,000) for the first and second contract years, for an aggregate total contract amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) for the first and second contract years. ii. An annual amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) for the third and fourth contract years, for an aggregate total contract amount not to exceed Seven Hundred Fifty Thousand Dollars (\$750,000) for the third and fourth contract years. iii. An annual amount of Two Hundred Fifty Thousand Dollars (\$250,000) for subsequent contract years upon the extension of the contract term for up to three (3) one-year periods, for a total aggregate contract amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000). C. City shall pay Contractor in due course of payments following receipt from Contractor and approval by City of invoices showing the services or task performed, the time expended (if billing is hourly), and the name of the Project. Contractor shall certify on the invoices that Contractor has performed the services in full conformance with this Agreement and is entitled to receive payment. Each invoice shall be accompanied by a progress report indicating the progress to date of services performed and covered by the invoice, including a brief statement of any Project problems and potential causes of delay in performance, and listing those services that are projected for performance by Contractor during the next invoice cycle. Where billing is done and payment is made on an hourly basis, the parties

acknowledge that this arrangement is either customary practice for Contractor's profession, industry or business, or is necessary to satisfy audit and legal requirements which may arise due to the fact that City is a municipality.

D. Contractor represents that Contractor has obtained all necessary information on conditions and circumstances that may affect its

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performance and has conducted site visits, if necessary.

E. By executing this Agreement, Contractor warrants that Contractor (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services set forth in this Agreement. Should Contractor discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, Contractor must immediately inform the City of that fact and may not proceed except at Contractor's risk until written instructions are received from the City.

F. Contractor must adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by the City, except those losses or damages as may be caused by the City's own negligence.

G. CAUTION: Contractor shall not begin work until this Agreement has been signed by both parties and until Contractor's evidence of insurance has been delivered to and approved by City.

23 TERM. The term of this Agreement shall commence at midnight on 2. April 1, 2023, and shall terminate at 11:59 p.m. on March 31, 2027, unless sooner 24 25 terminated as provided in this Agreement, or unless the services or the Project is 26 completed sooner. The term may be extended for three (3) additional one-year periods, at 27 the discretion of the City Manager.

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3. COORDINATION AND ORGANIZATION.

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A. Contractor shall coordinate its performance with City's representative, if any, named in Exhibit "C", attached to this Agreement and incorporated by this reference. Contractor shall advise and inform City's representative of the work in progress on the Project in sufficient detail so as to assist City's representative in making presentations and in holding meetings on the Project. City shall furnish to Contractor information or materials, if any, described in Exhibit "D", attached to this Agreement and incorporated by this reference, and shall perform any other tasks described in the Exhibit.

B. The parties acknowledge that a substantial inducement to City for entering this Agreement was and is the reputation and skill of Contractor's key employee, named in Exhibit "E" attached to this Agreement and incorporated by this reference. City shall have the right to approve any person proposed by Contractor to replace that key employee.

14 4. INDEPENDENT CONTRACTOR. In performing its services. 15 Contractor is and shall act as an independent contractor and not an employee, 16 representative or agent of City. Contractor shall have control of Contractor's work and the 17 manner in which it is performed. Contractor shall be free to contract for similar services to 18 be performed for others during this Agreement; provided, however, that Contractor acts in 19 accordance with Section 9 and Section 11 of this Agreement. Contractor acknowledges 20 and agrees that (a) City will not withhold taxes of any kind from Contractor's compensation; 21 (b) City will not secure workers' compensation or pay unemployment insurance to, for or 22 on Contractor's behalf; and (c) City will not provide and Contractor is not entitled to any of 23 the usual and customary rights, benefits or privileges of City employees. Contractor 24 expressly warrants that neither Contractor nor any of Contractor's employees or agents 25 shall represent themselves to be employees or agents of City.

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5. INSURANCE.

A. As a condition precedent to the effectiveness of this Agreement, Contractor shall procure and maintain, at Contractor's expense for the

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duration of this Agreement, from insurance companies that are admitted to write insurance in California and have ratings of or equivalent to A:V by A.M. Best Company or from authorized non-admitted insurance companies subject to Section 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII by A.M. Best Company, the following insurance:

(a) Commercial general liability insurance (equivalent in scope to ISO form CG 00 01 10 93) in an amount not less than One Million Dollars (\$1,000,000) per each occurrence and Two Million Dollars (\$2,000,000) general aggregate. This coverage shall include but not be limited to claims, demands, causes of action, expenses, costs, liability for injury to or death of persons, damage to or loss of property arising out of activities performed by or on behalf of the Contractor, broad form contractual liability, cross liability, independent contractors liability, and products and completed operations liability. City, its boards and commissions, and their officials, employees and agents shall be named as additional insureds by endorsement (on City's endorsement form or on an endorsement equivalent in scope to ISO form CG 20 26 11 85), and this insurance shall contain no special limitations on the scope of protection given to City, its boards and commissions, and their officials, employees and agents. This policy shall be endorsed to state that the insurer waives its right of subrogation against City, its boards and commissions, and their officials, employees and agents.

(b) Workers' Compensation insurance as required by the California Labor Code and employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000) per accident or occupational illness. This policy shall be endorsed to state that the insurer waives its right of subrogation against City, its boards and commissions, and their officials, employees and agents.

(c) Professional liability or errors and omissions insurance in an

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amount not less than \$1,000,000 per claim.

(d) Commercial automobile liability insurance (equivalent in scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an amount not less than \$500,000 combined single limit per accident.

B. Any self-insurance program, self-insured retention, or deductible must be separately approved in writing by City's Risk Manager or designee and shall protect City, its officials, employees and agents in the same manner and to the same extent as they would have been protected had the policy or policies not contained retention or deductible provisions.

C. Each insurance policy shall be endorsed to state that coverage shall not be reduced, non-renewed, suspended, voided, or canceled except after twenty (20) days prior written notice to City, shall be primary and not contributing to any other insurance or self-insurance maintained by City, and shall be endorsed to state that coverage maintained by City shall be excess to and shall not contribute to insurance or self-insurance maintained by Contractor. Contractor shall notify City in writing within five (5) days after any insurance has been voided by the insurer or cancelled by the insured.

D. If this coverage is written on a "claims made" basis, it must provide for an extended reporting period of not less than one hundred eighty (180) days, commencing on the date this Agreement expires or is terminated, unless Contractor guarantees that Contractor will provide to City evidence of uninterrupted, continuing coverage for a period of not less than three (3) years, commencing on the date this Agreement expires or is terminated.

E. Contractor shall require that all sub-contractors or contractors that Contractor uses in the performance of these services maintain insurance in compliance with this Section unless otherwise agreed in writing by City's Risk Manager or designee.

F. Prior to the start of performance, Contractor shall deliver to City

certificates of insurance and the endorsements for approval as to sufficiency and form. The certificates and endorsements for each insurance policy shall contain the original signature of a person authorized by that insurer to bind coverage on its behalf. "Claims-made" policies are not acceptable unless City Risk Manager determines that "Occurrence" policies are not available in the market for the risk being insured. If a "Claims-made" policy is accepted, it must provide for an extended reporting period of not less than three (3) years. Such insurance as required herein shall not be deemed to limit Contractor's liability relating to performance under this Contract. In addition, Contractor shall, within thirty (30) days prior to expiration of the insurance, furnish to City certificates of insurance and endorsements evidencing renewal of the insurance. City reserves the right to require complete certified copies of all policies of Contractor and Contractor's sub-Contractors and contractors, at any time. Contractor shall make available to City's Risk Manager or designee all books, records and other information relating to this insurance, during normal business hours. The procuring of insurance shall not be construed as a limitation on liability or as full performance of the indemnification provisions of this Contract.

G. Any modification or waiver of these insurance requirements shall only be made with the approval of City's Risk Manager or designee. Not more frequently than once a year, City's Risk Manager or designee may require that Contractor, Contractor's sub-Contractors and contractors change the amount, scope or types of coverages required in this Section if, in his or her sole opinion, the amount, scope or types of coverages are not adequate.

Η. 23 The procuring or existence of insurance shall not be construed 24 or deemed as a limitation on liability relating to Contractor's performance or as full performance of or compliance with the indemnification provisions of this Agreement. 6. This Agreement ASSIGNMENT AND SUBCONTRACTING. contemplates the personal services of Contractor and Contractor's employees, and the parties acknowledge that a substantial inducement to City for entering this Agreement was

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1 and is the professional reputation and competence of Contractor and Contractor's 2 employees. Contractor shall not assign its rights or delegate its duties under this 3 Agreement, or any interest in this Agreement, or any portion of it, without the prior approval 4 of City, except that Contractor may with the prior approval of the City Manager of City, 5 assign any moneys due or to become due Contractor under this Agreement. Anv attempted assignment or delegation shall be void, and any assignee or delegate shall 6 7 acquire no right or interest by reason of an attempted assignment or delegation. 8 Furthermore, Contractor shall not subcontract any portion of its performance without the 9 prior approval of the City Manager or designee, or substitute an approved sub-Contractor 10 or contractor without approval prior to the substitution. Nothing stated in this Section shall 11 prevent Contractor from employing as many employees as Contractor deems necessary 12 for performance of this Agreement.

7. <u>CONFLICT OF INTEREST</u>. Contractor, by executing this Agreement,
certifies that, at the time Contractor executes this Agreement and for its duration,
Contractor does not and will not perform services for any other client which would create a
conflict, whether monetary or otherwise, as between the interests of City and the interests
of that other client. And, Contractor shall obtain similar certifications from Contractor's
employees, sub-Contractors and contractors.

8. <u>MATERIALS</u>. Contractor shall furnish all labor and supervision,
 supplies, materials, tools, machinery, equipment, appliances, transportation and services
 necessary to or used in the performance of Contractor's obligations under this Agreement,
 except as stated in Exhibit "D".

9. <u>OWNERSHIP OF DATA</u>. All materials, information and data
 prepared, developed or assembled by Contractor or furnished to Contractor in connection
 with this Agreement, including but not limited to documents, estimates, calculations,
 studies, maps, graphs, charts, computer disks, computer source documentation, samples,
 models, reports, summaries, drawings, designs, notes, plans, information, material and
 memorandum ("Data") shall be the exclusive property of City. Data shall be given to City,

in a format identified by City, and City shall have the unrestricted right to use and disclose 1 2 the Data in any manner and for any purpose without payment of further compensation to Contractor. Copies of Data may be retained by Contractor but Contractor warrants that 3 Data shall not be made available to any person or entity for use without the prior approval 4 5 of City. This warranty shall survive termination of this Agreement for five (5) years.

10. TERMINATION. Either party shall have the right to terminate this 6 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days prior notice to the other party. In the event of termination under this Section, City shall pay 8 9 Contractor for services satisfactorily performed and costs incurred up to the effective date of termination for which Contractor has not been previously paid. The procedures for 10 11 payment in Section 1.B. with regard to invoices shall apply. On the effective date of termination, Contractor shall deliver to City all Data developed or accumulated in the 12 performance of this Agreement, whether in draft or final form, or in process. And, 13 14 Contractor acknowledges and agrees that City's obligation to make final payment is 15 conditioned on Contractor's delivery of the Data to City.

CONFIDENTIALITY. Contractor shall keep all Data confidential and 16 11. 17 shall not disclose the Data or use the Data directly or indirectly, other than in the course of 18 performing its services, during the term of this Agreement and for five (5) years following expiration or termination of this Agreement. In addition, Contractor shall keep confidential 19 all information, whether written, oral or visual, obtained by any means whatsoever in the 20 21 course of performing its services for the same period of time. Contractor shall not disclose 22 any or all of the Data to any third party, or use it for Contractor's own benefit or the benefit 23 of others except for the purpose of this Agreement.

12. 24 BREACH OF CONFIDENTIALITY. Contractor shall not be liable for a 25 breach of confidentiality with respect to Data that: (a) Contractor demonstrates Contractor 26 knew prior to the time City disclosed it; or (b) is or becomes publicly available without 27 breach of this Agreement by Contractor; or (c) a third party who has a right to disclose does so to Contractor without restrictions on further disclosure; or (d) must be disclosed pursuant 28

1 || to subpoena or court order.

2 13. <u>ADDITIONAL SERVICES</u>. The City has the right at any time during 3 the performance of the services, without invalidating this Agreement, to order extra work 4 beyond that specified in the RFP or make changes by altering, adding to or deducting from 5 the work. No extra work may be undertaken unless a written order is first given by the City, 6 incorporating any adjustment in the Agreement Sum, or the time to perform this Agreement. 7 Any increase in compensation of ten percent (10%) or less of the Agreement Sum, or in 8 the time to perform of One Hundred Eighty (180) days or less, may be approved by the 9 City Representative. Any greater increases, taken either separately or cumulatively, must 10 be approved by the City Council. It is expressly understood by Contractor that the 11 provisions of this paragraph do not apply to services specifically set forth in the RFP or 12 reasonably contemplated in the RFP. Contractor acknowledges that it accepts the risk that 13 the services to be provided pursuant to the RFP may be more costly or time consuming 14 than Contractor anticipates and that Contractor will not be entitled to additional 15 compensation for the services set forth in the RFP.

16 14. <u>RETENTION OF FUNDS</u>. Contractor authorizes the City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) any 17 18 amounts the payment of which may be in dispute or that are necessary to compensate the 19 City for any losses, costs, liabilities or damages suffered by the City, and all amounts for 20 which the City may be liable to third parties, by reason of Contractor's acts or omissions in 21 performing or failing to perform Contractor's obligations under this Agreement. In the event 22 that any claim is made by a third party, the amount or validity of which is disputed by 23 Contractor, or any indebtedness exists that appears to be the basis for a claim of lien, the City may withhold from any payment due, without liability for interest because of the 24 25 withholding, an amount sufficient to cover the claim. The failure of the City to exercise the 26 right to deduct or to withhold will not, however, affect the obligations of Contractor to insure. 27 indemnify and protect the City as elsewhere provided in this Agreement.

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AMENDMENT. This Agreement, including all Exhibits, shall not be

amended, nor any provision or breach waived, except in writing signed by the parties which
 expressly refers to this Agreement.

3 LAW. This Agreement shall be construed in accordance with the laws 16. of the State of California, and the venue for any legal actions brought by any party with 4 5 respect to this Agreement shall be the County of Los Angeles, State of California for state 6 actions and the Central District of California for any federal actions. Contractor shall cause 7 all work performed in connection with construction of the Project to be performed in compliance with (1) all applicable laws, ordinances, rules and regulations of federal, state, 8 county or municipal governments or agencies (including, without limitation, all applicable 9 federal and state labor standards, including the prevailing wage provisions of sections 1770 10 et seq. of the California Labor Code); and (2) all directions, rules and regulations of any fire 11 marshal, health officer, building inspector, or other officer of every governmental agency 12 now having or hereafter acquiring jurisdiction. If any part of this Agreement is found to be 13 in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in 14 conflict with any applicable laws, but the remainder of the Agreement will remain in full 15 16 force and effect.

17. PREVAILING WAGES.

A. Contractor agrees that all public work (as defined in California Labor Code section 1720) performed pursuant to this Agreement (the "Public Work"), if any, shall comply with the requirements of California Labor Code sections 1770 *et seq.* If there is a difference between the general prevailing wage rates determined by the Director of the Department of Industrial Relations and the applicable minimum wage rates determined by the Secretary of Labor (federal) for similar classifications of work, the Contractor and its Subcontractor of every tier shall pay their workers not less than the higher wage rate. Contractors are required to pay at least the California minimum wage for the basic hourly rate in all cases where the published prevailing wage rate is below the California minimum wage. Any and all employer payments required by the prevailing wage determinations must also be

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paid. If the California minimum wage is increased in the future to an amount above that shown in the prevailing wage determination, the basic hourly rate in that determination automatically increases to the new minimum wage. City makes no representation or statement that the Project, or any portion thereof, is or is not a "public work" as defined in California Labor Code section 1720.

Β. In all bid specifications, contracts and subcontracts for any such Public Work, Contractor shall obtain the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification or type of worker needed to perform the Public Work, and shall include such rates in the bid specifications, contract or subcontract. Such bid specifications, contract or subcontract must contain the following provision: "It shall be mandatory for the contractor to pay not less than the said prevailing rate of wages to all workers employed by the contractor in the execution of this contract. The contractor expressly agrees to comply with the penalty provisions of California Labor Code section 1775 and the payroll record keeping requirements of California Labor Code section 1776." Copies of the prevailing rate of per diem wages are on file at the Labor Compliance Office of City Hall, which shall be made available to any interested party on request.

19 18. ENTIRE AGREEMENT. This Agreement, including all Exhibits. 20 constitutes the entire understanding between the parties and supersedes all other agreements, oral or written, with respect to the subject matter in this Agreement. 21

19. INDEMNITY.

Α. Contractor shall indemnify, protect and hold harmless City, its Boards, Commissions, and their officials, employees and agents ("Indemnified Parties"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, including attorneys' fees, court costs, expert and witness fees, and other costs and fees of litigation, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) Contractor's breach or failure to comply with any of its obligations contained in this Agreement, including any obligations arising from the Consultant's compliance with or failure to comply with applicable laws, including all applicable federal and state labor requirements, including without limitation, the requirements of California Labor Code section 1770 et seq.. or (2) negligent or willful acts, errors, omissions or misrepresentations committed by Contractor, its officers, employees, agents, subcontractors, or anyone under Contractor's control, in the performance of work or services under this Agreement (collectively "Claims" or individually "Claim").

B. In addition to Contractor's duty to indemnify, Contractor shall have a separate and wholly independent duty to defend Indemnified Parties at Contractor's expense by legal counsel approved by City, from and against all Claims, and shall continue this defense until the Claims are resolved, whether by settlement, judgment or otherwise. No finding or judgment of negligence, fault, breach, or the like on the part of Contractor shall be required for the duty to defend to arise. City shall notify Contractor of any Claim, shall tender the defense of the Claim to Contractor, and shall assist Contractor, as may be reasonably requested, in the defense.

C. If a court of competent jurisdiction determines that a Claim was caused by the sole negligence or willful misconduct of Indemnified Parties, Contractor's costs of defense and indemnity shall be (1) reimbursed in full if the court determines sole negligence by the Indemnified Parties, or (2) reduced by the percentage of willful misconduct attributed by the court to the Indemnified Parties.

D. The provisions of this Section shall survive the expiration or termination of this Agreement.

26 20. <u>FORCE MAJEURE</u>. If any party fails to perform its obligations 27 because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain 28 labor or materials or reasonable substitutes for labor materials, governmental restrictions,

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governmental regulations, governmental controls, judicial orders, enemy or hostile
 governmental action, pandemic, civil commotion, fire or other casualty, or other causes
 beyond the reasonable control of the party obligated to perform, then that party's
 performance will be excused for a period equal to the period of such cause for failure to
 perform.

21. <u>AMBIGUITY</u>. In the event of any conflict or ambiguity between this Agreement and any Exhibit, the provisions of this Agreement shall govern.

22. NONDISCRIMINATION.

A. In connection with performance of this Agreement and subject to applicable rules and regulations, Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, AIDS, HIV status, marital status, age, gender, sexual orientation, or any other basis that is inconsistent with federal or state statutes, the City Charter, local ordinances, resolutions, rules, or regulations. Contractor shall ensure that applicants are employed, and that employees are treated during their employment, without regard to these bases. These actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

23. <u>EQUAL BENEFITS ORDINANCE</u>. Unless otherwise exempted in
accordance with the provisions of the Ordinance, this Agreement is subject to the
applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the
Long Beach Municipal Code, as amended from time to time.

A. During the performance of this Agreement, the Contractor certifies and represents that the Contractor will comply with the EBO. The Contractor agrees to post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

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"During the performance of a contract with the City of Long Beach, the Contractor will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the City of Long Beach's Equal Benefits Ordinance may be obtained from the City of Long Beach Business Services Division at 562-570-6200."

B. The failure of the Contractor to comply with the EBO will be deemed to be a material breach of the Agreement by the City.

C. If the Contractor fails to comply with the EBO, the City may cancel, terminate or suspend the Agreement, in whole or in part, and monies due or to become due under the Agreement may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.

D. Failure to comply with the EBO may be used as evidence against the Contractor in actions taken pursuant to the provisions of Long Beach Municipal Code 2.93 et seq., Contractor Responsibility.

E. If the City determines that the Contractor has set up or used its contracting entity for the purpose of evading the intent of the EBO, the City may terminate the Agreement on behalf of the City. Violation of this provision may be used as evidence against the Contractor in actions taken pursuant to the provisions of Long Beach Municipal Code Section 2.93 et seq., Contractor Responsibility.

20 24. <u>NOTICES</u>. Any notice or approval required by this Agreement shall 21 be in writing and personally delivered or deposited in the U.S. Postal Service, first class, 22 postage prepaid, addressed to Contractor at the address first stated above, and to City at 23 411 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a copy 24 to the City Clerk at the same address. Notice of change of address shall be given in the 25 same manner as stated for other notices. Notice shall be deemed given on the date 26 deposited in the mail or on the date personal delivery is made, whichever occurs first.

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- 25. <u>COPYRIGHTS AND PATENT RIGHTS</u>.
 - A. Contractor shall place the following copyright protection on all

Data: © City of Long Beach, California _____, inserting the appropriate year.

B. City reserves the exclusive right to seek and obtain a patent or copyright registration on any Data or other result arising from Contractor's performance of this Agreement. By executing this Agreement, Contractor assigns any ownership interest Contractor may have in the Data to the City.

C. Contractor warrants that the Data does not violate or infringe any patent, copyright, trade secret or other proprietary right of any other party. Contractor agrees to and shall protect, defend, indemnify and hold City, its officials and employees harmless from any and all claims, demands, damages, loss, liability, causes of action, costs or expenses (including reasonable attorneys' fees) whether or not reduced to judgment, arising from any breach or alleged breach of this warranty.

26. <u>COVENANT AGAINST CONTINGENT FEES</u>. Contractor warrants
that Contractor has not employed or retained any entity or person to solicit or obtain this
Agreement and that Contractor has not paid or agreed to pay any entity or person any fee,
commission or other monies based on or from the award of this Agreement. If Contractor
breaches this warranty, City shall have the right to terminate this Agreement immediately
notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments
due under this Agreement or otherwise recover the full amount of the fee, commission or
other monies.

27. <u>WAIVER</u>. The acceptance of any services or the payment of any
money by City shall not operate as a waiver of any provision of this Agreement or of any
right to damages or indemnity stated in this Agreement. The waiver of any breach of this
Agreement shall not constitute a waiver of any other or subsequent breach of this
Agreement.

28. <u>CONTINUATION</u>. Termination or expiration of this Agreement shall
not affect rights or liabilities of the parties which accrued pursuant to the Sections titled
"Ownership of Data", "Confidentiality", "Breach of Confidentiality", "Law", "Certified Payroll

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Records", "Indemnity", and "Audit" prior to termination or expiration of this Agreement.

2 29. TAX REPORTING. As required by federal and state law, City is 3 obligated to and will report the payment of compensation to Contractor on Form 1099-Misc. 4 Contractor shall be solely responsible for payment of all federal and state taxes resulting 5 from payments under this Agreement. Contractor shall submit Contractor's Employer 6 Identification Number (EIN), or Contractor's Social Security Number if Contractor does not 7 have an EIN, in writing to City's Accounts Payable, Department of Financial Management. 8 Contractor acknowledges and agrees that City has no obligation to pay Contractor until 9 Contractor provides one of these numbers.

30. <u>ADVERTISING</u>. Contractor shall not use the name of City, its officials or employees in any advertising or solicitation for business or as a reference, without the prior approval of the City Manager or designee.

31. <u>AUDIT</u>. City shall have the right at all reasonable times during the
term of this Agreement and for a period of five (5) years after termination or expiration of
this Agreement to examine, audit, inspect, review, extract information from and copy all
books, records, accounts and other documents of Contractor relating to this Agreement.

32. <u>THIRD PARTY BENEFICIARY</u>. This Agreement is not intended or
designed to or entered for the purpose of creating any benefit or right for any person or
entity of any kind that is not a party to this Agreement.

19 20 $\parallel \parallel$ $\parallel \parallel$ 21 22 ||| 23 ||| 24 ||| 25 ||| 26 /// 27 $\parallel \parallel$ 28 /// VSI:ri A22-02286

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OFFICE OF THE CITY ATTORNEY DAWN MCINTOSH, City Attorney 411 West Ocean Boulevard, 9th Floor Lond Beach. CA 90802-4664 1

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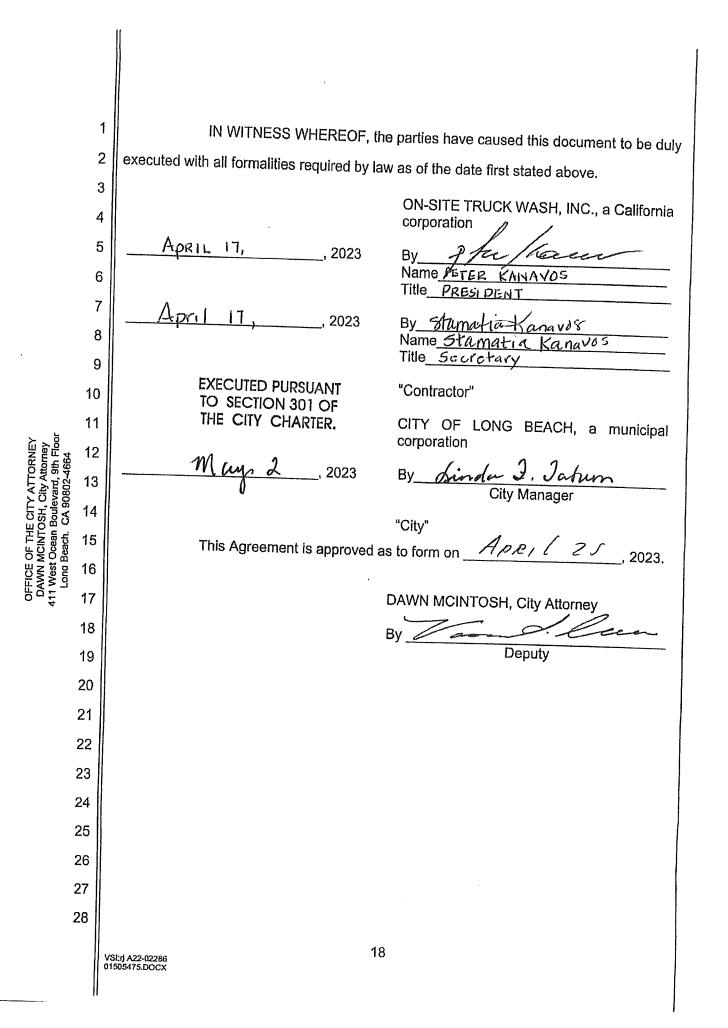


EXHIBIT 'A-1' REQUEST FOR PROPOSALS (RFP)

City of Long Beach Request for Proposals Number PW-22-092

On-site Vehicle Washing



Overview

Summary

The City of Long Beach (City) seeks proposals from qualified firms to provide on-site vehicle washing services on a regular and as-needed basis for Cityowned refuse trucks, roll-off trucks, and street sweeping vehicles (hereinafter referred to as "vehicles") in accordance with the City's needs and funding availability. The vehicles shall be washed at the Department of Public Works, Environmental Services Bureau facility, located at 2929 E. Willow Street, Long Beach, CA 90806. Additional locations may be designated at the discretion of the City.

Key Dates

Release Date: August 18, 2022

Questions Due to the City: 11:00 AM September 1, 2022

Proposals Due: 11:00 AM September 29, 2022

The City reserves the right to modify these dates at any time, with appropriate notice to prospective Contractors.

Proposal Information

Instructions for what to include in your proposal and how to submit it are detailed in Section 4.

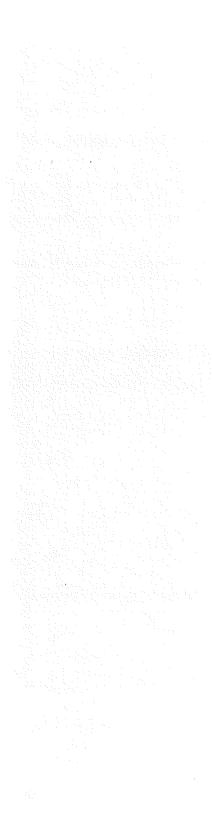
Proposals must be submitted electronically via the City's Long Beach Buys portal, available at https://longbeachbuys.buyspeed.com/bso/view/login /login.xhtml.

RFP Official Contact

Elisa Landeros

<u>rfppurchasing@longbeach.gov</u> All communication with the City related to this RFP must be directed to the contact listed above.

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- 1 The Opportunity
 - 1.1 Project Summary
 - 1.2 Background
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 - 5.1 Acronyms/Definitions
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 - 5.3 Contract Terms & Conditions
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1 The Opportunity

1.1 Project Summary

The City of Long Beach ("City") seeks proposals from qualified firms to provide on-site vehicle washing services on a regular and as-needed basis for City-owned refuse trucks, roll-off trucks, and street sweeping vehicles (hereinafter collectively referred to as "vehicles") in accordance with the City's needs and funding availability. The vehicles shall be washed at the Department of Public Works, Environmental Services Bureau facility, located at 2929 E. Willow Street, Long Beach, CA 90806. Additional locations may be designated at the discretion of the City.

1.2 Background

The City's Environmental Services Bureau ("ESB") is part of the Department of Public Works and is responsible for preserving the upkeep of the cityscape with street sweeping, refuse, and recycling services. To carry out these various programs, ESB utilizes nearly 120 City vehicles such as refuse trucks, roll-off trucks, and street sweepers that require constant washings as part of their upkeep and maintenance.

1.3 Goals

The awarded contractor shall wash ESB's refuse trucks and roll-off trucks on a weekly basis, and undercarriage cleanings shall be done on a monthly basis. Street sweeping vehicles are to be washed at the request of the Environmental Services Bureau. Vehicle washings will include all vehicle exterior surfaces, including, but not limited to the cab, cab area, body (all four sides), lifting mechanisms, engine area, and tires/wheels.

The awarded contractor shall provided a cleaning process that will include the application of an environmentally safe, non-abrasive cleaning product designed to remove dirt, oil, and grease, brush scrubbing, and high-pressure rinsing of the vehicles.

1.4 Award Terms

This contract will be for a period of two (2) years with the option to renew for three (3) additional oneyear periods. The total contract term will not exceed five (5) years.

2 Scope of Work

2.1 Description of Services

ESB utilizes nearly 120 City vehicles, such as refuse trucks, street sweepers, and roll-off trucks that require constant washings as part of their upkeep and maintenance. The current City fleet of vehicles are listed below. Fleet inventory may increase or decrease at any time. ESB anticipates an expansion of fleet inventory in 2024. The contractor is expected to perform weekly washing of all refuse and roll-off trucks available on a weekly basis. Some vehicles may be unavailable while undergoing repairs. The City may request additional street sweepers to be washed on an as-needed basis.

Vehicle Type	# of Vehicles
Refuse Trucks	85
Roll-off Trucks	4
Containers with Roll-off vehicles	4
Street Sweeping vehicles	20

The awarded contractor must be available to provide services on all days of the week, including weekends. The City will determine specific days and hours for vehicle washings based on fleet operations and availability. The awarded contractor shall service current vehicles according to the following frequency schedule:

WASHES

The contractor is required to perform the following services:

Weekly Washings - The following vehicles shall be washed weekly

- a) Eighty-Five (85) refuse trucks
- b) Four (4) roll-off trucks

Monthly undercarriage cleanings - The following shall be washed monthly:

a) Clean undercarriages of refuse trucks and roll-off trucks

The following vehicles shall be washed on an as-needed basis or by request:

- a) Twenty (20) Street Sweeping vehicles
- b) Undercarriages of street sweeping vehicles will be washed upon request

PROCESS

The cleaning process will include the application of an environmentally safe, non-abrasive cleaning product designed to remove dirt, oil, and grease, brush scrubbing, and high-pressure rinsing of the vehicles. Washing services shall include, but are not limited to: washing and wiping dry of all vehicle exterior surfaces; cleaning of tires and rims; and cleaning of all windows, window sills, mirrors, doors, and door handles. The vehicle exterior, including windows and windshields, must be free of dirt, dust, residue, and watermarks after the wash.

Prior to washing, all vehicles must be positioned in wash bays to ensure the City's clarifier properly captures waste-water. All vehicles must be returned to designated parking stalls after washing.

The City reserves the right to inspect any vehicle upon completion. If the contractor's work is unsatisfactory upon inspection, City staff may request the contractor to redo all or part of the services to the inspector's satisfaction.

EQUIPMENT

The contractor must provide appropriate tools, supplies, and equipment necessary to perform services required by this RFP. The City is committed to using environmentally safe products. The awarded contractor must be prepared to provide City-approved vehicle washing supplies and equipment needed to complete washing services at the time of arrival at designated City facilities.

The City reserves the right to inspect equipment to be used to perform services under the awarded contract. Any equipment determined by the City to be in poor condition must be repaired or replaced immediately, at the contractor's expense. Failure to provide suitable equipment for carrying out all contract requirements may be grounds for termination.

The Contractor shall provide the following supplies and equipment, including, but not limited to the following:

- a) Cleaning products Material Safety Data Sheet (MSDS) to be provided by contractor to City
- b) Supplies (i.e., soap, towels, detergent, etc.)
- c) Applicator and high-pressure washer

d) Any other supplies, tools, and equipment not provided by City and necessary to perform services as required by the contract

The City shall provide the following:

- a) Water
- b) Washing location with a drain into the sanitary sewer system
- c) Electricity

ENVIRONMENTAL REQUIREMENTS

Cleaning products must be pre-approved by the Department before use on any City vehicles. The City must approve changes to cleaning products used by contractor to wash City vehicles. The contractor's equipment and services are to be compliant with all Federal, State, California Air Resources Board ("CARB"), Air Quality Management District ("AQMD"), Occupational Safety and Health Administration ("OSHA"), National Pollutant Discharge System ("NPDES") and any other applicable regulatory requirements.

All washing services furnished under this contract must comply with all local, state, and federal regulations for washing vehicles and waste-water disposal. The contractor shall immediately inform the City of any investigation, citation, or legal action by any regulatory agency related to the contractor's obligations under this Contract within twenty-four hours of receipt.

The contractor acknowledges that pollutants generated may include but are not limited to: all oil and grease (which contain benzene, lead, zinc, chromium, arsenic, pesticides, herbicides, nitrates, and other metals); Detergents; Phosphates; and solvent-based solutions. All wash water must be fully captured,

treated, and discharged to the sanitary sewer system. Additionally, water conservation methods should be implemented.

STAFF & LICENSE REQUIREMENTS

It is the contractor's responsibility to provide an appropriate level of on-site staffing as needed to support all aspects of vehicle washing services and for an appropriate response during working hours as indicated in this RFP.

Before servicing any vehicles, all contractor's employees working at the City yard to complete an onsite Certified Natural Gas (CNG) Vehicle Training Session with TruStar Energy, the City's provider for its CNG slow-fill fuel stations. Training will include CNG safety, vehicle safety, Emergency Shutdown (ESD) locations, and fueling procedures, including proper nozzle connection and disconnection. The City will help coordinate training as needed.

All employees operating City vehicles are required to:

- a) Have a valid Class "A" or Class "B" California driver's license to operate commercial trucks;
- b) Demonstrate ability, familiarity, and competence to operate the above vehicles;
- c) Only employees approved by the City are allowed to operate fleet vehicles.

Contractor shall provide a licensed Class "A" or "B" driver to operate City vehicles while providing washing services on City property. The driver may be required to show their Class "A" and/or "B" license to a City official upon arrival each day.

Note: The number of vehicles is approximate. Some vehicles may be unavailable while undergoing repairs and the fleet size is subject to change.

ACCIDENT REPORTING

The Contractor shall notify the designated City Representative(s) within one hour of an accident, regardless of whether injury or damage is evident or involves patrons and the Contractor's staff, vehicles, and/or equipment. The Contractor shall provide all written reports and/or documentation requested by the City.

DAMAGE CAUSED BY CONTRACTOR

The Contractor shall be responsible for ensuring that all reasonable precautions are taken to protect City vehicles and all other physical objects upon delivering car wash services. Upon verification by the City's Representative(s) of causes and costs of damage, the Contractor shall pay City for said damage.

All damage to components (i.e., appurtenances) caused by the Contractor shall be corrected at the Contractor's sole expense.

Damages to City vehicles will be the responsibility of the awarded Contractor.

2.2 Performance Metrics & Contract Management

2.2.1 Performance Metrics

The table below highlights the targets that will be tracked and reviewed collaboratively with the awarded contractor during the contract. This list is an indication of the performance metrics of interest to the City and is not exhaustive or final. As a part of a response to this RFP, Proposers may propose additional or alternative performance metrics to be tracked on a regular basis. The final set of performance metrics and frequency of collection will be negotiated by the successful Proposer and the City prior to the finalization of an agreement between parties and may be adjusted over time as needed.

METRIC		DESCRIPTION	TARGET	DATA SOURCE
	all refuse and roll- cks	Washing services shall include but are not limited to washing and wiping dry of all vehicle exterior surfaces; cleaning of tires and rims; cleaning of all windows, window sills, mirrors, doors, and door handles. The vehicle exterior, including windows and windshields, must be free of dirt, dust, residue, and watermarks after the wash.	All refuse trucks and roll-off trucks are washed on a weekly schedule.	Physical inspection by City staff and verification of work performed via wash logs and invoices.
sweep vehicl their under on an neede	es and carriages as- ed basis the City's	Washing services shall include, but are not limited to, washing and wiping dry of all vehicle exterior surfaces; cleaning of tires and rims; cleaning of all windows, window sills, mirrors, doors, and door handles.	All street sweeping vehicles washed upon request.	Physical inspection by City staff and verification of work performed via wash logs and itemized invoices.

		The vehicle exterior, including windows and windshields, must be free of dirt, dust, residue, and watermarks after the wash. Undercarriages must be washed and be free of dirt, dust, residue, and watermarks after the wash.		
3.			All undercarriages are washed on a monthly basis	Physical inspection by City staff and verification of work performed via wash logs and itemized invoices.

2.2.2 Contract Management

Under the general direction of ESB management. Parties shall meet bi-annually or on an as-needed basis to discuss program progress, challenges, and goals and ensure successful performance.

Itemized monthly invoices are required and include the following:

- List of all vehicles cleaned via wash log
- Dates and frequency of cleaning
- Dates of vehicle undercarriage cleaning

2.2.3 Contract Payment

The City of Long Beach issues payment based upon services rendered. After a contract is finalized and work is performed, the Contractor should invoice the City. The City will remit payment within 30 calendar days of being billed. Monthly, itemized invoices are required to be delivered to ESB in a timely manner.

3 How We Choose

3.1 Minimum Qualifications

Applicants for this proposal must meet the following requirements:

- Qualification to conduct business in the City.
- Three (3) years of experience washing municipal refuse, roll-off and street sweeping vehicles.
- Have a valid Class "A" or Class "B" California driver's license to operate commercial trucks.

3.2 Evaluation Criteria

Proposals shall be consistently evaluated based upon the following criteria:

CRI	TERIA
	 Organizational Capacity & Experience Experience washing municipal refuse and roll-off vehicles Experience washing street sweeping vehicles Expertise and availability of key personnel Demonstrated competence
• ,	Method of Approach Ability to consistently wash all vehicles on the specified schedule Ability to report truck wash logs
•	Communications & Reporting Truck wash log Itemized invoicing
	Reasonableness of Cost Providing a rate sheet that is at or below the specified budget amount

3.3 Selection Process & Timelines

EVALUATION STAGE	ESTIMATED DATE	DESCRIPTION
Evaluation of Narrative & Cost Proposals	October, 2022	 An Evaluation Committee will review Narrative & Cost Proposals to select the proposal that best meets the needs of the City. Evaluations will be conducted using a methodology derived from the evaluation criteria listed in Section 3.2.
Interviews/ Demos/ Site Visits	October - November, 2022	 The City may interview or request demos from none, one, some or all Proposers.

Negotiation & Contractor Selection	November - December, 2022	 Selected Contractor(s) will be notified in writing. Any award is contingent upon the successful negotiation of final contract terms. If contract negotiations cannot be concluded successfully, the City reserves the right to negotiate a contract with another Contractor or withdraw the RFP. Negotiations shall be confidential and not subject to disclosure to competing Contractors unless and until an agreement is reached.
Estimated Contract Execution	December 2022	
Proposer Debrief	After Contractor is Selected	 Successful and unsuccessful Proposers are encouraged to request phone call or in person meeting with the City to discuss the strengths and weaknesses of their proposal. The intent of the debrief is to provide the Proposer with constructive feedback to equip them with information to effectively meet the City's needs and be successful in future proposals.

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4 Proposal Instructions & Content

4.1 Proposal Timelines & Instructions

MILESTONE	TIME (PACIFIC) & DATE	LOCATION / ADDITIONAL INFORMATION
Release date	August 18, 2022	
Questions due to the City	11:00 AM September 1, 2022	 Submit all inquiries via email to rfppurchasing alongbeach.gov
Posting of the Q&A	September 15, 2022	 Responses to the questions will be posted on the City's Long Beach Buys portal, available at

		https://longbeachbuys.buyspeed.com/bso/ view/login/login.xhtml.
Proposals due	11:00 AM September 29, 2022	 Proposals should be submitted electronically via the City's Long Beach Buys portal, available at https://longbeachbuys.buyspeed.com/bso/ view/login/login.xhtml. Late proposals, or proposals submitted through other channels will not be accepted. Proposers are responsible for submitting their proposals completely and on time. Proposers will receive an e-bid confirmation number with a time stamp from Long Beach Buys indicating that the proposal was submitted successfully. The City will only receive proposals that were transmitted successfully. Technical support is available by phone at (562) 570-6200 Questions or concerns, contact customer service at LBPurchasing@longbeach.gov

4.2 Proposal Content

Complete proposals will include the following. Proposers are encouraged to use this table as a checklist to ensure all components are included in their proposal.

Proposal delineat preparin Cost The Cost Proposal process,	ative Proposal should provide a straightforward, concise on of capabilities to satisfy the RFP. Guidance on g a Narrative Proposal is detailed below in Section 4.3. Proposal should be prepared using detailed fixed
Proposal process,	
herein. (the amo • Tin	including out-of-pocket expenses, for all costs ed with the responsibilities and related services indicated Clearly specify the nature of expenses anticipated and unt of each category for out-of-pocket expenses ne Period: Vendors should provide monthly cost to clean vehicles as required in Performance Metrics 2.2.1.

Financial Stability	Proposers should include one or more of the following financial statements to provide the City with enough information to determine financial stability of the Proposer and subcontractor. • Financial Statement or Annual Report • Business' tax return • Statement of income and related earnings			
Other Addenda (if applicable)	Colored displays, promotional materials, and other collateral are not necessary or desired. However, if a complete response cannot be provided without referencing supporting documentation, it may be provided as an addendum clearly cited in the Narrative or Cost Proposal.			
MANDATORY ATTACHMENTS Attachments must be signed by the individual legally authorized to bind the Proposer.				
A. Authorization & Certification				
B. Equal Benefits Ordinance (EBO) Form				
NON-MANDATORY ATTACHMENTS The following are required for awarded Contractors prior to contract execution. If possible, Proposers are encouraged to include this information as part of their Proposal to expedite processing.				
C. W-9				
D. Business License				
E. Proof of Re	gistration with Secretary of State			

4.3 Narrative Proposal Template

Organizational Capacity & Experience

PROPOSER CONTACT INFORMATION				
	Company Name			
Ornanization	Company Address			
Organization	Website			
	Federal Tax ID Number			
	Name			
Authorized	Title			
Representative	Email Address			
	Phone Number			
Other Point of	Name			
	Title			
Contact (if required)	Email Address			
	Phone Number			
PROPOSER CAPACITY & EXPERIENCE				
What type of enterprise is the organization?		🗆 Non-Profit		
		Sole Proprietorship		

On-site Vehicle Washing | RFP PW-22-092] | Template v6.9.21 | 14

		🗆 General Partnership
		Corporation
		State and Date of incorporation:
		sidie did Ddie of incorporation.
		Limited Liability Company
		□ Other
	vhy the organization is	
•	e the services described	
in this RFP (1-2 parc		
	he length of time the	
listed in the RFP (1-3	been providing services 3 sentences)	
	nployees does the	
,	in total and residing in	
Long Beach?	0	
Where are the representative(s) that would		
service the City's account located?		
Who are the staff that will be involved in this		
project? Please include classifications and		
number of employees.		
Does the proposal include subcontractors?		
		□ No
DEEEDENICES (A min	nimum of 3 professional re	forences are required)
	Company	
	Project Manager	
	Phone Number	
Reference 1	Project Description	
	Project Start and	
	End Dates	
	Company	
	Project Manager	
Reference 2	Phone Number	
	Project Description	
	Project Start and	
	End Dates	
Reference 3	Company	

	Project Manager	r.
	Phone Number	
	Project Description	
	Project Start and	
	End Dates	
Reference 4	Company	
	Project Manager	
	Phone Number	
	Project Description	
	Project Start and	
	End Dates	
Reference 5	Company	
	Project Manager	
	Phone Number	
	Project Description	
	Project Start and	
	End Dates	

A.

SUB-CONTRACTOR CONTACT INFORMATION (if applicable) Please provide this information for all subcontractors included in this proposal.					
Company Name					
Company Address					
Name					
Title					
Email Address					
Phone Number					
Name					
Title					
Email Address					
Phone Number					
SUBCONTRACTOR CAPACITY & EXPERIENCE					
	🗆 Non-Profit				
	Sole Proprietorship				
	General Partnership				
prise is the organization?	□ Corporation				
	State and Date of incorporation:				
	state and bale of incorporation.				
	information for all subcol Company Name Company Address Name Title Email Address Phone Number Name Title Email Address Phone Number CAPACITY & EXPERIENCE				

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	Limited Liability Company
	D Other
Which specific requirements of this RFP will the subcontractor perform? Is the subcontractor registered with the California Department of Industrial Relations? If yes, provide registration number.	
Please describe why the organization is qualified to provide the services described in this RFP (1-2 paragraphs).	
Please describe the length of time the organization has been providing the services described in this RFP (1-3 sentences).	
How many employees does the organization have nationally, locally, and residing in Long Beach? Where are the representative(s) that would	
service the City's account located?	

Method of Approach

1. Briefly summarize how you will ensure that all vehicles are cleaned as required.

Communications & Reporting

1.	How will you ensure that all vehicles are thoroughly cleaned with the frequency and manner required?
2.	How will employees conducting the vehicle cleanings be supervised?
3.	How will you report to the City that all required work has been completed?
4.	The City requires that the awarded Contractor provide proof of payment of any subcontractors used for this project. If the proposal includes subcontractors, please describe the plan for how the City will be notified of such payments.

5 Terms & Conditions

5.1 Acronyms/Definitions

- 1. Awarded Contractor: The organization/individual that is awarded a contract with the City of Long Beach, California for the services identified in this RFP.
- 2. City: The City of Long Beach and any department or agency identified herein.
- 3. Contractor / Proposer: Organization/individual submitting a proposal in response to this RFP.
- 4. Department / Division: City of Long Beach, Public Works/Environmental Services
- 5. Evaluation Committee: An independent committee comprised solely of representatives of the City established to review proposals submitted in response to the RFP, evaluate the proposals, and select a Contractor.
- 6. May: Indicates something that is not mandatory but permissible.
- 7. RFP: Request for Proposals.
- 8. Shall / Must: Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of a proposal as non-responsive.
- 9. Should: Indicates something that is recommended but not mandatory. If the Proposer fails to provide recommended information, the City may, at its sole option, ask the Proposer to provide the information or evaluate the proposal without the information.
- 10. Subcontractor: Third party not directly employed by the Proposer who will provide services identified in this RFP.
- 11. ESB: Environmental Services Bureau
- 12. Vehicles: Includes refuse trucks, roll-off trucks and street sweeping vehicles.
- 5.2 Solicitation Terms & Conditions
 - 1. The City reserves the right to alter, amend, or modify any provisions of this RFP, or to withdraw this RFP, at any time prior to the award of a contract pursuant hereto, if it is in the best interest of the City to do so.
 - 2. The City reserves the right to request clarification of any proposal term from Proposers.
 - 3. The City may contact the references provided; contact any Proposer to clarify any response; contact any current users of a Proposer's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process.

- 4. The level and term of documentation required from the Proposer to satisfy the City will be commensurate with the size and complexity of the contract and Proposers should submit accordingly. If the information submitted by the Proposer, or available from other sources, is insufficient to satisfy the City as to the Proposer's contractual responsibility, the City may request additional information from the Proposer or may deem the proposal non-responsive.
- 5. The City reserves the right to waive informalities and minor irregularities in proposals received.
- 6. The City reserves the right to reject any or all proposals received prior to contract award.
- 7. The City's determination of the Proposer's responsibility, for the purposes of this RFP, shall be final.
- 8. Unless otherwise specified, the City prefers to award to a single Contractor but reserves the right to award contracts to multiple contractors.
- 9. The City shall not be obligated to accept the lowest priced proposal, but will make an award in the best interests of the City of Long Beach after all factors have been evaluated.
- 10. Any irregularities or lack of clarity in the RFP should be brought to the Purchasing Division designee's attention as soon as possible so that corrective addenda may be furnished to Proposers.
- 11. Proposals must include any and all proposed terms and conditions, including, without limitation, written warranties, maintenance/service agreements, license agreements, lease purchase agreements and the Proposer's standard contract language. The omission of these documents may render a proposal non-responsive.
- 12. Alterations, modifications or variations to a proposal may not be considered unless authorized by the RFP or by addendum or amendment.
- 13. Proposals which appear unrealistic in the terms of technical commitments, lack of technical competence, or are indicative of failure to comprehend the complexity and risk of this contract, may be rejected.
- 14. Proposals may be withdrawn by written notice received prior to the proposal opening time.
- 15. The price and amount of this proposal must have been arrived at independently and without consultation, communication, agreement or disclosure with or to any other Contractor or prospective Contractor.
- 16. No attempt may be made at any time to induce any firm or person to refrain from submitting a proposal or to submit any intentionally high or noncompetitive proposal. All proposals must be made in good faith and without collusion.

- 17. Prices offered by Proposers in their proposals are an irrevocable offer for the term of the contract and any contract extensions. The awarded Contractor agrees to provide the purchased services at the costs, rates and fees as set forth in their proposal in response to this RFP. No other costs, rates or fees shall be payable to the awarded Contractor for implementation of their proposal.
- 18. The City is not liable for any costs incurred by Proposers prior to entering into a formal contract. Costs of developing the proposals or any other such expenses incurred by the Proposer in responding to the RFP, are entirely the responsibility of the Proposer, and shall not be reimbursed in any manner by the City.
- 19. Proposal will become public record after such time that City staff proposes to the award a contract or as otherwise required by law unless the proposal or specific parts of the proposal can be shown to be exempt by law. Each Proposer may clearly label all or part of a proposal as "CONFIDENTIAL" provided that the Proposer thereby agrees to indemnify and defend the City for honoring such a designation. The failure to so label any information that is released by the City shall constitute a complete waiver of any and all claims for damages caused by any release of the information.
- 20. A proposal submitted in response to this RFP must identify any subcontractors, and outline the contractual relationship between the Proposer and each subcontractor. An official of each proposed subcontractor must sign, and include as part of the proposal submitted in response to this RFP, a statement to the effect that the subcontractor has read and will agree to abide by the Proposer's obligations.
- 21. If the Contractor elects to use subcontractors, the City requires that the awarded Contractor provide proof of payment of any subcontractors used for this project. Proposals shall include a plan by which the City will be notified of such payments.
- 22. Each Proposer must disclose any existing or potential conflict of interest relative to the performance of the contractual services resulting from this RFP. Any such relationship that might be perceived or represented as a conflict should be disclosed. The City reserves the right to disqualify any Proposer on the grounds of actual or apparent conflict of interest.
- 23. Each Proposer must include in its proposal a complete disclosure of any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the Proposer or in which the Proposer has been judged guilty or liable. Failure to comply with the terms of this provision will disqualify any proposal. The City reserves the right to reject any proposal based upon the Proposer's prior history with the City or with any other party, which documents, without limitation, unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures.
- 24. The City reserves the right to negotiate final contract terms with any Proposers selected. The contract between the parties will consist of the RFP together with any modifications thereto, and the awarded Contractor's proposal, together with any modifications and clarifications thereto

that are submitted at the request of the City during the evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the final executed contract, the RFP, any modifications and clarifications to the awarded Contractor's proposal, and the awarded Contractor's proposal. Specific exceptions to this general rule may be noted in the final executed contract.

- 25. The City will not be responsible for or bound by any oral communication or any other information or contact that occurs outside the official communication process specified herein, unless confirmed in writing by the City Contact.
- 26. Any contract resulting from this RFP shall not be effective unless and until approved by the City Council / City Manager, as applicable.
- 27. The City will not be liable for Federal, State, or Local excise taxes.
- 28. Execution of Attachment A of this RFP shall constitute an agreement to all terms and conditions specified in the RFP, including, without limitation, the Attachment B contract form and all terms and conditions therein, except such terms and conditions that the Proposer expressly excludes.
- 29. Proposer understands and acknowledges that the representations above are material and important, and will be relied on by the City in evaluation of the proposal. Any Proposer misrepresentation shall be treated as fraudulent concealment from the City of the true facts relating to the proposal.
- 30. Proposals shall be kept confidential until such time that City staff proposes to award a contract or as otherwise required by law.
- 31. No announcement concerning the award of a contract as a result of this RFP may be made without the prior written approval of the City.
- 32. Proposers are advised that any contract awarded pursuant to this procurement process that exceeds \$100,000 shall be subject to the applicable provisions of Long Beach Municipal Code Section 2.73 et seq, the Equal Benefits Ordinance. Proposers shall refer to Attachment G for further information regarding the requirements of the ordinance. If Attachment G is not present in the RFP, the Equal Benefits Ordinance does not apply to this procurement.
- 33. All Proposers shall complete and return, with their bid, the Equal Benefits Ordinance Compliance form contained in Attachment B, if applicable. Unless otherwise specified in the procurement package, Proposers do not need to submit with their bid supporting documentation proving compliance. However, supporting documentation verifying that the benefits are provided equally shall be required if the proposer is selected for award of a contract.

5.3 Contract Terms & Conditions

- 1. The awarded Contractor will be the sole point of contract responsibility. The City will look solely to the awarded Contractor for the performance of all contractual obligations which may result from an award based on this RFP, and the awarded Contractor shall not be relieved for the non-performance of any or all subcontractors.
- 2. The awarded Contractor must maintain, for the duration of its contract, insurance coverages as required by the City. Work on the contract shall not begin until after the awarded Contractor has submitted acceptable evidence of the required insurance coverages.
- 3. The Long Beach Municipal Code (LBMC) requires all businesses operating in the City of Long Beach to pay a business license tax. In some cases, the City may require a regulatory permit and/or evidence of a State or Federal license. Prior to issuing a business license, certain business types will require the business license application and/or business location to be reviewed by the Development Services, Fire, Health, and/or Police Departments. Additional information is available at www.longbeach.gov/finance/business_license.
- 4. All work performed in connection with construction shall be performed in compliance with all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies (including, without limitation, all applicable federal and state labor standards, including the prevailing wage provisions of sections 1770 et seq. of the California Labor Code), and (b) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction.
- 5. Contractor shall indemnify, protect and hold harmless City, its Boards, Commissions, and their officials, employees and agents ("Indemnified Parties"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, including attorneys' fees, court costs, expert and witness fees, and other costs and fees of litigation, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) Contractor's breach or failure to comply with any of its obligations contained in this Contract, including any obligations arising from the Project's Contractor's compliance with or failure to comply with applicable laws, including all applicable federal and state labor requirements including, without limitation, the requirements of California Labor Code section 1770 et seq. or (2) negligent or willful acts, errors, omissions or misrepresentations committed by Contractor, its officers, employees, agents, subcontractors, or anyone under Contractor's control, in the performance of work or services under this Contract (collectively "Claims" or individually "Claim").
- 6. In addition to Contractor's duty to indemnify, Contractor shall have a separate and wholly independent duty to defend Indemnified Parties at Contractor's expense by legal counsel approved by City, from and against all Claims, and shall continue this defense until the Claims are resolved, whether by settlement, judgment or otherwise. No finding or judgment of negligence,

fault, breach, or the like on the part of Contractor shall be required for the duty to defend to arise. City shall notify Contractor of any Claim, shall tender the defense of the Claim to Contractor, and shall assist Contractor, as may be reasonably requested, in the defense.

- 7. If a court of competent jurisdiction determines that a Claim was caused by the sole negligence or willful misconduct of Indemnified Parties, Contractor's costs of defense and indemnity shall be (1) reimbursed in full if the court determines sole negligence by the Indemnified Parties, or (2) reduced by the percentage of willful misconduct attributed by the court to the Indemnified Parties.
- 8. If the Contractor elects to use subcontractors, Contractor agrees to require its subcontractors to indemnify Indemnified Parties and to provide insurance coverage to the same extent as Contractor.
- 9. If the Contractor elects to use subcontractors, the Contractor shall not allow any subcontractor to commence work until all insurance required of subcontractor is obtained.
- 10. The provisions of this Section shall survive the expiration or termination of this Contract.
- 11. As a condition precedent to the effectiveness of this Contract, Contractor shall procure and maintain at Contractor's expense for the duration of this Contract from an insurance company that is admitted to write insurance in the State of California or that has a rating of or equivalent to an A:VIII by A.M. Best and Company the following insurance:
 - Commercial general liability insurance equivalent in coverage scope to ISO CG 00 01 10 93 naming the City of Long Beach and its officials, employees, and agents as additional insureds on a form equivalent in coverage scope to ISO CG 20 26 11 85 from and against claims, demands, causes of action, expenses, costs, or liability for injury to or death of persons, or damage to or loss of property arising out activities performed by or on behalf of the Contractor in an amount not less than One Million Dollars (US \$1,000,000) per occurrence and Two Million Dollars (US \$2,000,000) in general aggregate.
 - b. Workers' compensation coverage as required by the Labor Code of the State of California and Employer's liability insurance with minimum limits of One Million Dollars (US \$1,000,000) per accident or occupational illness. The policy shall be endorsed with a waiver of the insurer's right of subrogation against the **City of Long Beach and its officials**, **employees**, and agents.
 - C. If use of a vehicle is part of the scope of services, commercial automobile liability insurance equivalent in coverage scope to ISO CA 00 01 06 92 in an amount not less than Five Hundred Thousand Dollars (US \$500,000) combined single limit (CSL) covering Symbol 1 ("any auto").

Any self-insurance program or self-insurance retention must be approved separately in writing by City and shall protect the **City of Long Beach and its officials, employees, and agents** in the

same manner and to the same extent as they would have been protected had the policy or policies not contained retention provisions. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, or canceled by either party except after twenty (20) days prior written notice to City, and shall be primary and not contributing to any other insurance or self-insurance maintained by City.

Any subcontractors which Contractor may use in the performance of this Contract shall be required to indemnify the City to the same extent as the Contractor and to maintain insurance in compliance with the provisions of this section.

Contractor shall deliver to City certificates of insurance and original endorsements for approval as to sufficiency and form prior to the start of performance hereunder. The certificates and endorsements for each insurance policy shall contain the original signature of a person authorized by that insurer to bind coverage on its behalf. "Claims-made" policies are not acceptable unless City Risk Manager determines that "Occurrence" policies are not available in the market for the risk being insured. In a "Claims-made" policy is accepted, it must provide for an extended reporting period of not less than three (3) years. Such insurance as required herein shall not be deemed to limit Contractor's liability relating to performance under this Contract. City reserves the right to require complete certified copies of all said policies at any time. Any modification or waiver of the insurance requirements herein shall be made only with the approval of City Risk Manager. The procuring of insurance shall not be construed as a limitation on liability or as full performance of the indemnification provisions of this Contract.

5.4 Protest Procedures

Who May Protest

Only a Proposer who has actually submitted a proposal is eligible to protest a contract awarded through a Request for Proposals (RFP). A Proposer may not rely on the protest submitted by another Proposer but must pursue its own protest.

Time for Protest

The City will post a notice of the intent to award a contract at least ten (10) business days before an award is made. The notice will be available to all Proposers who submitted a proposal via the City's electronic bid notification system at http://www.longbeach.gov/purchasing. A Proposer desiring to submit a protest for a proposal must do so within five (5) business days of the electronic notification of intent to award. The City Purchasing Agent must receive the protest by the close of business on the fifth (5th) business day following posting of notification of intent to award the contract. Proposers are responsible for registering with the City's electronic bid notification system and maintaining an updated Contractor profile. The City is not responsible for Proposers' failure to obtain notification for any reason, including but not limited to failure to maintain updated email addresses, failure to open/read electronic messages and failure of their own computer/technology equipment. The City's RFP justification memo will be available for review by protestors once the notification of intent to award has been posted via the City's electronic bid notification system.

Form of Protest

The protest must be in writing and signed by the individual who signed the proposal or, if the Proposer is a corporation, by an officer of the corporation, and addressed to the City Purchasing Agent. Protests must be submitted via the email address above. They must include a valid email address and phone number. Protests must set forth a complete and detailed statement of the grounds for the protest and include all relevant information to support the grounds stated, and must refer to specific portions of the RFP and attachments upon which the protest is based. Once the protest is received by the City Purchasing Agent, the City will not accept additional information on the protest unless the City requests it.

City Response to Protest

The City Purchasing Agent or designee will respond with a decision regarding the protest within five (5) business days of receipt of protest to the email address provided in the protest. This decision shall be final.

Limitation of Remedy

The procedure and time limits set forth herein are mandatory and are the Proposer's sole and exclusive remedy in the event of a protest. The Proposer's failure to comply with these procedures shall constitute a waiver of any right to further pursue a protest, including filing a Government Code Claim or initiation of legal proceedings.

EXHIBIT 'A-2' SCOPE OF WORK

ESB utilizes nearly 120 City vehicles such as refuse trucks, street sweepers, and roll-off trucks, that require consistent washings as part of their upkeep and maintenance. The current City fleet of Refuse trucks and Roll-off trucks are listed below. Fleet inventory may increase or decrease at any time. ESB is anticipating expansion of fleet inventory in 2024. Contractor is expected to perform weekly washing of all refuse and roll-off trucks available on a weekly basis. Some vehicles may be unavailable while undergoing repairs. Additionally, Street Sweepers may be requested to be washed on an as-needed basis.

Vehicle Type	# of Vehicles		
Refuse Trucks	85		
Roll-off Trucks	4		
Containers with Roll-off vehicles	4		
Street Sweeping vehicles	20		

The vendor must be able to perform service on any day of the week. Specific days and hours of service will be determined by the City to best accommodate fleet operations and availability. The vendor shall service current vehicles according to the following frequency schedule:

Weekly Washings:

a) Eighty-Five (85) Refuse trucks

b) Four (4) Roll-Off Trucks

c) Four (4) containers with Roll-Off trucks are to be washed weekly (exterior only) at no additional cost

Monthly Washings:

a) Clean undercarriages of all vehicles

As needed or by request:

a) Twenty (20) Street Sweeping vehicles

The cleaning process will include the application of an environmentally safe, non-abrasive cleaning product designed to remove dirt, oil, and grease, brush scrubbing and high pressure rinsing of the vehicle. Washing services shall include, but are not limited to: washing and wiping dry of all vehicle exterior surfaces; cleaning of tires and rims; cleaning of all windows, window sills, mirrors, doors, and door-handles. The vehicle exterior, including windows and windshields, must be free of dirt, dust, residue, and water marks after the wash.

Vehicles must be positioned in wash bays to ensure wastewater is properly captured by City's clarifier. Vehicles must be returned to designated parking stalls after washing.

The City of Long Beach reserves the right to inspect any vehicle upon completion. If work is not satisfactory upon inspection, City staff may request the contractor redo all or part of the services to the inspector's satisfaction.

EQUIPMENT

It is the contractor's responsibility to provide appropriate tools, supplies, and equipment necessary to perform tasks as required by the RFP. The City is committed to using environmentally safe products. The awarded contractor must be prepared to provide City-approved vehicle washing supplies and equipment required to complete washing services at time of arrival at designated City facilities.

The City of Long Beach reserves the right to inspect equipment to be used to perform services under the awarded contract. Any equipment determined to be in poor condition must be repaired or replaced immediately, at the contractor's expense. Failure to provide suitable equipment for carrying out all requirements of this contract may be grounds for termination.

Supplies and Equipment Provided by Contractor:

All products used to wash vehicles shall be supplied by the vendor, including, but not limited to:

- a) Cleaning products Material Safety Data Sheet (MSDS) to be provided to City
- b) Supplies (i.e. soap, towels, detergent, etc.)
- c) Applicator and high-pressure washer

d) Any other supplies, tools, and equipment not provided by City and necessary to perform services as required by contract

The following shall be provided by the City:

- a) Water
- b) Location with drain into sanitary sewer system
- c) Electricity

ENVIRONMENTAL REQUIREMENTS

Cleaning products must be pre-approved by the Department prior to being used on any City vehicles. If there are any changes in products used, the Department must approve new products before use. Contractor's equipment and services are to be compliant with all Federal, State, California Air Resources Board (CARB), Air Quality Management District (AQMD), Occupational Safety and Health Administration (OSHA), National Pollutant Discharge System (NPDES), and all other applicable regulatory requirements.

All washing services furnished under this contract must comply with all local, state, and federal regulations for washing of vehicles and disposal of wastewater. The Contractor shall immediately inform the City of any investigation, citation, or legal action by any regulatory agency related to the Contractor's obligations under this Contract within twenty-four hours of receipt.

Pollutants of concern generated by this activity include, but are not limited to, all oil and grease (which contain benzene, lead, zinc, chromium, arsenic, pesticides, herbicides, nitrates, and other metals), Detergents, Phosphates, and solvent based solutions. All wash water must be fully captured, treated,

and discharged to the sanitary sewer system. Additionally, water conservation methods should be implemented.

STAFF & LICENSE REQUIREMENTS

It is the contractor's responsibility to provide an appropriate level of on-site staffing as needed to support all aspects of vehicle washing services and for appropriate response during working hours as indicated in this RFP.

Prior to servicing any vehicles, the contractor will be required to have all employees working in the City yard complete an onsite Certified Natural Gas (CNG) Vehicle Training Session with TruStar Energy, the City's provider for its CNG slow-fill fuel stations. Training will include CNG safety, vehicle safety, Emergency Shutdown (ESD) locations, and fueling procedures, which include proper nozzle connection and disconnection. The City will help coordinate trainings as-needed.

All employees operating City vehicles are required to:

- a) Have valid Class "A" or Class "B" California driver license to operate commercial trucks;
- b) Demonstrate ability, familiarity, and competence to operate the above vehicles;
- c) Only employees approved by the City will be able to operate fleet vehicles.

A licensed Class "A" or "B" driver is required to be provided by the vendor to operate City vehicles while providing washing services on City property. Driver may be required to show Class "A" and/or "B" license to City official upon arrival each day.

Note: The number of vehicles are approximate. Some vehicles may be unavailable while undergoing repairs, and the fleet size is subject to change.

ACCIDENT REPORTING

The Contractor shall notify the designated City Representative(s) within one hour of any accident, regardless of injury or damage is evident, or it involves patrons and the Contractor's staff, vehicles, and/or equipment. The Contractor shall provide all written reports and/or documentation requested by the City.

DAMAGE CAUSED BY CONTRACTOR

The Contractor shall be responsible for ensuring that all reasonable precautions are taken to protect City vehicles and all other physical objects upon delivering car wash services. Upon verification by the City's Representative(s) of causes and costs of damage, Contractor shall pay City for said damage.

All damage to components (i.e. appurtenances) caused by the Contractor, shall be corrected at the Contractor's sole expense.

If the Contractor, its employees, or subcontractors cause damage to any City property, the Contractor shall notify City staff immediately and repair and/or replace such damage at its own cost within a reasonable time. The City may also repair or cause the repair of such damage and the cost thereof shall be deducted from monies due to the Contractor from the City.

Damages to City vehicles will be the responsibility of the awarded Contractor.

EXHIBIT 'B' RATES

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On-Site Truck Wash, Inc.

Proposal Submitted for: City of Long Beach Proposals Number PW-22-092 On-site Vehicle Washing

COST PROPOSAL

Type Vehicle Wash	# of Vehicles 85	Wash Schedule	Cost Per Vehicle Wash		Total Cost Per Month	
Refuse Truck Wash			\$	15.80	\$	5,819.22
Roll-off Truck Wash	4	4	\$	14,80	Ś	256.51
Undercarriages Wash	89	1	\$	22.80	Ś	2,029,20
Containers with Roll-off Truck Wash*	4	4	\$	2.80		48.53
Street Sweeping Truck Wash	20	On-Call	\$	15.88	· ·	
Undercarrlages Wash	20	On-Call	Ś	22.80		

*Note: this cost would be added to Roll-off Truck Wash

EXHIBIT 'C' CITY'S REPRESENTATIVE

Rudy Umaña General Superintendent, Environmental Services Bureau (562) 570-2859 Rudy.Umana@LongBeach.gov

EXHIBIT 'D' CITY PROVIDED SERVICES

None

EXHIBIT 'E' CONTRACTOR'S KEY EMPLOYEE

Peter Kanavos (562) 244-0767 Pete@onsitetruchwash.com