

LOS ANGELES FIRE DEPARTMENT



Ralph M. Terrazas
FIRE CHIEF

December 23, 2016

BOARD OF FIRE COMMISSIONERS
FILE NO. 17-008

TO: Board of Fire Commissioners

FROM: *RMT* Ralph M. Terrazas, Fire Chief

SUBJECT: FIRST AMENDED AND RESTATED AGREEMENT WITH CLEAN
HARBORS ENVIRONMENTAL SERVICES, INC. TO PROVIDE PICK-UP
AND DISPOSAL OF HAZARDOUS WASTE (C-125748)

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

SUMMARY

On January 19, 2016, the City Council authorized the Los Angeles Fire Department (LAFD) to enter into an Agreement with Clean Harbors Environmental Services, Inc. (Clean Harbors) to provide certified contractors for hazardous waste disposal services (C.F. 12-1367-S3). The pick-up and disposal of hazardous waste is a requirement for a safe working environment as established by the California Occupational Safety and Health Administration (Cal/OSHA). Similar contract services for hazardous waste management are used by other departments, including the Los Angeles Police Department, Department of General Services, Department of Transportation and Department of Public Works, Bureau of Sanitation. The LAFD Agreement (C-125748) was a piggy-back onto the existing Clean Harbors Agreement with the Bureau of Sanitation (C-121334) which provides a five year contract term from November 2, 2012 through November 1, 2017. Current maximum total compensation for the LAFD contract is \$250,000 over the term of the Agreement.

The LAFD has used Clean Harbors' services for pick up and disposal of hazardous waste at the Downtown and Valley fleet maintenance facilities at an annual cost of approximately \$50,000. However, the LAFD has been notified that enhanced enforcement for compliance of environmental regulations would be implemented in FY 2016-17 at all 110 facilities. To avoid citations and potential monetary penalties for non-compliance, the LAFD must amend the contract with Clean Harbors to expand its services to ensure safe and proper handling and disposal of hazardous waste at all facilities, and at appropriate intervals.

Frequency of pick-up and disposal services is based on when each facility is anticipated to fill a 50 gallon container with oils and other hazardous materials. High volume would

require service approximately every 90-days; low volume would require service approximately every 180 days. Assuming 40 facilities at high volume and 70 facilities at low volume, it is estimated that compensation for 10 months of service from January through November 1, 2017 would amount to approximately \$400,000. Therefore, the proposed maximum compensation for the term of the Agreement will be increased to \$650,000 to ensure proper compliance with Cal/OSHA regulations.

The projected expenditure in the FY 2016-17 Contractual Services Account for this Agreement from January through June 30, 2017 would amount to approximately \$240,000, which was not included in the LAFD FY 2016-17 Adopted Budget. The Department will monitor its various Accounts throughout the fiscal year for available savings to transfer into the Contractual Services Account to pay for these services. Any shortfalls would be addressed in the Financial Status Report. Projected expenditures for continuation of this service next fiscal year would be addressed in the FY 2017-18 Budget process.

RECOMMENDATION

That the Board:

Approve, and transmit to the Mayor and City Council for consideration and approval, the First Amended and Restated Agreement with Clean Harbors Environmental Services, Inc. for the pick-up and disposal of hazardous materials at all Fire Department facilities.

FISCAL IMPACT STATEMENT

It is projected that approximately \$240,000 will be expended on this Agreement between January and June 30, 2017 due to the significantly expanded scope of services in order to comply with Cal/OSHA regulations for proper pick-up and disposal of hazardous materials at all LAFD facilities. This amount was not included in the LAFD FY 2016-17 Adopted Budget. The Department will monitor its various Accounts throughout the fiscal year for available savings for transfer into the Contractual Services Account to pay for these services. Any shortfalls would be addressed in the Financial Status Report. Projected expenditures next fiscal year for continuation of this service would be addressed in the FY 2017-18 Budget process.

Board report prepared by Stewart Young, Management Analyst II, Administrative Services Bureau.

Attachment

**FIRST AMENDED AND RESTATED AGREEMENT FOR C-125748
BETWEEN
THE CITY OF LOS ANGELES
AND
CLEAN HARBORS ENVIRONMENTAL SERVICES INC.**

This First Amended And Restated Agreement (hereinafter referred to as "AGREEMENT") is made and entered into by and between the City of Los Angeles, a municipal corporation (hereinafter referred to as "CITY"), acting by and through the Los Angeles Fire Department (hereinafter referred to as "LAFD"), and Clean Harbors Environmental Services Inc. (hereinafter referred to as "CONTRACTOR") with reference to the following:

WHEREAS, the LAFD has the need for routine pick up and disposal of hazardous wastes; and

WHEREAS, services to be provided by the CONTRACTOR are of an expert and technical nature and are temporary and occasional in character; and

WHEREAS, on August 25, 2010, the CITY's Department of Public Works, Bureau of Sanitation (hereinafter referred to as "DPW/BoS") issued a Request for Proposals (hereinafter referred to as "RFP"), under Charter Section 372, seeking qualified businesses to perform the above-referenced services; and

WHEREAS, the CONTRACTOR has been selected by DPW/BoS to perform as-needed services on a non-exclusive basis pursuant to Agreement C-121334; and

WHEREAS, the LAFD and the CONTRACTOR entered into Agreement C-125748, as a result of piggybacking onto Agreement C-121334 between the DPW/BoS and the CONTRACTOR, to provide routine pick up and disposal of hazardous wastes, with terms and conditions set forth in Agreement C-121334; and

WHEREAS, the maximum compensation under the current 5-year term of Agreement C-125748 is \$250,000; and

WHEREAS, the LAFD desires in this First Amended and Restated Agreement for C-125748 to increase the maximum compensation amount by \$400,000 to \$650,000 for the life of the Agreement and to reflect updates made to the Standard Provisions for City Contracts; and

NOW THEREFORE, in consideration of the above premises and of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

Los Angeles Fire Department
Clean Harbors Environmental Services Inc.
C-125748

I. Term of the Agreement

The term of this AGREEMENT shall be the same as Agreement C-121334, from November 2, 2012 through November 1, 2017.

Due to the need for the CONTRACTOR's services to be provided continuously on an ongoing basis, the CONTRACTOR may have provided services prior to the execution of this Agreement to the extent that said services were performed in accordance with the CITY's request and with the terms and conditions of this Agreement, those services are hereby ratified.

II. Statement of Work

No changes to the statement of work are required as stated in Agreement C-121334, Article 3.

III. Terms of Compensation

For the complete and satisfactory performance of the terms of this AGREEMENT, the LAFD shall pay a maximum of Six Hundred Fifty Thousand Dollars (\$650,000) to the CONTRACTOR for services rendered between the periods from November 2, 2012 to November 1, 2017. Cost adjustments to the current published price for services may be made during the term of this AGREEMENT pursuant to cost escalation provisions provided in AGREEMENT C-121334, Article 10.8.

IV. Invoicing and Payment

CONTRACTOR shall submit invoices for review and approval to the LAFD for all work performed pursuant to invoicing and payment provisions provided in Agreement C-121334.

Invoices and supporting documentation should be submitted to:

Los Angeles Fire Department
200 North Main Street, Room 1630
Los Angeles, California, 90012

The reimbursement for expenses incurred in the performance of this AGREEMENT shall be made only upon acceptance by the LAFD of the CONTRACTOR'S invoice and supporting documentation.

V. Non-Discrimination

Notwithstanding any other provision of any ordinance of the CITY to the contrary, every agreement which is let, awarded or entered into with or on behalf of the CITY, shall contain by insertion therein a provision obligating the Contractor in the performance of such agreement not to discriminate in his or her Employment Practices against any employee or applicant for employment because of the applicant's race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition. All Contractors who enter into such agreements with the CITY shall include a like provision in all subcontracts awarded for work to be performed under the Agreement with the CITY. Failure of the CONTRACTOR to comply with this requirement or to obtain the compliance of its Subcontractors with such obligations shall subject the CONTRACTOR to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the CONTRACTOR's Agreement with the CITY. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act which is prohibited by law.

VI. Equal Employment Practices

Every non-construction and construction Agreement with, or on behalf of, the CITY for which the consideration is \$1,000 or more shall contain the following provisions, which shall be designated as the EQUAL EMPLOYMENT PRACTICES provision of such Agreement:

- A. During the performance of this AGREEMENT, the CONTRACTOR agrees and represents that it will provide Equal Employment Practices and the CONTRACTOR and each Subcontractor hereunder will ensure that in his or her Employment Practices persons are employed and employees are treated equally and without regard to, or because of, race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.
1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 3. The CONTRACTOR agrees to post a copy of Paragraph A, hereof, in conspicuous places at its place of business available to employees and applicants for employment.

- B. The CONTRACTOR will, in all solicitations or advertisements for employees placed by, or on behalf of, the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.
- C. At the request of the Awarding Authority or the Designated Administrative Agency (hereinafter referred to as "DAA"), the CONTRACTOR shall certify in the specified format that he or she has not discriminated in the performance of CITY Agreements against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.
- D. The CONTRACTOR shall permit access to, and may be required to provide certified copies of, all of his or her records pertaining to employment and to employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of CITY Agreements. Upon request, the CONTRACTOR shall provide evidence that he or she has or will comply therewith.
- E. The failure of any CONTRACTOR to comply with the Equal Employment Practices provisions of this AGREEMENT may be deemed to be a material breach of CITY Agreements. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to the CONTRACTOR.
- F. Upon a finding duly made that the CONTRACTOR has failed to comply with the Equal Employment Practices provisions of a CITY Agreement, the Agreement may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to, and retained by, the CITY. In addition thereto, the failure to comply may be the basis for a determination by the Awarding Authority or the DAA that the said CONTRACTOR is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such a determination, the CONTRACTOR shall be disqualified from being awarded an Agreement with the CITY for a period of two (2) years, or until the CONTRACTOR shall establish and carry out a program in conformance with the provisions hereof.

- G. Notwithstanding any other provision of this AGREEMENT, the CITY shall have any and all other remedies at law or in equity for any breach hereof.
- H. The Board of Public Works shall promulgate rules and regulations through the DAA, and provide necessary forms and required language to the Awarding Authorities to be included in CITY Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this AGREEMENT, and such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive orders. No other rules, regulations or forms may be used by an Awarding Authority of the CITY to accomplish the Agreement compliance program.
- I. Nothing contained in this AGREEMENT shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. By affixing its signature on an Agreement that is subject to this article, the CONTRACTOR shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of CITY Agreements.
- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with employment practices, including, but not limited to:
 - 1. hiring practices;
 - 2. apprenticeships where approved programs are functioning and other on-the-job training for non-apprenticeable occupations;
 - 3. training and promotional opportunities; and
 - 4. reasonable accommodations for persons with disabilities.
- L. All CONTRACTORs subject to the provisions of this section shall include a similar provision in all subcontracts awarded for work to be performed under the Agreement with the CITY, and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the CONTRACTOR. Subcontracts shall follow the same thresholds specified in Section 10.8.1.1 of CITY Ordinance No.184292. Failure of the CONTRACTOR to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the CONTRACTOR to the imposition of any and all sanctions allowed

by law, including, but not limited to, termination of the CONTRACTOR's Agreement with the CITY.

VII. Affirmative Action Program

Every non-construction and construction Agreement with, or on behalf of, the CITY for which the consideration is \$25,000 or more shall contain the following provisions which shall be designated as the AFFIRMATIVE ACTION PROGRAM provisions of such Agreement:

- A. During the performance of a CITY Agreement, the CONTRACTOR certifies and represents that the CONTRACTOR and each Subcontractor hereunder will adhere to an Affirmative Action Program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.
 - 1. This section applies to work or services performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. The CONTRACTOR shall post a copy of Paragraph A, hereof, in conspicuous places at its place of business available to employees and applicants for employment.
- B. The CONTRACTOR shall, in all solicitations or advertisements for employees placed, by or on behalf of, the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.
- C. At the request of the Awarding Authority or the DAA, the CONTRACTOR shall certify on an electronic or hard copy form to be supplied, that the CONTRACTOR has not discriminated in the performance of CITY Agreements against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

- D. The CONTRACTOR shall permit access to, and may be required to provide certified copies of, all of its records pertaining to employment and to its employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of CITY Agreements and, upon request, to provide evidence that it has or will comply therewith.
- E. The failure of any CONTRACTOR to comply with the Affirmative Action Program provisions of CITY Contracts may be deemed to be a material breach of a CITY Agreement. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the CONTRACTOR.
- F. Upon a finding duly made that the CONTRACTOR has breached the Affirmative Action Program provisions of a CITY Agreement, the Agreement may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to and retained by the CITY. In addition thereto, the breach may be the basis for a determination by the Awarding Authority or the Board of Public Works that the CONTRACTOR is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such determination, the CONTRACTOR shall be disqualified from being awarded an Agreement with the CITY for a period of two (2) years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the CITY, or any court of competent jurisdiction, that the CONTRACTOR has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a CITY Agreement, there may be deducted from the amount payable to the CONTRACTOR by the CITY under the Agreement, a penalty of ten dollars (\$10.00) for each person for each calendar day on which the person was discriminated against in violation of the provisions of a CITY Agreement.
- H. Notwithstanding any other provisions of a CITY Agreement, the CITY shall have any and all other remedies at law or in equity for any breach hereof.
- I. The Public Works Board of Commissioners shall promulgate rules and regulations through the DAA and provide to the Awarding Authorities

electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of CITY Agreements, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an Awarding Authority of the CITY to accomplish this AGREEMENT compliance program.

- J. Nothing contained in CITY Agreements shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. By affixing its signature to an Agreement that is subject to this article, the CONTRACTOR shall agree to adhere to the provisions in this article for the duration of the Agreement. The Awarding Authority may also require CONTRACTORS and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Program.
 - 1. The CONTRACTOR certifies and agrees to immediately implement good faith effort measures to recruit and employ minority, women and other potential employees in a non-discriminatory manner including, but not limited to, the following actions as appropriate and available to the CONTRACTOR's field of work. The CONTRACTOR shall:
 - (a) Recruit and make efforts to obtain employees through:
 - (i) Advertising employment opportunities in minority and other community news media or other publications;
 - (ii) Notifying minority, women and other community organizations of employment opportunities;
 - (iii) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities;
 - (iv) Encouraging existing employees, including minorities and women, to refer their friends and relatives;
 - (v) Promoting after school and vacation employment opportunities for minority, women and other youth;
 - (vi) Validating all job specifications, selection requirements, tests, etc.;

- (vii) Maintaining a file of the names and addresses of each worker referred to the CONTRACTOR and what action was taken concerning the worker; and
 - (viii) Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the CONTRACTOR has a collective bargaining agreement, has failed to refer a minority, woman or other worker.
- (b) Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in a non-discriminatory manner so as to achieve and maintain a diverse work force.
- (c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.
- (d) Secure cooperation or compliance from the labor referral agency to the CONTRACTOR's contractual Affirmative Action Program obligations.
- (e) Establish a person at the management level of the CONTRACTOR to be the Equal Employment Practices officer. Such individual shall have the authority to disseminate and enforce the CONTRACTOR's Equal Employment and Affirmative Action Program policies.
- (f) Maintain records as are necessary to determine compliance with Equal Employment Practices and Affirmative Action Program obligations and make the records available to CITY, State and Federal authorities upon request.
- (g) Establish written company policies, rules and procedures which shall be encompassed in a company-wide Affirmative Action Program for all its operations and Agreements. The policies shall be provided to all employees, Subcontractors, vendors, unions and all others with whom the CONTRACTOR may become involved in fulfilling any of its Agreements.
- (h) Document its good faith efforts to correct any deficiencies when problems are experienced by the CONTRACTOR in complying with its obligations pursuant to this article. The CONTRACTOR shall state:
 - (i) What steps were taken, how and on what date;

- (ii) To whom those efforts were directed;
 - (iii) The responses received, from whom and when;
 - (iv) What other steps were taken or will be taken to comply and when; and
 - (v) Why the CONTRACTOR has been or will be unable to comply.
- 2. Every Agreement of \$25,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall also comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
- L. The Affirmative Action Program required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Awarding Authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
 - 1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 - 2. Classroom preparation for the job when not apprenticeable;
 - 3. Pre-apprenticeship education and preparation;
 - 4. Upgrading training and opportunities;
 - 5. Encouraging the use of CONTRACTORs, Subcontractors and suppliers of all racial and ethnic groups; provided, however, that any Agreement subject to this ordinance shall require the CONTRACTOR, Subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the CONTRACTOR's, Subcontractor's or supplier's geographical area for such work;
 - 6. The entry of qualified women, minority and all other journeymen into the industry; and
 - 7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.

- M. Any adjustments which may be made in the CONTRACTOR's work force to achieve the requirements of the CITY's Affirmative Action Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- N. This ordinance shall not confer upon the CITY or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by CONTRACTORS engaged in the performance of CITY Agreements.
- O. All CONTRACTORS subject to the provisions of this article shall include a similar provision in all subcontracts awarded for work to be performed under the Agreement with the CITY and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the CONTRACTOR. Failure of the CONTRACTOR to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the CONTRACTOR to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the CONTRACTOR's Agreement with the CITY.

VIII. Other Provisions

- A. With the exceptions of ARTICLES 32, 33 and 34, all other provisions as stated in Agreement No. C-121334 (attached as Exhibit 1 and incorporated herein in its entirety) directly related to the work the CONTRACTOR provides to the LAFD shall remain in full force and effect.
- B. Except as amended by this First Amended And Restated Agreement, all other provisions of Agreement C-125748 shall remain in effect during the terms of this AGREEMENT.

THE REST OF THIS PAGE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their duly authorized representatives.

DATE: _____

For: THE CITY OF LOS ANGELES

By: _____

Ralph M. Terrazas
Fire Chief
Los Angeles Fire Department

DATE: _____

For: CLEAN HARBORS
ENVIRONMENTAL SERVICES
INC.

By: _____

Mark Mooney
Vice President of Sales

APPROVED AS TO FORM:
MICHAEL N. FEUER, City Attorney

ATTEST:
HOLLY L. WOLCOTT, City Clerk

By: _____

Laurel L. Lightner
Assistant City Attorney

By: _____

Deputy City Clerk

DATE: _____

DATE: _____

Agreement Number C-125748

Los Angeles Fire Department
Clean Harbors Environmental Services Inc.
C-125748