

AGREEMENT FOR CLEAN & SAFE DISTRICT CLEANING SERVICES

This Agreement for Cleaning Services (Agreement) for the Downtown Clean & Safe Program is effective as of July 1, 2018, and is between the Portland Business Alliance, Inc. (the Alliance) and Central City Concern (Contractor).

RECITALS:

1. The City of Portland (City), in Chapter 6.06 of the City Code, has established a downtown business district (the "District") for the provisions of special services to the downtown area including cleaning, security, crime prevention, business development, marketing, and communications services. A map of the District is attached hereto as Map 1.
2. The Alliance manages several contracts for Clean & Safe services.
3. The City of Portland has contracted with Clean & Safe, Inc. (fka Portland Downtown Services, Inc. (PDSI)), to provide cleaning services as part of the overall management of the Clean & Safe District. Clean & Safe, Inc. has subcontracted with the Alliance to provide District Management Services. The cleaning services for the District are referred to in this Agreement as the "District Maintenance Services" or, simply, "cleaning services."
4. Contractor is qualified to provide District Maintenance Services.

AGREEMENT:

1. Term and Services Provided.

Contractor will provide services to the Alliance for the period from July 1, 2018, to June 30, 2019. The term may be extended for up to two (2) additional years in one-year increments at the Alliance's sole discretion. The following obligations and performance requirements apply:

- A. Contractor will report to the Alliance's Director of Clean & Safe ("Director") and the Vice President of Downtown Services ("VPDS").
- B. Contractor will perform the services outlined in Exhibit A (Work Scope) of this document, which may, by mutual written agreement, be amended to provide more specificity as necessary.
- C. Contractor will provide timely and professional responses to District property owners and property managers' cleaning concerns and provide monthly activity reports to the Director. Contractor will meet at least weekly with the Director to discuss routine

matters, while also communicating via email, phone or text as necessary to discuss unusual or time-sensitive issues that may arise.

- D. **Contractor will provide guidelines for all employees ensuring that all employees maintain the highest degree and standards of courtesy and professionalism as representatives of the Alliance and the Clean & Safe program.**
- E. Contractor will issue and maintain employee uniforms approved by the Alliance. Contractor shall ensure that all cleaning employees correctly wear their uniforms, in a well-maintained condition; during all scheduled work hours and that Contractor's employees do not wear the uniforms during off-duty hours. The design, placement, and number of identifying patches on uniforms is subject to the VPDS' review.
- F. Contractor will sublease the facilities located at **208 NW First Avenue from the Alliance and maintain them as a field office.** The following conditions apply to that sublet space:
 - i. **The office sublease will be shared with** the contractor awarded the Clean and Safe security contract.
 - ii. The rent for the facility shall be paid separately by the Contractor per the terms of the separate Sublease Agreement.
 - iii. The Alliance agrees to maintain ongoing control of the space and in the event of any disagreement between the occupying tenants will act as arbitrator.
- G. **Employee Review.** Contractor will maintain a regularly scheduled program of employee review and evaluation, which will:
 - i. Have a six (6) month training period for all new employees;
 - ii. Evaluate training period employees at 90 and 135-day intervals;
 - iii. Evaluate all full-time employees annually.
- H. **Reports.** Contractor shall maintain a procedure for timely preparation, in a format mutually agreed on by Contractor and the VPDS, **of reports of all cleaning activity.** Contractor shall ensure that any and all unusual incidents involving cleaning employees or individuals that employees come into contact with as a result of their daily tasks are reported to the Director. Contractor shall insure that all reports are available to the VPDS, on request, in a timely manner.
- I. **Level of Services.**
 - i. Contractor will provide personnel sufficient to staff mutually agreed upon operating shifts on those days contractually set forth in the Exhibit A as needed to provide the agreed upon level of coverage to the District for Maintenance Services.
 - ii. The organizational bases for assignment of Contractor's staff may include, but will not necessarily be limited to, geographic sub areas of the District, assignment of employees to specific locations in the District, and assignment of targeted, **flexible-deployment employees that can rapidly** respond to problem areas that may benefit from intensified service. Coverage, when

possible, will emphasize targeted flexible deployment. Staffing levels shall be based on resources available as defined by the VPDS and Director as a result of their interpretation of the monthly data, historical and known current needs. Staffing shall be subject to adjustment by the Alliance's direction based on availability of funds received from the City of Portland and approved by the Clean & Safe Board of Directors. Any significant level of service changes shall be subject to prior approval by the VPDS.

J. Non-Competition Agreements. Contractor shall not require its employees to sign agreements preventing them from accepting future employment with the Alliance and any non-competition agreement signed by Contractor's employees shall be deemed not to be applicable to future employment with the Alliance, notwithstanding any contrary provision of the Agreement.

2. Compensation, Billing and Payment.

A. Operating Budget. Both parties will negotiate any budget amendments for each additional extension. The Alliance will notify contractor of COLA increases that are projected at least sixty (60) days prior to the end of the performance period (June 30th of each calendar year). Nothing in this Agreement precludes multi-year extensions.

B. Total Amount of Compensation. The Alliance shall compensate Contractor monthly for services provided under this Agreement in an amount not to exceed \$ 810,704 over the period of performance.

C. Billing. Contractor will submit to the Alliance by the 1st of each month an invoice for 1/12th of the total amount of the Agreement's "not to exceed" limit as referenced in subsection 2B above.

D. Payment. The amount invoiced, as per Section 2B and 2C above, will be due and payable within fourteen (14) days of receipt of invoice for the previous month's services. Payment received after that date will be subject to a late charge of three percent (3%).

3. Communications. All communications between the Alliance and Contractor regarding obligations under this Agreement, budgetary matters, and operational decisions shall be between the VPDS or designee and the Contractor Executive Director or designee. All communications from Contractor regarding matters of public media interest in the Clean & Safe program shall be to the VPDS or designee. Contractor shall respond to communications relating to services to be provided by Contractor under this Agreement in a manner consistent with the terms of this Agreement. Operational procedures shall be developed and implemented by the VPDS and the Contractor Executive Director or designee.

Maintenance of Records. Contractor shall maintain records of costs claimed to have been incurred and anticipated to be incurred in the performance of this

Agreement. The Director of Clean & Safe will meet monthly with Contractor designated supervisor to review the records. The Alliance and its duly authorized representatives shall have access to the records of Contractor that are directly pertinent to this Agreement. Such records shall be maintained by Contractor for three (3) years from the date of contract expiration unless a shorter period is authorized in writing.

- A. **Overpayment.** If an audit discloses that payments to Contractor under this Agreement were in excess of the amount to which Contractor was entitled, then Contractor within fifteen (15) days of receipt of the audit shall repay the amount of the excess to the Alliance. Contractor may, at its own expense, have the records audited before repaying any claim in excess of \$1000.
4. **Compliance with Law.** In carrying out its obligations under this Agreement, Contractor shall comply with all the applicable federal, state, and local laws and regulations.
5. **EEO Certification.** Contractor shall maintain compliance with Chapter 3.100 of the City Code, pertaining to equal employment opportunity.
6. **Indemnification.** Contractor shall hold harmless, defend, and indemnify the Alliance, Clean & Safe, Inc, and the City and their officers, agents, insurers and employees against all claims, demands, actions and suits (including reasonable attorney fees and costs) brought against any of them arising from Contractor's work under this Agreement.
7. **Liability Insurance.**
 - A. **Coverage.** Contractor shall maintain public liability and property damage insurance that protects Contractor, the Alliance, Clean & Safe, Inc, and the City of Portland, and their officers, agents, insurers and employees from any and all claims, demands, actions, and suits for damage to property or personal injury, including death, arising from work under this Agreement. The insurance shall include coverage for any damages or injuries arising from the use of automobiles or other motor vehicles by Contractor.
 - B. **Amount and Terms.** The insurance shall provide at least a single limit policy of not less than \$1,000,000 covering all claims per occurrence. The limits of the insurance shall be subject to statutory changes as to the maximum of liability imposed on municipalities of the State of Oregon during the term of this Agreement. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the Alliance, Clean & Safe, Inc, and the City of Portland, and their officers, agents, and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person of

interest had been named as insured. The coverage must name the Alliance as to claims between insured on the policy. The insurance shall provide that the insurance shall not terminate or be cancelled without thirty days written notice first being given to the Alliance and City Auditor. If the insurance is cancelled or terminated prior to completion of this Agreement, Contractor will provide a new policy with the same terms. Contractor shall maintain continuous uninterrupted coverage for the duration of the Agreement.

C. **Certificate.** Contractor shall maintain on file with the Alliance and the City Auditor a certificate of insurance certifying the coverage required under this section. The adequacy of the insurance shall be subject to approval of the Alliance and the City. Failure to maintain liability insurance or failure to pay premiums as they become due shall be cause for immediate termination of this Agreement by the Alliance and, except for the notice requirement, shall be treated as a termination pursuant to Section 11D of this Agreement. Failure to maintain liability insurance for any other reason shall be cause for immediate termination of this Agreement by the Alliance and, except for the notice requirement, shall be treated as a termination pursuant to Section 11B of this Agreement.

8. **Workers Compensation Insurance.** Contractor shall provide and maintain workers compensation coverage for all of its workers and employees as a carrier-insured employer or a self-insured employer, as provided by Chapter 656 of the Oregon Revised Statutes. Contractor shall provide a certificate of insurance or a copy thereof to the Alliance and the City Auditor prior to this Agreement becoming effective. The adequacy of the insurance shall be subject to the approval of the Alliance and the City.

9. **Employee Health Plan.**

A. **Health Plan.** Contractor shall provide a health benefit plan to its full-time, regular employees who have completed thirty (30) days of satisfactory services (excludes temporary trainees). The plan may be an employee contribution plan and will be available the first of the month following the 30 days of satisfactory service.

10. **Termination.**

A. **Mutual Agreement.** The Alliance and Contractor, by mutual written agreement, may ~~terminate this Agreement at any time.~~

B. **By the Alliance - Discretionary.** The Alliance, on thirty (30) days prior written notice to Contractor, may terminate this Agreement for any reason deemed appropriate in its sole discretion, in its entirety. The Contractor will make every effort to provide information and access to the Alliance and/or its designee to ensure continuous cleaning services outlined in this Agreement.

C. **By Contractor - Discretionary.** Contractor, on thirty (30) days prior written notice to the Alliance, may terminate this Agreement for any reason deemed appropriate in its sole discretion, in its entirety. The Contractor will make every effort to provide

information and access to the Alliance and/or its designee to ensure continuous cleaning services outlined in this Agreement.

- D. **For Breach.** Either the Alliance or Contractor may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the party seeking the termination shall give to the other party 30 days' written notice of the breach and of the party's intent to terminate. If the other party has not entirely cured the breach within thirty (30) days of receipt of the written notice, then the party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of termination. The Contractor will make every effort to provide information and access to the Alliance and/or its designee to ensure continuous cleaning services outlined in this contract. For purposes of this section, written notice is deemed received three (3) days after it is mailed.

11. Payment on Early Termination.

- A. **Mutual Agreement.** In the event of termination under Section 11A of this Agreement, the Alliance shall pay Contractor for work performed in accordance with the Agreement prior to the date of termination.
- B. **By the Alliance Discretionary.** In the event of termination under Section 11B of this Agreement, the Alliance shall pay Contractor, as to the entire Agreement or the portion terminated, for work performed in accordance with the Agreement prior to the date of termination, plus reimbursement of any non refundable costs such as insurance, lease termination fees, and other expenses and obligations incurred by Contractor in anticipation of full-term performance.
- C. **By Contractor, Discretionary.** In the event of termination under Section 11C of this Agreement, the Alliance shall pay Contractor, as to the portion terminated, for work performed in accordance with the Agreement prior to the date of termination.
- D. **By Contractor, for Breach.** In the event of termination by Contractor under Section 11D of this Agreement due to a breach by the Alliance, then the Alliance shall pay Contractor as provided in Section 12B.
- E. **By the Alliance, for Breach.** In the event of termination by the Alliance under Section 11D of this Agreement due to a breach by Contractor, then the Alliance shall pay Contractor as provided in Section 12A.
- F. **Payment Reconciliation.** The termination of this Agreement shall be subject to the payment reconciliation provisions of Section 2D and the overpayment provisions of Section 4B of this Agreement, whether those provisions require an excess payment by Contractor to the Alliance, or an excess payment by the Alliance to Contractor.

12. Breach of Agreement.

- A. Generally. The Alliance or Contractor shall breach this Agreement if it fails to perform any substantial obligation under this Agreement, except as provided in Section 12B.
- B. Events Not Breach. Neither the Alliance nor Contractor shall have breached this Agreement by reason of any failure to perform a substantial obligation under this Agreement if the failure arises out of causes beyond its control and without its fault or negligence. Such causes may include, without limitation, acts of God or the public enemy, acts of the federal, state, or local governments, fires, floods, epidemics, volcanic eruptions, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

13. Oregon Law and Forum. This Agreement shall be construed according to the laws of the State of Oregon.

14. Assignments and Subcontracting. Contractor may not assign this Agreement or any part hereof or any right or obligation hereunder without the prior written approval of the Alliance. Contractor may not subcontract any portion of the work under this Agreement without the prior written approval of the Alliance. All subcontracts, unless otherwise approved in writing by the Alliance, shall require that the subcontractors carry liability insurance in the amounts relative to the size of the subcontracts, naming the Alliance, Clean & Safe, Inc. and the City and their officers, agents, and employees as additional insured. All subcontracts shall require subcontractors to maintain compliance with Chapter 3.100 of the Portland City Code.

15. Confidentiality.

A. For purposes of this Section 16, the following terms shall have the following meanings:

i. "Confidential Information" means all written, recorded or oral information furnished under this Agreement on or after the date hereof, together with all copies, reproductions, summaries, analyses or extracts thereof or based thereon in the possession of either party or in the possession of any of their representatives. Confidential Information does not include information that is or becomes generally available to the public other than as a result of a disclosure by the parties, was available to either party in prior written documents on a non-confidential basis prior to its disclosure by the Alliance or becomes available to either party on a non-confidential basis from a person who is not otherwise bound by a confidentiality agreement with Customer or is not otherwise prohibited from transmitting the information to the party.

ii. "Representatives" of a party shall mean any affiliates, directors, officers, employees, attorneys, agents or controlling persons of such party.

B. Unless otherwise agreed to in writing by the Alliance and Contractor, the Alliance and Contractor shall

i. Keep all Confidential Information confidential and not disclose or reveal any Confidential Information to any person other than those employed by the

Alliance and Contractor that are actually involved in the day-to-day administration of this Agreement; and

ii. Not use the Confidential Information for any purpose other than in the day-to-day administration of this Agreement.

C. Should either party or its representatives breach the provisions contained in Section 16 of this Agreement, that party shall be solely responsible for the breach.

16. Independent Contractor Status. Both parties to this Contract attest to the fact that CCC is an independent contractor and not an employee of the Alliance. All employees of Contractor shall be subject exclusively to the supervision and control of Contractor, including, but not limited to, the rights to hire, train, assign work, discipline, and fire its employees. Contractor and its subcontractors and employees are not employees of the Alliance and are not eligible for any benefits through the Alliance including, but without limitation to, social security, health, workers compensation, unemployment compensation, sick leave and/or retirement benefits. The Contractor shall maintain its own supplies, equipment, and material to perform this Contract. The Contractor shall also maintain its own business facility as well as maintain all licenses, certificates and/or specialized training required to provide the services. The Contractor shall be responsible for the payment of the wages or salary of any of its workers with whom it may contract and who are involved in the providing of the services, including insurance premiums, and taxes and fees of every kind as required by any governmental body.

17. Taxes. Contractor shall pay when due all fees, taxes, and charges in connection with or related to the services provided under this Agreement, including but not limited to license fees, payroll taxes, and income taxes. All such fees, taxes, and charges shall be a reimbursable expense, except that penalties and interest on delinquent fees, taxes, and charges shall not be reimbursable unless the delinquency is caused by a late payment by the Alliance hereunder.

18. Arbitration.

A. **Scope and Procedure.** Any dispute under this Agreement that is not settled by mutual agreement of the Alliance and Contractor within sixty (60) days of notification in writing by either party shall be submitted to an arbitrator. A list of five (5) available arbitrators will be obtained from the State of Oregon. The Alliance will strike one (1) name, and then the Contractor will strike one (1) name until only one (1) name remains. That name will be the arbitrator. The arbitrator shall be selected within thirty (30) days of the expiration of the sixty (60) day period. The arbitration shall be conducted in Portland, Oregon, shall be governed by the laws of the State of Oregon, and shall be as speedy as is reasonably possible. The Alliance and Contractor shall agree on the rules governing the arbitration (including allocation of costs), or, if the Alliance and Contractor cannot agree on rules, the arbitrator shall adopt rules consistent with this section. The arbitrator shall render his/her decision

within forty-five (45) days of their first meeting with the Alliance and Contractor. The Alliance and Contractor shall be bound by the decision of the arbitrator.

B. Services and Payments Pending Arbitration. Notwithstanding any dispute under this Agreement, whether before or during arbitration, Contractor shall continue to provide services and the Alliance shall make payments as required by this Agreement, pending resolution of the dispute.

19. Notice. Any notice provided for under this Agreement shall be sufficient if in writing and delivered personally to the following addressee or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such other address as the receiving party thereafter shall specify in writing:

If to the Alliance:

Lynnae Berg
Executive Director C&S
Portland Business Alliance, Inc.
200 SW Market Street, Suite 150
Portland, OR 97201

If to Contractor:

Clay Cooper
Central City Concern
232 NW 6th Avenue
Portland, Oregon 97209

20. Severability. If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken. This Contract sets forth the final and exclusive understanding of the parties regarding the subject matter of this Agreement, and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral between the parties with respect to the subject matter of this Agreement. There are no other representations, warranties, statements, or agreements between the parties except as expressly set forth in this Agreement.

21. Non-Waiver. The Alliance and Contractor shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach may be of the same nature as that waived.

22. Payments to Vendors and Contractors. Contractor shall pay timely all suppliers, lessors, and contractors providing it services, materials or equipment for carrying out its obligations under this Agreement. Contractor shall not take or fail to take any action in a manner that causes the Alliance, or any material or equipment that the Alliance provides hereunder to be subject to any claim or lien of any person without the Alliance's prior written consent.

23. Business License. Contractor shall obtain a City of Portland business license prior to beginning work under this Agreement.

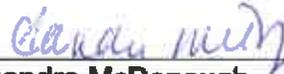
CENTRAL CITY CONCERN



Sarah Chisholm
Chief Financial Officer
Central City Concern

Date: May 29, 2018

THE PORTLAND BUSINESS ALLIANCE



Sandra McDonough
President and CEO
The Portland Business Alliance 

Date: June 1, 2018

MAP 1 – BUSINESS IMPROVEMENT DISTRICT BOUNDARIES



EXHIBIT A

2018 - 2019

DOWNTOWN PORTLAND BUSINESS DISTRICT **SCOPE OF WORK**

I Downtown Clean & Safe - Janitorial Program

A Janitorial Workers. Janitorial Workers shall patrol the areas within the District to perform the following general cleaning services:

- 1 Sweeping;**
- 2 Stain removal and pressure washing of all District blocks unless otherwise covered by alternative contracted cleaning services (e.g. light rail/bus mall sidewalks);**
- 3 Debris removal from sidewalks, tree wells, flowerpots and other areas; and**
- 4 General cleaning services, carried out at regular intervals by the Janitorial Workers based on the requirements of individual areas within the District in an effort to maintain a consistent cleanliness.**
- 5 One FTE will be detailed specifically to the transit mall to provide the in-kind services outlined in the PBA/PMMI contract.**

B Special Projects Crew. The Special Projects Crew shall:

- 1 Perform special cleaning jobs such as graffiti removal, pressure washing sidewalks, and other concentrated cleaning assignments;**
- 2 Work ten (10) hour shifts, four (4) days a week with staggered starting times;**
- 3 Be equipped for communication with the Manager and Supervisors; and**
- 4 Be equipped with a truck, pressure washer, detergents, brooms, brushes, ladders, tools, squeegees, buckets and other appropriate tools.**

C Bicycle Position. The three Bicycle Janitor positions shall:

- 1 Be equipped for communication with the Manager and Supervisors; and**
- 2 Work an eight (8) hour shift, Monday-Friday;**
- 3 Ride a specially outfitted bicycle that is equipped with a 15 gallon water tank and cleaning tools;**
- 4 Duties will include, but are not limited to biohazard clean-ups such as removal of feces, urine, vomit and needles.**

D The Janitorial Workers and Special Projects Crew shall be under the direction of the following personnel:

1 Manager. The Manager shall be:

- i Assigned day-to-day responsibilities for the workers on duty;**
- ii Responsible for scheduling, performance reports, continuing in-service training, crew and program evaluation, and disciplinary action;**
- iii Appropriately dressed and communications equipped to allow contact at all times with the workers, as well as having access to a vehicle to facilitate quick response times for calls for service;**
- iv Be a full-time employee with a salary based on a 40-hour week.**

2 Supervisor. The two Supervisors shall:

- i Attend planning meetings with District personnel and other downtown stakeholders;**
- ii Be a full-time employee with a salary based on a 40-hour week.**

E The Janitorial Program will primarily hire from the formerly homeless population within the District.

F Facilities for the janitorial staff shall be provided by the janitorial contractor, including a meeting and briefing room, locker room, restroom, and office space for supervisory personnel.

~~G All Janitorial Workers and Special Projects Crew Members will wear uniforms and insignias to identify them with the Clean & Safe program, maintain a neat and clean appearance and conduct their duties in an orderly manner with a high degree of courtesy and politeness so as to be pleasing to the public.~~

H General Hours of Cleaning Services.

- 1 Janitorial Worker – cleaning services will be from 6:00am to 2:30pm Monday through Sunday and each shift shall consist of approximately seven (7) Janitorial Workers and the Manager and Assistant Manager, both of whom**

shall be available either on-site or on-call and be equipped for communication with the Supervisor.

- 2 Special Projects Crew – cleaning services will be from 6:00am to 2:30pm and 9:30pm to 5:30am Monday through Sunday. The morning shift will consist of four (4) Special Projects Crew Members and the Manager and supervisor (s), each of whom shall be available either on-site or on-call. The evening shift will consist of three (2) Special Projects Crew Members.**