

**FIRST AMENDMENT
TO
CUSTODIAL SERVICES CONTRACT
[Custodial Services for City Facilities (RFP No. 20-21.42)]**

THIS FIRST AMENDMENT TO CUSTODIAL SERVICES CONTRACT (the “First Amendment to Contract”) is made and entered into as of _____, 2024 (“Effective Date”) by and between the CITY OF ORANGE, a municipal corporation (“City”), and ULTIMATE MAINTENANCE SERVICES, INC., a California corporation (“Contractor”), with reference to the following.

A. City and Contractor entered into a Custodial Services Contract (Agreement No. 7196) dated as of June 8, 2021, which is incorporated herein by this reference (the “Original Contract”); and

B. City and Contractor desire to modify, amend and supplement certain portions of the Original Contract by the two extensions to June 30, 2026 and increase the compensation.

NOW, THEREFORE, the parties hereby agree as follows:

Section 1. Defined Terms. Except as otherwise defined herein, all capitalized terms used herein shall have the meanings set forth for such terms in the Original Contract.

Section 2. Cross-References. City and Contractor agree that all references in this First Amendment are deemed and construed to refer to the Original Contract, as implemented by this First Amendment.

Section 3. Term. Pursuant to Article 2 of the Original Contract, the City hereby extends the Term of this Contract to reflect the Extension Terms, commencing on July 1, 2024 and terminating on June 30, 2026.

Section 4. Compensation. Article 3 of the Original Contract is hereby amended to increase an annual total not-to-exceed compensation for the services to be rendered by the following:

Year	Amendment	Total not to exceed
Year 4: 7/2024 through 6/2025	\$517,000	\$527,340
Year 5: 7/2025 through 6/2026	\$517,000	\$1,054,680

and Article 3 is hereby amended in their entirety to read as follows:

“c. The total amount of compensation under this Contract, including contingencies, shall not exceed TWO MILLION SEVEN HUNDRED FORTY-SIXTY THOUSAND SIX HUNDRED EIGHTY DOLLARS and 00/100 (\$2,746,680.00). The compensation for services performed under this First Amendment shall be paid as specified in Exhibit B”

Section 5. Insurance.

Article 12 of the Original Contract is hereby amended in its entirety to read as follows:

“a. Workers’ Compensation and Employer’s Liability. Contractor shall carry workers’ compensation insurance as required by law for the protection of its employees during the progress of the work. Contractor understands that it is an independent contractor and not entitled to any workers’ compensation benefits under any City program. Contractor shall also maintain during the life of this Agreement employer’s liability insurance in the amount of Ten Million Dollars (\$10,000,000) per accident for bodily injury or disease.

b. General Liability. Contractor shall maintain during the life of this Agreement the following minimum amount of comprehensive general liability insurance or commercial general liability insurance: the greater of (1) Ten Million Dollars (\$10,000,000) per occurrence; or (2) all the insurance coverage and/or limits carried by or available to Contractor. Said insurance shall cover bodily injury, death and property damage and be written on an occurrence basis.

c. Automobile Liability. Contractor shall maintain during the life of this Agreement, the following minimum amount of automotive liability insurance: the greater of (1) a combined single limit of Two Million Dollars (\$2,000,000); or (2) all the insurance coverage and/or limits carried by or available to Contractor. Said insurance shall cover bodily injury, death and property damage for all owned, non-owned and hired vehicles and be written on an occurrence basis.

d. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits which are applicable to a given loss shall be available to City. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor under this Agreement.

e. Each policy of general liability and automotive liability shall provide that City, its officers, officials, agents, and employees are declared to be additional insureds under the terms of the policy, but only with respect to the work performed by Contractor under this Agreement. A policy endorsement to that effect shall be provided to City along with the certificate of insurance. In lieu of an endorsement, City will accept a copy of the policy(ies) which evidences that City is an additional insured as a contracting party. The minimum coverage required above, shall apply to City as an additional insured. Any umbrella liability insurance that is provided as part of the general or automobile liability minimums set forth below shall be maintained for the duration of the Agreement.

f. The insurance policies maintained by Contractor shall be primary insurance and no insurance held or owned by City shall be called upon to cover any loss under the policy. Contractor will determine its own needs in procurement of insurance to cover liabilities other than as stated above.

g. Before Contractor performs any work or prepares or delivers any materials, Contractor shall furnish certificates of insurance and endorsements, as required by City, evidencing the aforementioned minimum insurance coverages on forms acceptable to City, which

shall provide that the insurance in force will not be canceled or allowed to lapse without at least ten (10) days' prior written notice to City.

h. All insurance maintained by Contractor shall be issued by companies admitted to conduct the pertinent line of insurance business in California and having a rating of Grade A or better and Class VII or better by the latest edition of Best Key Rating Guide.

i. Contractor shall immediately notify City if any required insurance lapses or is otherwise modified and cease performance of this Agreement unless otherwise directed by City. In such a case, City may procure insurance or self-insure the risk and charge Contractor for such costs and any and all damages resulting therefrom, by way of set-off from any sums owed Contractor.

j. Contractor agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, Contractor shall look solely to its insurance for recovery. Contractor hereby grants to City, on behalf of any insurer providing insurance to either Contractor or City with respect to the services of Contractor herein, a waiver of any right to subrogation which any such insurer may acquire against City by virtue of the payment of any loss under such insurance.

k. Contractor shall include all subcontractors, if any, as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor to City for review and approval. All coverages for subcontractors shall be subject to all of the requirements stated herein.”

Section 6. **Integration.** This First Amendment amends, as set forth herein, the Original Contract and, except as specifically amended hereby, the Original Contract shall remain in full force and effect. To the extent that there is any conflict or inconsistency between the terms and provisions of this First Amendment and the terms and provisions of the Original Contract, the terms and provisions of this First Amendment shall control and govern the rights and obligations of the parties.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS of this Contract, the parties enter into this Contract on the year and day first above written.

“CONTRACTOR”

“CITY”

ULTIMATE MAINTENANCE SERVICES, INC. a California corporation

CITY OF ORANGE, a municipal corporation

*By: _____
Printed Name: _____
Title: _____

By: _____
Daniel R. Slater, Mayor

By: _____
Printed Name: _____
Title: _____

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Mike Vigliotta, City Attorney

***NOTE:** *If CONTRACTOR is a corporation, the City requires the following signature(s):*
-- *(1) the Chairman of the Board, the President or a Vice-President, AND (2) the Secretary, the Chief Financial Officer, the Treasurer, an Assistant Secretary or an Assistant Treasurer. If only one corporate officer exists or one corporate officer holds more than one corporate office, please so indicate. OR*
-- *The corporate officer named in a corporate resolution as authorized to enter into this Agreement. A copy of the corporate resolution, certified by the Secretary close in time to the execution of the Agreement, must be provided to the City.*

√NA