

JANITORIAL SERVICES AGREEMENT

THIS JANITORIAL SERVICES AGREEMENT (the "Agreement") is entered into this ____ day of _____, 2020 between the Homewood-Flossmoor Park District, an Illinois unit of local government, with its main offices located at 3301 Flossmoor Road, Flossmoor, Illinois, 60422 (the "Park District") and _____, an _____ with its main offices located at _____ ("Vendor"), which hereinafter may be referred to together as the "Parties" or individually as a "Party."

In exchange for good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, the Parties hereby agree as follows:

1. Janitorial Services.

Vendor shall provide all the labor and materials required for the janitorial services (the "Services") as outlined in the Homewood-Flossmoor Park District Bid for Custodial Cleaning Services for the H-F Racquet & Fitness Club, dated _____ 2020, attached to and incorporated as part of this Agreement by reference (the "Bid Documents"). The Services shall be completed in accordance with the Contract Documents, as defined in Section 2 of this Agreement.

2. Contract Documents.

The Contract Documents consist of this Agreement between the Park District and Vendor, the Bid Documents, Vendor's Bid Proposal dated February 3, 2020, attached to and incorporated as part of this Agreement as **Exhibit A**, Vendor's executed Compliance and Certification Attachment, attached to and incorporated as part of this Agreement as **Exhibit B**, any addenda issued prior to the execution of this Agreement, and any modifications made in writing and endorsed by the Parties after the execution of this Agreement. All of the terms, conditions and specifications contained in the Bid Documents are incorporated herein. In the event of a conflict or inconsistency between the Contract Documents, the terms and conditions of this Agreement shall govern.

3. Term.

The term of this Agreement shall be for one (1) year, commencing on _____ and, unless otherwise terminated as provided herein, terminating on _____.

4. Performance.

Vendor agrees to perform in a good and workmanlike manner and to the best of Vendor's ability, experience, and talents, in accordance with generally-accepted janitorial practices in the Greater Chicago area, all of the duties that are described in the Contract Documents or as otherwise required by the express and implicit terms of this Agreement, to the satisfaction of the Park District.

The Park District reserves the right to evaluate Vendor's performance of the Services and, in the event such Services or performance are not in conformity with the requirements of this Agreement, as determined by the Park District, the Park District shall have the option to terminate this Agreement in accordance with Section 10.b of this Agreement.

5. Changes or Alterations of Services.

The Park District reserves the right to alter the specifications contained in the Bid Documents by adding to or deducting from the original bid without invalidating this Agreement. All such work shall be executed under the conditions of the Contract Documents. All changes or alterations shall be made only when ordered in writing by the Park District, showing all claims for changes in the Contract Sum.

Unless otherwise stated in the Contract Documents, the value of any change shall be determined, in the Park District's sole discretion, by one or more of the following methods: (i) by an approved lump sum; or (ii) by unit prices denoted in the Contract Documents or subsequently agreed upon in writing by the Park District.

6. Contract Sum; Payment.

The Park District agrees to compensate Vendor for Services in the amount of _____ ("Contract Sum"). Services shall be invoiced monthly. Payment of said invoices, and any late payment penalties, shall be governed by the Local Government Prompt Payment Act (50 ILCS 505 *et seq.*).

7. Correction of Deficiencies.

If the Vendor defaults or neglects to provide the Services in accordance with the Contract Documents and fails, within a two (2) business day period after receipt of written notice from the Park District, to commence to cure said default, the Park District may, without prejudice to other remedies, correct said deficiencies. In such case, the Park District shall deduct from payments then or thereafter due the Vendor the cost of correcting such deficiencies, including compensation to the Park District for any and all expenses related thereto. If the amount deducted by the Park District exceed the payments then or thereafter due the Vendor, the Vendor shall pay the difference to the Park District.

The rights and remedies of Park District stated in this Agreement shall be in addition to and not in limitation of, any other rights of the Park District granted in the Contract Documents or at law or in equity.

8. Insurance.

Vendor shall obtain insurance of the types and in the amounts listed below.

A. Commercial General and Umbrella Liability Insurance. Vendor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project/location. CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 04 13, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). The Park District shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to the Park District. Any insurance or self-insurance

maintained by the Park District shall be excess of the Vendor's insurance and shall not contribute with it. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

B. Business Auto and Umbrella Liability Insurance. Vendor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto including owned, hired and non-owned autos. Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

C. Workers Compensation Insurance. Vendor shall maintain workers compensation as required by statute and employers liability insurance. The commercial umbrella and/or employers liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease. If the Park District has not been included as an insured under the CGL using ISO additional insured endorsement CG 20 10 under the Commercial General and Umbrella Liability Insurance required in this Agreement, the Vendor waives all rights against the Park District and its officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the Vendor's Services.

D. General Insurance Provisions

1. Evidence of Insurance

Prior to beginning work, Vendor shall furnish the Park District with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above. All certificates shall provide for 30 days written notice to the Park District prior to the cancellation or material change of any insurance referred to therein. Written notice to the Park District shall be by certified mail, return receipt requested. Failure of the Park District to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of the Park District to identify a deficiency from evidence that is provided shall not be construed as a waiver of Vendor's obligation to maintain such insurance. The Park District shall have the right, but not the obligation, of prohibiting Vendor or any subcontractor from entering the facility until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the Park District. Failure to maintain the required insurance may result in termination of this Agreement at the Park District's option.

Vendor shall provide certified copies of all insurance policies required above within 10 days of the Park District's written request for said copies.

2. Acceptability of Insurers

For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the

Best's rating is less than A VII or a Best's rating is not obtained, the Park District has the right to reject insurance written by an insurer it deems unacceptable.

3. Cross-Liability Coverage

If Vendor's liability policies do not contain the standard ISO separation of insured's provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

4. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to the Park District. At the option of the Park District, the Vendor may be asked to eliminate such deductibles or self-insured retentions as respects the Park District, its officers, officials, employees, volunteers and agents or required to procure a bond guaranteeing payment of losses and other related costs including but not limited to investigations, claim administration and defense expenses.

5. Subcontractors

Vendor shall cause each subcontractor employed by Vendor to purchase and maintain insurance of the type specified above. When requested by the Park District, Vendor shall furnish copies of certificates of insurance evidencing coverage for each subcontractor.

9. Indemnification.

To the fullest extent permitted by law, the Vendor shall indemnify and hold harmless the Park District and its officers, officials, employees, volunteers and agents from and against all claims, damages, losses and expenses including but not limited to legal fees (attorney's and paralegals' fees and court costs), arising out of or resulting from the performance of the Vendor's work, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, other than the work itself, including the loss of use resulting there from and (ii) is caused in whole or in part by any wrongful or negligent act or omission of the Vendor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except to the extent caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. Vendor shall similarly protect, indemnify and hold and save harmless the Park District, its officers, officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of Vendor's breach of any of its obligations under, or Vendor's default of, any provision of the Agreement.

10. Termination.

a. The Park District may, upon thirty (30) days prior written notice, terminate this Agreement in whole or in part for the convenience of the Park District. Termination by the Park District under this section shall be by a notice of termination delivered to Vendor specifying the extent of the termination and the effective date. Upon receipt of a notice of termination, Vendor

shall immediately, in accordance with instructions from the Park District: (i) cease operations as specified in the notice; and (ii) enter into no further subcontracts for labors, services, facilities or materials, except as necessary to complete continued portion of the Services. Vendor shall recover payment for the Services properly performed and approved by the Park District prior to the effective date of the termination. Vendor shall not be entitled to lost profits or any damages resulting from termination for convenience under this Section.

b. The Park District may terminate the Agreement, in whole or in part, for cause if Vendor fails to provide the Services as required in the Contract Documents, or otherwise breaches or defaults under any provision of this Agreement and does not remedy such failure, breach or default within forty-eight (48) hours after demand from the Park District to take corrective action, or in the event of repeated or multiple failures or defaults by the Vendor, the Park District may immediately terminate the Agreement and enter into an agreement with another contractor or contractors to provide the Services. In such event: a) the Park District shall not pay the Vendor for any portion of the Services not completed in accordance with the Contract Documents; b) the Park District shall deduct from payments due to the Vendor the cost of correcting any deficiencies in accordance with the Agreement; and c) the Vendor shall be liable to the Park District for the increased cost to the Park District of obtaining services from the substitute contractor(s). In the event of such termination, payment to Vendor of any sums earned to the date of such termination shall be in full satisfaction of any and all claims by Vendor against the Park District under this Agreement, and acceptance of sums paid to Vendor shall constitute a waiver of any and all claims that may be asserted by Vendor against the Park District.

c. If Vendor is adjudged as bankrupt, or if Vendor makes a general assignment for the benefit of Vendor's creditors, or if a receiver is appointed on account of Vendor's insolvency, or if any provision of the bankruptcy law is invoked by or against Vendor, then notwithstanding any other rights or remedies granted the Park District, the Park District may, without prejudice to any other right or remedy, (i) immediately terminate the retention of Vendor and/or (ii) finish or cause to be finished the Vendor's Services required under this Agreement by whatever method and by whichever persons the Park District deems expedient. In such case, Vendor shall not be entitled to receive any payment until the Services are completed. If the unpaid balance of the Contract Sum exceeds: (a) the expenses of completing the Services, including compensation for additional managerial and administrative services, plus (b) the Park District's losses and damages because of Vendor's default (collectively "Park District Expenses and Damages"), such excess shall be paid to Vendor. If the Park District Expenses and Damages exceed such unpaid balance, Vendor shall pay the difference to the Park District promptly on demand and the Park District may resort to any other rights or remedies the Park District may have by law or under this Agreement.

Upon termination of this Agreement for any reason, the rights and obligations of the Parties shall cease automatically except for the rights and obligations of the Parties accruing but unsatisfied prior to termination.

11. No Liability.

The Park District is not responsible or liable for any injury, damages, loss or costs sustained or incurred by any person including, without limitation Vendor's employees, or for any damage to, destruction, theft or misappropriation of any property, relating in any way, directly or indirectly, to Vendor's Services and obligations under this Agreement. The Park District is not liable for acts or omissions of Vendor or any of Vendor's employees, contractor's, agents or other persons

purporting to act at the direction or request, on behalf, or with the implied or actual consent, of Vendor.

12. Independent Contractor.

The relationship between Vendor and the Park District is that of an independent contractor. Vendor shall supply all personnel, equipment, materials, and supplies at their own expense. Vendor shall not be deemed to be, nor shall it represent itself as, employees, partners, or joint ventures of the Park District. Vendor is not entitled to workers' compensation benefits or other employee benefits from the Park District and is obligated to directly pay federal and state income tax on money earned under this Agreement.

13. No Third Party Beneficiary.

This Agreement is entered into solely for the benefit of the Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person and entity who is not a party to this Agreement or to acknowledge, establish or impose any legal duty to any third party. Nothing herein shall be construed as an express and/or implied waiver of any common law and/or statutory immunities, defenses and/or privileges of the Park District and/or Vendor, and/or any of their respective officials, officers and/or employees.

14. Compliance with Laws; Licenses and Permits.

Vendor shall comply with all applicable local, state and federal codes, laws, ordinances, policies, procedures and regulations. Vendor shall, at its sole cost and obligation, be responsible for obtaining all licenses and permits required to perform its duties under this Agreement.

15. No Waiver.

The Park District's failure at any time or times hereafter to require strict performance by Vendor of any provision of this Agreement shall not constitute a waiver, or effect or diminish any right of the Park District to demand strict compliance and performance therewith. Any suspension or waiver by the Park District of a default of any provision of this Agreement shall not suspend, constitute a waiver of or effect any other default by Vendor under this Agreement, whether the same is prior or subsequent thereto and whether of the same or of a different type. None of the undertakings, agreements and/or covenants of Vendor contained in this Agreement and no default by Vendor under this Agreement shall be deemed to have been waived by the Park District unless such waiver is by an instrument in writing signed by the Park District specifying such suspension or waiver.

16. No Assignment.

This Agreement is not assignable in whole or in part by Vendor, and any such assignment shall be void without prior written consent of the Park District. Vendor shall not subcontract any of the Services it is required to perform hereunder without the prior written consent of the Park District.

17. Notice.

Notices shall be deemed properly given hereunder if in writing and either hand delivered or sent by United States certified mail, return receipt requested, postage prepaid, or by fax or email transmission with the sending Party retaining confirmation of receipt, to the Parties at their respective addresses provided below, or as either Party may otherwise direct in writing to the other Party from time to time:

If to the Park District:

Homewood-Flossmoor Park District

3301 Flossmoor Road

Flossmoor, IL 60422

Attn:

Fax:

Email:

If to Vendor:

Notices sent by certified mail shall be deemed delivered the second business day following deposit in the mail, notices hand delivered shall be deemed given on the date of delivery, and notices sent by fax or email transmission shall be deemed given on the date of transmission if sent before 5:00 PM on a business day, or, if later, the next business day.

18. Severability.

If any part of this Agreement is declared to be invalid by a court of competent jurisdiction, it shall be severable, and the rest of the Parties' obligations under this Agreement shall survive. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

19. Choice of Law; Venue.

This Agreement and the Contract Documents shall be governed by and construed in accordance with the laws of the State of Illinois. The Circuit Court of Cook County, Illinois shall have jurisdiction over any disputes arising under this Agreement, and the Parties consent to such court's exercise of jurisdiction. The prevailing party shall be entitled to an award of reasonable attorneys' fees and costs of litigation.

20. Entire Agreement; Modifications and Amendments.

This Agreement contains the entire understanding of the Parties and supersedes all previous verbal and written Agreements. There are no other agreements, representations, or covenants other than those set forth herein. No modification or amendment to this Agreement shall be effective unless in writing and signed by both Parties.

21. Headings.

The headings for each paragraph of this Agreement are for convenience and reference purposes only and in no way define, limit or describe the scope or intent of said paragraphs or of this Agreement nor in any way affect this Agreement.

Homewood-Flossmoor Park District

Vendor

By: _____

By: _____

Its: _____

Its: _____

ATTEST:

ATTEST:

By: _____

By: _____

Its: _____

Its: _____

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