

STATE OF CALIFORNIA'

MASTER AGREEMENT

MASTER CONTRACT NUMBER

AM. NO.

3000049204

TAXPAYER'S FEDERAL/EMPLOYER IDENTIFICATION NUMBER

On file

THIS AGREEMENT, made and entered into this 23rd day of August, 2023 in the State of California, by and between the Trustees of the California State University, which is the State of California acting in a higher education capacity, through its duly appointed and acting officer, hereinafter called the University, and

CONTRACTOR NAME

GW Debris Services, LLC

, hereinafter called the Contractor,

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements and stipulations of the University hereinafter expressed, does hereby agree to furnish to the University services and materials as follows:

Contractor will provide refuse and recycling services for San Jose State University in a workmanlike manner, in accordance with the requirements of **RFP CSUBUY Number: SJSU-RFP-00000428-2023** including the following exhibits, all of which are attached and by this reference made a part of this Agreement. Any conflict or inconsistencies among or between terms and conditions of the documents comprising the Agreement shall be resolved according to the following order of precedence from the document with the greatest control to the least in the following order:

Exhibit "A" – Scope of Work (RFP Section 3)

Exhibit "B" – CSU General Provisions for Service Acquisitions, dated 5/15/20

Exhibit "C" – Bid Sheet

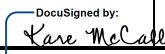
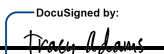
Contractor contact: Colin Beall, Contract Manager, Email: colin.beall@greenwaste.com, Ph. 408-938-4900

The term of this agreement is for five (5) years effective October 1, 2023 through September 30, 2028

All services performed shall be identified, funded and paid by separate Purchase Orders referencing this Master Contract Number.

Payment shall be made upon presentation and approval of invoice and are to be submitted through the University's Payment Services Office via our invoice website (individual invoices only) <http://einvoice.sjsu.edu/> OR emailed to our Payment Services invoice email box at supplier-invoices@sjsu.edu. All invoices must reference the appropriate purchase order number.

IN WITNESS WHEREOF, the parties have executed this Agreement hereto, upon the date first above written.

TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY		CONTRACTOR	
UNIVERSITY		CONTRACTOR	
San José State University		GW Debris Services, LLC	
BY (AUTHORIZED SIGNATURE)		BY (AUTHORIZED SIGNATURE)	
DocuSigned by:  DATE 9/5/2023		DocuSigned by:  DATE 9/5/2023	
PRINTED NAME OF PERSON SIGNING		PRINTED NAME OF PERSON SIGNING	
Kare McCall, Lead Buyer & SB/DVBE Advocate		Tracy Adams, Chief Executive Officer	
ADDRESS		ADDRESS	
One Washington Square, San Jose, CA 95192		675 Los Esteros Road, San Jose, CA 95134	

☐ CONTRACTOR ☐ CSU ☐ DEPARTMENT

CRL:017:09/15/97

Exhibit A

SECTION 3

(1.1 through 25.3)

SCOPE OF WORK

1.0 GENERAL

1.1 It is the intent of this RFP to require the successful bidder to recycle, reuse, reclaim or compost the majority of trash and other discarded material from the University, using a Material Recovery Facility (MRF) and/or a composting facility.

1.2 The Contractor shall furnish all labor, materials, and equipment to properly, and in a legal manner, remove, recycle, compost or dispose of materials in containers at the indicated sites.

1.3 The Contractor shall also furnish all safety tools and equipment required for the proper and safe execution and completion of the work.

1.4 For all operations, the contractor shall observe, and compel his employees to observe and exercise all necessary caution and discretion so as to avoid injury to persons and damage to property of any and all kinds. The Contractor is responsible for compliance with all applicable OSHA provisions and other Federal, State and local laws and ordinances.

1.5 The Contractor shall remove and return the refuse or recycling containers within 24 hours after being called to perform the specified services, based on a 5-day week basis.

1.6 All work performed shall be reviewed and accepted by the University's Contract Monitor.

1.7 The University reserves the right to change service times or frequencies of pick-ups as may be in the University's best interests. Furthermore, the University may change service schedules, at no additional costs, with thirty (30) days prior notice.

1.8 The Contractor shall furnish dedicated (~10 hours a week) program support for University zero waste initiatives, including SB 1383 compliance.

2.0 ADDITIONAL DEFINITIONS RELATED TO SCOPE OF WORK

2.1 **University-** San Jose State University (SJSU) or an authorized SJSU representative.

2.2 **Vendor/Bidder** -Any individual, partnership, or corporation submitting a proposal or bid in accordance with the Request for Proposal or Request for Bid.

2.3 **Contractor** -The individual, partnership, or corporation whose proposal or bid is accepted and who enters into a contract with the University.

2.4 **Contract Manager (or Contract Supervisor)-** Representative of the Contractor responsible for the overall performance and quality of services as specified herein.

2.5 **University's Contract Monitor** - Representative from the University responsible for

2.6 **Manager of Custodial Services, Manager of Grounds, or Recycling Specialist** - Individuals designated by the Director of Facility Services to be responsible for calling for services, and for coordinating and monitoring the execution and determining the quality of services as specified herein. The Director of Facility Services may also designate other individuals, by name and in writing, as authorized to call for services specified herein.

2.7 **Director of Facility Services** - Individual responsible for ensuring the execution, quality of services, and accepting for the University the services received under this contract. In his absence, other duly authorized Facility Services managers or lead persons, may accept for the University the services received under this contract.

2.8 **Associate Director of Facilities, Housing-** Individual responsible for scheduling and monitoring quality of service for the University Housing Services.

2.9 **Quality Control** - A method used by the Contractor to control the quality of services provided.

2.10 **Quality Assurance** - A method used by the University to monitor the Contractor's quality control program.

2.11 **Mixed Waste/Refuse** - Trash, garbage, rubbish or solid waste of a non-hazardous nature.

2.12 **Recyclables** - Non hazardous commercial or industrial materials or by-products which are collected in a manner different than solid waste, for the purpose of being reused to processed and then returned to the economic mainstream in the form of commodities. Recyclables shall include, but are not limited to, paper (newspaper, magazines, corrugated cardboard, ledger paper, officer paper, chipboard and other paper grades); glass; ferrous and non-ferrous metals; used beverage containers (aluminum cans, glass, and plastic containers); plastic films, packaging materials and scrap; yard waste and trimmings; used motor oil; and construction and demolition materials.

2.13 **Container** - May refer to either a compactor or a bin as described herein.

3.0 **CONTAINERS, LOCATIONS OR SITES, & FREQUENCY OF SERVICES** (*FACILITIES OPERATIONS*)

3.1 **BC Compactor #2**, 24 cubic yard capacity, Refuse/ Mixed Waste, to be sent to the MRF, southeast of Business Classrooms (BC), entrance from 10th Street. **SJSU owns this compactor.** On call service; pick-up and return of containers between 5:00 a.m. and 10:00 a.m., Monday through Friday.

3.2 **CP Compactor**, 24 cubic yard capacity, Paper Waste, to be sent to the MRF, southeast of Central Plant (CP), entrance from 10th Street. **SJSU owns this compactor.** On call service; pick-up and return of containers between 5:00 a.m. and 10:00 a.m., Monday through Friday.

3.3 **IS Compactor**, 24 cubic yard capacity, Refuse/ Mixed Waste, to be sent to MRF; between Industrial Studies (IS) Building and Engineering Building. on 8th Street (extension), entrance from San Fernando Street. **SJSU owns this compactor.** On call service; pick-up and return of containers between 5:00 a.m. and 10:00 a.m., Monday through Friday.

3.4 **DH Compactor**, 24 cubic yard capacity, Refuse/ Mixed Waste to be sent to MRF, east of Duncan Hall (DH), entrance from San Salvador Street. **SJSU owns this compactor.** On call service; pick-up and return of containers between 5:00 a.m. and 10:00 a.m., Monday through Friday.

3.5 **CY Compactor**, 34 cubic yard capacity, for Refuse/ Mixed Waste, inside the Corporation Yard

(CY), entrance from 10th Street and exit on San Fernando Street. **SJSU owns this compactor.** On call service; pick-up and return of containers between 7:00 a.m. and 3:00 p.m., Monday through Friday.

3.6 One (1) Bin, 20 yard capacity for metal, inside the **Corporation Yard (CY)**, entrance from 10th Street and exit from San Fernando Street. **Contractor to provide this bin.** On-call services, pick-up and return of container, between 7:30 a.m. and 3:30 p.m., Monday through Friday.

3.7 One (1) Bin, 20 yard capacity for wood, inside the **Corporation Yard (CY)**, entrance from 10th Street and exit from San Fernando Street. **Contractor to provide this bin.** On-call services, pick-up and return of container, between 7:30 a.m. and 3:30 p.m., Monday through Friday.

3.8 One (1) Bin, 40 yard capacity for **greenwaste**, inside **Spartan Stadium**, north end, entrances from 10th Street and 7th Street. **Contractor to provide this bin.** On-call services, pick-up and return of container, between 7:30 a.m. and 3:30 p.m., Monday through Friday.

3.9 One (1) Bin, 10 yard capacity, at the **Industrial Studies** building, for MRF, entrance from San Fernando Street from approximately 8th Street between the Industrial Studies Building and the Engineering building. **Contractor to provide this bin.** Container height shall not exceed five feet to permit easy dumping from a truck or handcart. Container shall rest on skids which prevent damage to asphalt or concrete. On call services, pick-up and return of containers between 8:00 a.m. and 3:00 p.m., Monday through Friday.

3.10 One (1) Bin, 10 yard capacity, at the **Art Foundry**, for MRF, entrance from 5th Street between Martha Street and Keyes Street. **Contractor to provide this bin.** Container height shall not exceed five feet to permit easy dumping from a truck or handcart. Container shall rest on skids which prevent damage to asphalt or concrete. On call services, pick-up and return of containers between 8:00 a.m. and 3:00p.m., Monday through Friday.

3.11 One (1) Bin, 3 yard capacity, for MRF, in the parking lot southeast of **South Campus Field House**, entrance from Humboldt Street and exit onto 10th Street. **Contractor to provide this bin** Daily service, pick-up and return of containers between 5:00 a.m. and 10:00 a.m., Monday through Friday.

3.12 One (1) Bin, 20 yard capacity, for Refuse/ Mixed Waste, east of and inside the perimeter fence of **Spartan Stadium**, entrance from 7th Street near Alma Street. **Contractor to provide this bin.** Container height shall not exceed five feet to permit easy dumping from a truck. Container shall rest on skids which prevent damage to asphalt or concrete. On call services, pick-up and return of containers between 7:30 am and 3:00 p.m., Monday through Friday.

3.13 One (1) Bin, 3 yard capacity, for Refuse/ Mixed Waste, in the northwest corner of the parking lot of the **Alan B. Simpkins Building**, entrance from 7th Street near Alma Street **Contractor to provide this bin.** Three times a week service, pick-up and return of containers, between 5:00 a.m. and 10:00 a.m., on Monday, Wednesday and Friday.

3.14 One (1) Bin, 6 yard capacity, for Refuse/ Mixed Waste, in the enclosure at the northeast corner of the **Simpkins Stadium Center**, entrance from 7th or 10th Streets, between Humboldt and Alma Streets. **Contractor to provide this bin.** Daily service, pick-up and return of containers between 5:00 a.m. and 10:00 a.m., Monday through Friday.

3.15 One (1) Bin, 40 yard capacity, for mixed recyclables, at the Engineering Courtvard, entrance from San Fernando Street, between Seventh and Eighth Street. **Contractor to provide this bin.** On call services, pick up and return of containers between 7:30 a.m. and 3:00 p.m.

3.16 One (1) Bin, 10 yard capacity. for recycling concrete, brick, rocks, etc., at the Engineering Courtyard. **Contractor to provide this bin.** On call services, pick up and return of containers between 7:30 a.m. and 3:00 p.m., Monday through Friday.

4.0 **CONTAINERS, LOCATIONS OR SITES, & FREQUENCY OF SERVICES** (UNIVERSITY HOUSING)

4.1 One (1) Bin, 3 yard capacity for **trash** and One (1) 4 yard capacity, **mixed recyclables**, Washburn Hall, entrance on 7th Street between San Salvador and San Carlos Streets. **Contractor to provide these bins.** Three days a week, pick up Monday, Wednesday, Friday, Washburn Hall, 385 South 8th Street. Housing would like to be able to call these bins in for additional pickups when necessary, and to be able to reduce the frequency of pickups to less than three times per week during the winter break and summer months when business is slower.

4.2 Five (5) top load type bins, 2 yard capacity each for **trash**, Joe West Hall, entrance to area from 8th street through secured gate (Housing to provide code for Green Waste drivers). **SJSU Housing owns these bins.** Four days a week, pick up Monday, Tuesday, Thursday and Saturday, Joe West Hall, 347 8th Street. Housing would like to be able to call these bins in for additional pickups when necessary, and to be able to reduce the frequency of pickups to less than four times per week during the winter break and summer months when business is slower.

4.3 Four (4) **top** load type 3 yard capacity **COMPACTED** steel bins for **trash**. Campus Village, entrance to area from 8th street through secured gate (Housing to provide code for Green Waste drivers). **SJSU Housing owns these bins.** Five days a week, pick up Monday, Tuesday, Thursday, Friday and Saturday. Campus Village, 347 S. 8th Street. Housing would like to be able to call these bins in for additional pickups when necessary, and to be able to reduce the frequency of pickups to less than five times per week during the winter break and summer months when business is slower.

4.4 Four (4) top load type 3 yard capacity, **COMPACTED** steel top load bins for **recycling**. Campus Village, entrance to area from 8th street through secured gate (Housing to provide code for Green Waste drivers). **SJSU Housing owns these bins** Four days a week, pick up Monday, Tuesday, Thursday and Saturday, Campus Village, 347 S. 8th Street. Housing would like to be able to call these bins in for additional pickups when necessary, and to be able to reduce the frequency of pickups to less than four times per week during the winter break and summer months when business is slower.

4.5 One (1) top load type 8 yard capacity **cardboard** bin Campus Village, entrance to area from 8th street through secured gate (Housing to provide code for Green Waste drivers). **Contractor to provide this bin.** Pickup once per week on Wednesdays. Housing would like to be able to call this bin in for additional pickups when necessary, and to be able to reduce the frequency of pickups to less than one time per week during the winter break and summer months when business is slower.

4.6 Two (2) top load type bins, 3 yard capacity each for **trash**, Campus Village, entrance to area from 8th street through secured gate (Housing to provide code for Green Waste drivers). **SJSU Housing owns these bins.** Four days a week, pick up Monday, Tuesday, Thursday and Saturday, Campus Village 2, 347 8th Street. Housing would like to be able to call these bins in for additional pickups when necessary, and to be able to reduce the frequency of pickups to less than four times per week during the winter break and summer months when business is slower.

4.7 One (1) 40 yard bin for mixed recycling to be kept at Campus Village, entrance to area from 8th street through secured gate (Housing to provide code for Green Waste drivers). **Contractor to provide this bin.** Pickup on on-call basis.

4.8 ADD COMPACTOR/BINS FROM CV2

5.0 **CONTAINERS, LOCATIONS OR SITES, & FREQUENCY OF SERVICES**
(STUDENT UNION)

5.1 Three (3) Bins, 4 yard capacity for refuse, to be sent to the MRF. Located at Event Center Dock, entrance to area from 10th street between San Antonio and San Carlos. **Contractor to provide these bins.** Twice a week service, on Tuesdays and Saturdays.

5.2 One (1) bin, 4 yard capacity for cardboard. Located at Event Center Dock, entrance to area from 10th street between San Antonio and San Carlos. **Contractor to provide this bin** Twice a week service, on Tuesdays and Saturdays.

6.0 **REMOVED SECTION 6.0**

7.0 **CONTAINERS, LOCATIONS OR SITES, & FREQUENCY OF SERVICES**
(ATHLETICS)

7.1 Two (2) Bins, 3 yard capacity for **refuse for MRF**. Located at Spartan Stadium, entrance from 10th street. **Contractor to provide these bins.** On call pickup.

7.2 Two (2) Bins, 3 yard capacity for **Cardboard**. Located at Spartan Stadium, entrance from 10th street. **Contractor to provide these bins.** On call pickup.

8.0 **EQUIPMENT SPECIFICATIONS-COMPACTORS**

8.1 The University owns Eight (8) compactors. The compactors' descriptions are as follows:

8.1.a Four (4) self-contained compactors, 24 cubic yard each with 1 cubic yard charge box (FD&O).

8.1.b One (1) self-contained compactor, 34 cubic yard with 1.9 cubic yard charge box and custom- build, four-sided rear feed hopper (FD&O)

8.1.c One (1) compactor unit used to compact waste into 4 cy open top bins for front load pickup (FD&O-King Library)

8.1.d Two (2) self-contained compactors, 20 cubic yards each with a 1 cubic yard charge box (Spartan Shops).

8.2 Compactors are equipped with automatic shut-off device in the event of low hydraulic, overfilling or jammed loads.

9.0 **SITE SPECIFICATIONS-COMPACTORS**

9.1 The University shall provide compactor sites, at present or alternate locations, which meet the specifications stated herein.

9.2 Each compactor site shall have adequate power of 208-230-460 volt, 3 phase; fused quick disconnect breaker box with adequate service for unit within 6' of the machine.

9.3 Each compactor shall have a 3,000 psi 6" reinforced concrete pad of 10' x 25' minimum dimensions and steel guide rails for proper container alignment.

10.0 EQUIPMENT SPECIFICATIONS-BINS

10.1 The Contractor shall provide all bins necessary for the performance of services required in this proposal. All bins or containers shall carry proper signage (refuse or recyclables, etc.), and safety warnings as required by OSHA or any other pertinent government agency.

10.2 Bins up to and including 6 yard capacity. These containers shall be mounted on two (2) stationary and two (2) swivel wheels and be equipped with two handles to permit moving them. Each container shall have a lid that shall fit tight around the full perimeter of the container when closed.

10.3 Bin, 20 yard capacity at Spartan Stadium. Container height shall not exceed five feet to permit easy dumping from a truck. Container shall rest on skids which prevent damage to asphalt or concrete.

10.4 Bin, 10 yard capacity at the Art Foundry. Container height shall not exceed five feet to permit easy dumping from a truck or handcart. Container shall rest on skids which prevent damage to asphalt or concrete.

11.0 EQUIPMENT OWNERSHIP

11.1 COMPACTORS-The compactors specified under paragraph 18.0 are owned by the University. The University shall maintain the containers in a safe, operable and presentable condition.

11.2 The Contractor shall take care and all necessary precautions not to damage University-owned compactors. Contractor shall further be liable for any damage sustained in performance of duties and shall pay to replace or repair damaged compactors.

11.3 BINS-The Contractor shall provide the University, at no additional cost, metal containers, which meet the specified requirements, at each of the specified locations. The Contractor shall maintain the containers in a safe, operable and presentable condition, and shall replace and/or repair within 24 hours any unserviceable containers at no additional cost to the University.

11.4 The Contractor shall retain ownership of all supplied containers and assumes all risks, including damage or theft, associated with refuse collections services.

12.0 MAINTENANCE OF COMPACTOR AND BINS

12.1 The University shall maintain all compactors in a safe and fully operational mode. The University will enter in a separate, extended maintenance agreement with a compactor maintenance vendor, based on a competitive procurement process.

12.2 The Contractor shall notify the SJSU representative if any operational or safety issues are observed when services the University Owned compactors.

12.3 The Contractor shall wipe clean the tailgate seals on self-contained compactors after the unit(s) have been emptied to prevent leakage. This stipulation applies at all times.

12.4 The Contractor shall periodically inspect and compactors and bins to detect faults and potential breakdowns.

12.5 The Contractor should periodically, at least once per quarter, rinse out the University owned compactors using a pressure washer after emptying the compactors at their facility. The contractor shall provide a per hour price to perform this service (see Exhibit XX).

12.6 The University shall report to the Contractor whenever a compactor malfunctions or is not operational, particularly whenever any safety devices are not functioning as intended.

13.0 ADDITIONAL SERVICES AND/OR REDUCTION OF SERVICES OR SITES

13.1 The University reserves the right to change the frequency of services, to add, delete or change sizes of bins and/or sites as it deems necessary during the term of this contract, whether it be due to the addition of new buildings, demolition of old buildings, or reduction of the waste stream.

Please note: There are several buildings that are designated to undergo renovation during the term of this contract, and service to those buildings will be impacted. The university will provide sufficient notice as necessary.

13.2 Should it become necessary, The Contractor shall provide additional bins at any of the different sites, on a short-term or long-term basis, as determined solely by the University.

13.3 The cost of such additional services shall be based on the rates quoted in the Contractor's bid for a similar size bin and/or a similar service. The Contractor's proposal or bid shall include rates for additional common use container sizes, term of services, and frequency of recurring services, as applicable.

13.4 The Contractor shall not deliver any containers to the University sites, under the terms of this contract, without the University's authorization. Containers which are delivered without authorization shall be removed from the University within 24 hours of notification. The Contractor shall not charge the University for the disposal of any refuse deposited in the containers that were delivered without authorization.

13.5 In the event that the University elects the option to reduce services and/or sites, the Contractor shall be notified, in writing, no less than 30 days in advance of the effective date of such change. Once the services and/or sites are reduced, the deductions and/or adjustments will be made to the corresponding monthly payments for the affected services and/or sites.

13.6 As the University expands its solid waste reuse and recycling program, the estimated frequency of services at any or all of the serviced sites may decrease.

13.7 The Contractor will provide access for the University to an approved and licensed landfill and recycling facility. The Contractor will provide a per cubic yard price for self-hauled greenwaste and landfilled waste, wood, cardboard, metal, greenwaste, or other recyclables.

13.8 The Contractor will provide on call bins, of variable sizes, at the sole discretion of the University, for recycled items such as wood, cardboard, metal, greenwaste, or other

recyclables.

13.9 The Contractor will provide a weight report for all refuse, recycled and composted materials removed from the University, every month.). The contractor will perform an annual waste audit of the University.

14.0 ACCESS TO SITES

14.1 The University shall direct and provide access to the different sites where refuse containers (compactors and bins) are kept so the Contractor's personnel may perform the specified services.

14.2 The University shall endeavor to prevent, whenever possible, the unauthorized parking of vehicles in egress areas which would block the access to and/or preclude the proper and safe removal and/or return of the refuse containers (compactors and bins).

14.3 In the event that access to the service sites is blocked and/or not provided in a timely manner, the Contractor shall call the University Police dispatch (408) 924-2222, or the FD&O service desk (408) 924-1990, and/or the University's Contract Monitor to gain access and/or reschedule the services.

14.4 The University shall issue the Contractor, at no charge, the keys necessary for performance of the specified work at the Art Foundry site and the Recycling yard located on 10th street. Receipt of the keys shall be signed for by the Contractor or an authorized representative.

14.5 The Contractor is tasked with key control and assumes full responsibility for insuring that keys are not lost, misplaced, or misused. Loss or lack of accountability of keys shall be reported to the University Police immediately. The Contractor shall be liable for the total cost of all labor, materials and administrative effort to re-key all areas accessible if keys are lost. As the University is concerned with the potential for loss, the Contractor shall be responsible for the cost of re-keying regardless of whether the University has suffered any actual material loss. Upon termination of the contract, all keys shall be returned to the University.

15.0 CONTRACTOR'S QUALITY CONTROL

15.1 The Contractor shall establish a complete quality control program to assure that the services and requirements of the contract are provided as specified.

15.2 The Contractor shall assign one (1) primary Contract Manager and one (1) backup representative to service the University's account. The Contract Manager shall be available during normal business hours (8:00 a.m. to 5:00 p.m., Monday through Friday) and would be responsible for scheduling, personnel, invoicing, and dispute resolution.

15.3 Contract Manager, or a duly designated representative, shall inspect the work performed to identify and correct any deficiencies.

15.4 The Contractor shall maintain compactors and bins in a sanitary and relatively odor-free condition. The University retains the right to request a container change at any time. Containers shall be cleaned to the University's satisfaction or replaced within 24 hours of request at no additional cost to the University.

15.5 The Contractor shall remove and replace the compactors and bins in a safe and proper manner, ensuring the lawn and planted areas are not damaged by the trucks, compactors, and/or bins.

15.6 The Contractor shall endeavor to exercise the utmost care in the handling, transporting, and relocating the University-owned compactors.

15.7 Damage to University property shall be reported immediately, but in no case later than two (2) hours from occurrence, to the Office of Facilities Development and Operations at (408) 924-1990, or the University Police Department at 924-2222. The Contractor shall be liable for all damages incurred in performance of duties.

15.8 The Contractor's employees shall wear uniforms, jackets, or vests clearly identifying themselves as employees of the Contractor. In addition, trucks and containers shall be marked as belonging to the Contractor. Each driver shall have in his/her possession a valid California driver's license of the appropriate classification.

15.9 The Contractor shall take care not to disturb, bother, or annoy University employees, residents, students or neighbors.

16.0 **QUALITY ASSURANCE BY THE UNIVERSITY**

16.1 In order to monitor the quality of work performed by the Contractor, the University's representative may conduct random inspections, at the designated University sites, during the execution of the contract. The University's representative may conduct inspections at the MRF and/or composting facilities and request State of California reports verifying Contractor diversion rates.

16.2 At the completion of the work, the University's Contract Monitor shall inspect and accept the services performed as specified under the contract.

16.3 If the services are not in conformity with the requirements of the contract, the University shall have the right to: (a) require the Contractor to immediately perform the services in accord with the contract requirements; and (b) make monetary deductions to reflect the reduced value of the services.

16.4 In the event the Contractor fails to take necessary steps, within 24 hours after notification, to ensure conformity with the requirements of the contract, the University shall have the right to either: (a) procure or furnish, upon such terms and manner as deemed appropriate, services as required by the contract and charge to the Contractor all costs incurred by the University for the performance or procuring of such services; or (b) terminate this contract for default.

17.0 The Contractor must be licensed by the City of San Jose for trash/refuse and recycling pick-up, processing of recyclables, disposal of refuse, and have a valid license in effect for the duration of agreement.

18.0 **RATE GUARANTEES**

18.1 Contract pricing shall be firm for the initial one (1) year period. In addition, compactor bin rates shall be guaranteed for the duration of the contract with the following exception. After the initial one (1) year period, the Contractor may request a price increase due to governmental regulatory fees or taxes which increase hauling or disposal costs. Decrease in hauling or disposal costs as a result of governmental regulatory action shall also be passed on to the University.

18.2 All material cost increases are subject to review and approval by the University. The total percent increases shall not exceed the annualized CPI or 5%, whichever is less per year over the rates of the preceding year. All requests for cost increases shall be supported by documentation substantiating the increase as presented to the Contractor (i.e. notice from supplier or manufacturer, or invoice). All such requests shall: (i) be submitted on Contractor letter head; (ii) be submitted to the Director of Administrative Services in Facilities Development & Operations and the appropriate Contract Analyst in the Contracts & Purchasing Department and (iii) include a revised Bid Sheet detailing any increases or decreases in cost. Requests must be submitted Sixty Days (60) prior to the close of each applicable fiscal year (i.e. May 1st). Subsequent requests will be reviewed and considered no earlier than Sixty Days (60) prior to the close of the following fiscal year. Only one request per fiscal year will be considered, and shall address all materials collectively. The University shall have Thirty Days (30) from receipt to review the request and shall issue in writing: (i) notice of acceptance of such increase or, (ii) notice of termination, which shall become effective Thirty Days (30) after date of said notice.

The University reserves the right to accept price increase or terminate the agreement without penalty. In the event of termination, the Contractor shall be paid only for work actually completed to the University's satisfaction.

19.0 SITE AND EQUIPMENT INSPECTION

19.1 A pre-bid conference and site inspection will be held at "Boyce Gate" next door to the Facilities Development & Operations Building, as stated in **Section 1**.

19.2 The pre-bid conference and site inspection will include a walk by the compactor and bin sites.

19.3 Attendance will be limited to the representatives of each firm. Furthermore, attendance at the pre-proposal conference and site inspection shall be strictly at bidder's expense.

23.4 After completion of the mandatory pre-bid walk through, prospective bidders shall have an opportunity to submit questions in writing per the timeline specified in **Section 1**.

24.0 ADDITIONAL REQUIREMENTS

- 24.1 (a) A site visit of local administrative and operations facilities may also be required as part of the evaluation process.
- (b) Bidders must have experience servicing comparable size enterprises, preferably in an academic setting.
- (c) Bidders must be capable of providing single stream sorting recycling services at a MRF. Bidders must also possess the capability of sorting recyclables and compostable materials from the mixed waste and refuse, to ensure that as little of SJSU's waste as possible is landfilled.

24.2 **To be considered for award, all items in Section 5 shall be bid.** Your bid price in **Sections 5.1** through **Section 5.4** will be considered in the evaluation criteria of "Cost". Be advised that the University will select any combination of compactor and bin refuse and recycling services and award them separately or as a lot, as may be in the University's best interest.

24.3 The Contractor will provide waste assessment services to the University to comply with SB 1383. Contractor will identify collection sites that cannot accommodate storage containers or do not generate more than 20 gallons of organic waste for every 2 cubic yards of total waste and complete the CalRecycle exemption paperwork for that location. In locations that exceed that threshold, Contractor will provide SB 1383 compliant bins and services at those locations.

24.4 Separate bid pricing shall be required for "Additional Services". These services are for consideration in **Section 5.5**. The University may elect to award this option as part of a contract, or separate contract as may be in the University's best interest.

24.5 Any proposal which is materially unbalanced as to prices for any of the options may be rejected as non-responsive. An unbalanced bid is one which is based on prices which are significantly overstated for some services and prices significantly less than cost for some other services.

25.0 INVOICE FOR PAYMENT

25.1 Payment shall be made monthly, in arrears, upon submission of an invoice to the university, and after the completion of the work, provided services have been rendered in a satisfactory manner, and in accordance with all other terms of the contract.

25.2 Separate invoices will be required for Facilities, Development and Operations (FD&O), University Housing Services, and Spartan Shops. Additional University departments requiring refuse collection services shall also be invoiced separately if requested by the University.

25.3 If deductions are made, due to unsatisfactory performance and/or incomplete services, and the issue has not been satisfactorily resolved, the invoice shall be subject to reduction.

25.4 The Contractor must work with the university to ensure compliance with all current and future State regulations, including, but not limited to, SB 1383. The contractor's obligations shall include, without limitation, notifying the University of any and all regulatory or legislative changes that may impact waste management services, procedures, and/or reporting within sixty (60) days of order.

End of Section 3

Exhibit B

CSU GENERAL PROVISIONS FOR SERVICE ACQUISITIONS

1. Commencement of Work

Contractor shall not commence work under the Contract until Contractor has received a fully executed Contract and been given written approval to proceed. Any work performed by Contractor prior to the date of approval shall be considered as having been performed at Contractor's own risk and as a volunteer.

2. Contract Alterations & Integration

No alteration or variation of the Contract shall be valid unless made in writing and signed by the Parties hereto, and no oral understanding or agreement not incorporated in writing in the Contract shall be binding on any of the Parties hereto.

3. Severability

Contractor and CSU agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either Party having knowledge of such term or provision shall promptly inform the other of its presumed non-applicability of such provision. Should the illegal or unenforceable provision be a material or essential term of the Contract, the Contract shall be terminated in a manner commensurate with the interests of both Parties, to the maximum extent reasonable.

4. Independent Status

Contractor and its employees and agents, and subcontractors, in the performance of this Contract, shall act in an independent capacity and not as officers, employees or agents of CSU or the State of California. While Contractor may be required by this Contract to carry Worker's Compensation Insurance, in no event shall Contractor and its employees and agents be entitled to unemployment or workers' compensation benefits from CSU.

5. Governing Law

To the extent not inconsistent with applicable federal law, this Contract shall be construed in accordance with and governed by the laws of the State of California.

6. Contractor's Power and Authority

Contractor warrants it has full power and authority to enter into this Contract and will hold CSU harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor shall not enter into any arrangement, agreement or contract with any third party that might abridge any rights of the CSU under this Contract.

7. Assignments

Contractor shall not assign this Contract, either in whole or in part, without CSU's written consent, which will not be unreasonably withheld.

8. Personnel

Contractor shall give its personal attention to the performance of the Contract and shall make every effort consistent with sound business practices to honor CSU's requests regarding Contractor's assignment of its employees. However, Contractor maintains the sole right to determine the assignment of its employees in order to keep all phases of work under its control. If an employee of Contractor is unable to perform due to illness, resignation or other factors beyond Contractor's control, Contractor shall use its best effort to provide suitable substitute personnel.

9. Waiver of Rights

Any action or inaction by CSU or the failure of CSU on any occasion to enforce any right or provision of this Contract shall not be a waiver by CSU of its rights hereunder and shall not prevent CSU from enforcing such provision or right on any future occasion. CSU's rights and remedies provided in this Contract shall not be exclusive and are in addition to any other rights and remedies provided by law.

10. Time

Time is of the essence in the performance of this Contract.

11. Entire Contract

This Contract sets forth the entire agreement between the Parties with respect to the subject matter hereof and shall govern the respective duties and obligations of each Party.

CSU GENERAL PROVISIONS FOR SERVICE ACQUISITIONS

12. Appropriation of Funds

- (a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is subject to the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, Contractor agrees to take back any commodities furnished under the Contract and not yet paid for by CSU, terminate any future services and commodities to be supplied to the CSU under the Contract, and relieve the CSU of any further obligation therefore.
- (b) CSU agrees that if provision (a) above is involved, commodities shall be returned to Contractor in substantially the same condition in which they were delivered, subject to normal wear and tear. CSU further agrees to pay for packing, crating, transportation to Contractor's nearest facility and for reimbursement to Contractor for expenses incurred for its assistance in such packing and crating.

13. Cancellation

CSU has the right to cancel this Contract at any time and without future financial obligation upon thirty (30) days written notice to Contractor.

14. Termination for Default

CSU may terminate the Contract and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, the CSU may proceed with the work in any manner deemed proper by the CSU. The cost to the CSU shall be deducted from any sum due the Contractor under the Contract, and the balance, if any, shall be paid the Contractor upon demand.

15. Rights and Remedies of CSU for Default

- (a) In the event any Deliverables furnished or services provided by Contractor in the performance of this Contract should fail to conform to the requirements herein, or to the sample submitted by Contractor, CSU may reject the same, and it shall thereupon become Contractor's duty to forthwith reclaim and remove all nonconforming deliverables and correct the performance of services, without expense to the CSU, and to immediately replace all such rejected items with others conforming to the specifications or samples. Should Contractor fail, neglect, or refuse to do so, CSU shall thereupon have the right, but not the obligation, to purchase in the open market, in lieu thereof, a corresponding quantity of any such items and to deduct the cost of such cover from any moneys due or that may thereafter become due to Contractor.
- (b) In the event Contractor fails to make prompt delivery of any item as specified in the Contract, the same conditions as to CSU's right, but not obligation, to purchase in the open market and receive reimbursement from Contractor, as set forth in (a), above shall apply.
- (c) In the CSU terminates this Contract, either in whole or in part, for Contractor's default or breach, Contractor shall compensate CSU, in addition to any other remedy CSU may have available to it, for any loss or damage sustained and cost incurred by the CSU in procuring any items that Contractor agreed to supply.
- (d) CSU's rights and remedies provided above shall not be exclusive and shall be in addition to any other rights and remedies provided by law, equity or this Contract.

16. Warranty

Contractor warrants that

- (i) deliverables and services furnished hereunder will conform to the requirements of this Contract (including, without limitation, all descriptions, specifications, and drawings identified in the Statement of Work, if any), and
- (ii) the deliverables will be free from defects in materials and workmanship. Where the Parties have agreed to design specifications in the Statement of Work directly or by reference, Contractor warrants the deliverables shall provide all functionality required thereby.

17. Safety and Accident Prevention

In performing work under this Contract on CSU premises, Contractor shall conform to all specific safety requirements contained in this Contract or as required by law or regulation. Contractor shall take all additional precautions as the CSU may reasonably require for safety and accident prevention purposes. Contractor's violation of such rules and requirements, unless promptly corrected, shall constitute a material breach of this Contract.

18. Insurance Requirements

The Contractor shall not commence Work until it has obtained all the insurance required in this Contract, and such insurance has been approved by the CSU.

(a) Policies and Coverage.

- (1) The Contractor shall obtain and maintain the following policies and coverage:
 - (i) Comprehensive or Commercial Form General Liability Insurance, on an occurrence basis, covering Work done or to be done by or on behalf of the Contractor and providing insurance for bodily injury, personal injury, property damage, and contractual liability. The aggregate limit shall apply separately to the Work.
 - (ii) Business Automobile Liability Insurance on an occurrence basis, covering owned, hired, and non-owned

CSU GENERAL PROVISIONS FOR SERVICE ACQUISITIONS

automobiles used by or on behalf of the Contractor and providing insurance for bodily injury, property damage, and contractual liability. Such insurance shall include coverage for uninsured and underinsured motorists

(iii) Worker's Compensation including Employers Liability Insurance as required by law.

(2) The Contractor also may be required to obtain and maintain the following policies and coverage:

(i) Environmental Impairment Liability Insurance should the Work involve hazardous materials, such as asbestos, lead, fuel storage tanks, and PCBs.

(ii) Other Insurance by agreement between the Trustees and the Contractor.

(b) Verification of Coverage.

The Contractor shall submit original certificates of insurance and endorsements to the policies of insurance required by the Contract to the Trustees as evidence of the insurance coverage. Renewal certifications and endorsements shall be timely filed by the Contractor for all coverage until the Work is accepted as complete. The Trustees reserve the right to require the Contractor to furnish the Trustees complete, certified copies of all required insurance policies.

(c) Insurance Provisions.

Nothing in these insurance provisions shall be deemed to alter the indemnification provisions in this Agreement. The insurance policies shall contain, or be endorsed to contain, the following provisions.

(1) For the general and automobile liability policies, the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents are to be covered as additional insureds.

(2) For any claims related to the Work, the Contractor's insurance coverage shall be primary insurance as respects the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents. Any insurance or self-insurance maintained by the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents shall be in excess of the Contractor's insurance and shall not contribute with it.

(3) Each insurance policy required by this section shall state that coverage shall not be canceled by either the Contractor or the insurance carrier, except after thirty (30) Days prior written notice by certified mail, return receipt requested, has been given to the Trustees.

(4) The State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents shall not by reason of their inclusion as additional insureds incur liability to the insurance carriers for payment of premiums for such insurance.

(d) Amount of Insurance.

(1) For all projects, the insurance furnished by Contractor under this Agreement shall provide coverage in amounts not less than the following, unless a different amount is stated in the Supplementary General Conditions:

(i) Comprehensive or Commercial Form General Liability Insurance--Limits of Liability

\$2,000,000 General Aggregate

\$1,000,000 Each Occurrence--combined single limit for bodily injury and property damage.

(ii) Business Automobile Liability Insurance-Limits of Liability

\$1,000,000 Each Accident-- combined single limit for bodily injury and property damage to include uninsured and underinsured motorist coverage.

(iii) Workers' Compensation limits as required by law with Employers Liability limits of \$1,000,000.

(2) For projects involving hazardous materials, the Contractor shall provide additional coverage in amounts not less than the following, unless a different amount is stated in the Supplementary General Conditions:

(i) Environmental Impairment (pollution) Liability Insurance-Limits of Liability

\$10,000,000 General Aggregate

\$ 5,000,000 Each Occurrence-- combined single limit for bodily injury and property damage, including cleanup costs.

(ii) In addition to the coverage for Business Automobile Liability Insurance, the Contractor shall obtain for hazardous material transporter services:

(a) MCS-90 endorsement

(b) Sudden & Accidental Pollution endorsement--Limits of Liability*

\$2,000,000 Each Occurrence

\$2,000,000 General Aggregate

*A higher limit on the MCS-90 endorsement required by law must be matched by the Sudden & Accidental Pollution Insurance.

With the Trustees' approval, the Contractor may delegate the responsibility to provide this additional coverage to its hazardous materials subcontractor. When the Contractor returns its signed project construction phase agreement to the Trustees, the Contractor shall also provide the Trustees with a letter stating that it is requiring its hazardous materials subcontractor to provide this additional coverage, if applicable. The Contractor shall affirm in this letter that the hazardous materials subcontractor's certificate of insurance shall also adhere to all CSU requirements. Further, this letter will provide that the subcontractor's certificate of insurance will be provided to the Trustees as soon as the Contractor fully executes its subcontract with the hazardous materials subcontractor, or within 30 Days of the Notice to Proceed, whichever is less.

CSU GENERAL PROVISIONS FOR SERVICE ACQUISITIONS

(e) Acceptability of Insurers.

Insurers shall be licensed by the State of California to transact insurance and shall hold a current A.M. Best's rating of A:VII, or shall be a carrier otherwise acceptable to the University.

(f) Subcontractor's Insurance.

Contractor shall ensure that its subcontractors are covered by insurance of the types required by this Contract, and that the amount of insurance for each subcontractor is appropriate for that subcontractor's Work. Contractor shall not allow any subcontractor to commence Work on its subcontract until the insurance has been obtained, and approved by the CSU. Only the Contractor and its hazardous materials subcontractor(s) shall have the coverage for projects involving hazardous materials.

(g) Miscellaneous.

- (1) Any deductible under any policy of insurance required in this Contract shall be Contractor's liability.
- (2) Acceptance of certificates of insurance by the Trustees shall not limit the Contractor's liability under the Contract.
- (3) In the event the Contractor does not comply with these insurance requirements, the Trustees may, at its option, provide insurance coverage to protect the Trustees. The cost of the insurance shall be paid by the Contractor and, if prompt payment is not received, may be deducted from Contract sums otherwise due the Contractor.
- (4) If the Trustees are damaged by the failure of Contractor to provide or maintain the required insurance, the Contractor shall pay the Trustees for all such damages.
- (5) The Contractor's obligations to obtain and maintain all required insurance are non-delegable duties under this Contract.
- (6) The Contractor's liability for damages proximately caused by acts of God (as defined in Public Contract Code section 7105) and not involving Contractor negligence shall be limited to five percent of the Contract.

19. General Indemnity

Contractor shall indemnify, defend, and hold harmless the State of California, Board of Trustees of the California State University, CSU, and their respective officers, agents and employees from any and all claims and losses accruing or resulting to any other person, firm or corporation furnishing or supplying work, service, materials or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation related to, arising out of or resulting from Contractor's performance of this Contract.

20. Invoices

Invoices shall be submitted, in arrears, to the address stipulated in the Contract. The Contract number must be included on the invoice. Final invoice shall be marked as such.

- (a) In the event that additional services are required, the Contractor shall submit invoices in accordance with provisions herein.
- (b) For work of a continuing nature, the Contractor shall submit invoices in arrears, upon completion of each phase. Contractor shall be reimbursed for travel, subsistence and business expenses necessary for the performance of services pursuant to the Contract in accordance with CSU policy.
- (c) Unless otherwise specified, the CSU shall pay properly submitted invoices not more than 45 days after
 - (i) the performance completion date of services; or
 - (ii) receipt of an undisputed invoice, whichever is later. Late payment penalties shall not apply to this Contract.
- (d) The consideration to be paid Contractor, as described within the Contract, shall be in full compensation for all of Contractor's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

21. Document Referencing

All correspondence, invoices, bills of lading, shipping memos, packages, etc., must show the Contract number. If factory shipment, the factory must be advised to comply. Invoices not properly identified with the Contract number and Contractor identification number may be returned to Contractor and may cause delay in payment.

22. Use of Data

Contractor shall not utilize any non-public CSU information it may receive by reason of this Contract, for pecuniary gain not contemplated by this Contract, regardless whether Contractor is or is not under contract at the time such gain is realized. CSU specific information contained in the report, survey, or other product developed by Contractor pursuant to this Contract is the property of CSU, and shall not be used in any manner by Contractor unless authorized in writing by CSU.

23. Confidentiality of Data

- (a) Contractor acknowledges the privacy rights of individuals to their personal information that are expressed in the Information Practices Act (California Civil Code Section 1798 et seq.) and in California Constitution Article 1, Section 1. Contractor shall maintain the privacy of personal information and protected data as confidential information. Contractor shall not use,

CSU GENERAL PROVISIONS FOR SERVICE ACQUISITIONS

disclose, or release confidential information contained in CSU records without full compliance with applicable state and federal privacy laws, and this Contract. Contractor further acknowledges and agrees to comply with Federal privacy laws, such as the Gramm-Leach-Bliley Act (Title 15, United States Code, Sections 6801(b) and 6805(b)(2)) applicable to financial transactions, and the Family Educational Rights and Privacy Act (Title 20, United States Code, Section 1232g) applicable to student education records and information from student education records. Contractor shall maintain the privacy of confidential information and shall be financially responsible for any notifications to affected persons (after prompt consultation with CSU) whose personal information is disclosed by any security breach relating to confidential information resulting from Contractor's or its personnel's acts or omissions. Further, If so requested by CSU, Contractor shall be administratively responsible for providing such notification in the most expedient time possible consistent with the methods prescribed in California Civil Code 1798.29g and 1798.82g.

- (b) Contractor further agrees that all financial, statistical, personal, technical and other data and information relating to CSU's operation designated "confidential" by CSU, and not otherwise subject to disclosure under the California Public Records Act, and made available to Contractor to perform this Contract or which become available to Contractor while performing this Contract, shall be protected by Contractor using the same level of care it takes to protect its own information of a similar nature, but in no event less than reasonable care. If required by a court of competent jurisdiction or an appropriate administrative body with legal authority to order the disclosure of confidential information or protected data, Contractor will notify CSU in writing prior to any such disclosure to give CSU an opportunity to oppose any such disclosure. Prior to any disclosure of confidential information as required by legal process, Contractor shall: (1) Notify CSU of any actual or threatened legal compulsion of disclosure, and any actual legal obligation of disclosure, immediately upon becoming so obligated; and
- (c) Contractor shall cooperate with any litigation or investigation proceedings concerning protected data loss or other breach of Contractor's obligations under this Contract. Any access, transmission, or storage of protected data outside the United States must be approved in writing by CSU in advance. Contractor's failure to comply with any provision of this Section shall constitute a material breach of the Contract.

24. Information Security Requirements

- (a) Contractor is required to comply with CSU Information Security Requirements as described in Rider A, Supplemental Provisions for General Provisions for Service Acquisitions, attached hereto and by reference made a part of this agreement.

- (b) Information Security Plan

Contractor is required to maintain an Information Security Plan sufficient to protect the sensitive and/or confidential CSU data to which they have access. Requirements for the Information Security Plan are described in Rider A.

- (c) Personal Security Requirements

Contractor shall require all its affiliates and subcontractors, as a condition to their engagement, to agree to be bound by provisions substantially the same as those included in this Agreement related to information security matters only.

Contractor shall not knowingly permit a representative or subcontractor to have access to CSU records, confidential data, or premises of the CSU when such representative or subcontractor has been convicted of a felony.

25. Patent, Copyright, and Trade Secret Indemnity

- (a) Contractor shall indemnify, defend, and hold harmless the State of California, Board of Trustees of the California State University, CSU, and their respective officers, agents, and employees (collectively referred to as CSU), from any and all third-party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any Intellectual Property Right, domestic or foreign, by any product or service provided hereunder. With respect to claims arising from computer Hardware or Software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to CSU, in addition to the foregoing provision, such indemnity rights as it receives from such third party ("Third-Party Obligation") and will cooperate in enforcing them; provided that if the third-party manufacturer fails to honor the Third-Party Obligation, Contractor will provide CSU with indemnity protection.

- (i) CSU will notify Contractor of such claim in writing and tender its defense within a reasonable time; and

- (ii) Contractor will control the defense of any action on such claim and all negotiations for its settlement or compromise, except when substantial principles of government or public law are involved, when litigation might create precedent affecting future CSU operations or liability, or when involvement of the CSU is otherwise mandated by law. In such case no settlement shall be entered into on behalf of CSU without CSU's written approval.

- (b) Contractor may be required to furnish CSU a bond against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.
- (c) Should the Deliverables or Software, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a Intellectual Property Right, whether domestic or foreign, CSU shall permit Contractor at its option and expense either to procure for CSU the right to continue using the Deliverables or Software or to replace or modify the same so they become non-infringing, provided they comply with Contract and performance requirements and/or expectations. If neither option can reasonably be practicable or if the use of such Deliverables or Software by CSU shall be prevented by injunction, Contractor agrees to take back such Deliverables or Software and use its best effort to assist CSU in procuring substitute Deliverables or Software at Contractor's cost and expense. If, in the sole

CSU GENERAL PROVISIONS FOR SERVICE ACQUISITIONS

opinion of CSU, the return of such infringing Deliverables or Software makes the retention of other Deliverables or Software acquired from Contractor under this Contract impracticable, CSU shall then have the option of terminating this Contract, or applicable portions thereof, without penalty or termination charge. Contractor agrees to take back such Deliverables or Software and refund any sums CSU paid Contractor less any reasonable amount for use or damage.

- (d) Contractor certifies it has appropriate systems and controls in place to ensure State funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of computer Software in violation of copyright laws.

26. Rights in Work Product

All inventions, discoveries, intellectual property, technical communications and records originated or prepared by Contractor pursuant to this Contract, including papers, reports, charts, computer programs, and other Documentation or improvements thereto, and including Contractor's administrative communications and records relating to this Contract (collectively, the "Work Product"), shall be Contractor's exclusive property. The provisions of this section may be revised in a Statement of Work. The provisions of this sub-section a) may be revised in a Statement of Work. However, all finished product or deliverables required under this contract shall be the exclusive property of the CSU and may be used at CSU's discretion.

27. Examination and Audit

For contracts in excess of \$10,000, Contractor shall be subject to the examination and audit by:

- (a) the Office of the University Auditor, and
- (b) the California State Auditor, for a period of three (3) years after final payment under the Contract. The examination and audit shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the Contract. Note: Authority Cited: Government Code Section 8546.7; Education Code Section 89045 (c&d), respectively.

28. Dispute

Any dispute arising under or resulting from this Contract that is not resolved within 60 days of time by authorized representatives of Contractor and CSU shall be brought to the attention of Contractor's Chief Executive Officer (or designee) and CSU's Chief Business Officer (or designee) for resolution. Either Contractor or CSU may request that the CSU Vice Chancellor, Business and Finance (or designee) participate in the dispute resolution process to provide advice regarding CSU contracting policies and procedures. If this informal dispute resolution process is unsuccessful, the Parties may pursue all remedies not inconsistent with this Contract. Despite an unresolved dispute, Contractor shall continue without delay in performing its responsibilities under this Contract. Contractor shall accurately and adequately document all service it has performed under this Contract.

29. Conflict of Interest

CSU requires a Statement of Economic Interests (California Form 700) to be filed by any Consultant (or Contractor) who is involved in the making or participation in the making of decisions which may foreseeably have a material effect on any CSU financial interest.

30. Follow-On Contracts

No person, firm, or subsidiary thereof who has been awarded a contract for Consulting Services or providing Direction (as provided below) may submit be awarded a contract for the provision of services, or any other related action that is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract.

- (a) If Contractor or its affiliates provides Consulting and Direction, Contractor and its affiliates:
 - (i) shall not be awarded a subsequent Contract to supply the service or system, or any significant component thereof, that is used for, or in connection with, any subject of such Consulting and Direction; and
 - (ii) shall not act as consultant to any person or entity that does receive a Contract described in sub-section (i). This prohibition will continue for one (1) year after termination of this Contract or completion of the Consulting and Direction, whichever is later.
- (b) "Consulting and Direction" means services for which Contractor received compensation from CSU and includes:
 - (i) development of, or assistance in the development, of work statements, specifications, solicitations, or feasibility studies;
 - (ii) development or design of test requirements;
 - (iii) evaluation of test data;
 - (iv) direction of or evaluation of another Contractor;
 - (v) provision of formal recommendations regarding the acquisition of products or services; or
 - (vi) provisions of formal recommendations regarding any of the above. For purposes of this Section, "affiliates" are employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.

CSU GENERAL PROVISIONS FOR SERVICE ACQUISITIONS

- (c) Except as prohibited by law, the restrictions of this Section will not apply:
 - (i) to follow-on advice given by vendors of commercial off-the-shelf products, including Software and Hardware, on the operation, integration, repair, or maintenance of such products after sale; or
 - (ii) where CSU has entered into a Contract for Software or services and the scope of work at the time of Contract execution expressly calls for future recommendations among the Contractor's own products.
- (d) The restrictions set forth in this Section are in addition to conflict of interest restrictions imposed on public Contractors by California law ("Conflict Laws"). In the event of any inconsistency, such Conflict Laws override the provisions of this Section, even if enacted after execution of this Contract.

31. Endorsement

Nothing contained in this Contract shall be construed as conferring on any Party, any right to use the other Party's name as an endorsement of product/service or to advertise, promote or otherwise market any product or service without the prior written consent of the other Party. Furthermore, nothing in this Contract shall be construed as endorsement of any commercial product or service by the CSU, its officers or employees.

32. Covenant Against Gratuities

Contractor shall warrant that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of CSU with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, CSU shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by CSU in procuring on the open market any items that Contractor agreed to supply shall be borne and paid for solely by Contractor. CSU's rights and remedies provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under the Contract.

33. Nondiscrimination

- (a) During the performance of this Contract, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition, age, marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- (b) Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- (c) Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.

34. Compliance with NLRB Orders

Contractor declares under penalty of perjury under the laws of the State of California that no more than one final, unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court to comply with an order of the National Labor Relations Board. Note: Cite Authority: PCC 10296

35. Drug-Free Workplace Certification

Contractor certifies that Contractor shall comply with the requirements of the Drug-Free Workplace Act of 1990 and shall provide a drug-free workplace by taking the following actions:

- (a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations
- (b) Establish a Drug-Free Awareness Program to inform employees about all of the following:
 - (i) the dangers of drug abuse in the workplace;
 - (ii) the person's or organization's policy of maintaining a drug-free workplace;
 - (iii) any available counseling, rehabilitation and employee assistance programs; and,
 - (iv) penalties that may be imposed upon employees for drug abuse violations.
- (c) Provide that every employee who works on the proposed or resulting Contract:
 - (i) will receive a copy of the company's drug-free policy statement; and,
 - (ii) will agree to abide by the terms of the company's statement as a condition of employment on the Contract. Note: Authority Cited: Government Code Section 8350-8357

CSU GENERAL PROVISIONS FOR SERVICE ACQUISITIONS

36. Forced, Convict, Indentured and Child Labor

By accepting a contract with CSU, Contractor:

- (a) certifies that no equipment, materials, or supplies furnished to CSU pursuant to this Contract have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor further certifies it will adhere to the Sweat-free Code of Conduct as set forth on the California Department of Industrial Relations website located at <http://www.dir.ca.gov/>, and Public Contract Code Section 6108.
- (b) agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under paragraph (A).

37. Recycled Content Certification

To the extent that services involve the supply of post-consumer materials (see below) Contractor shall certify in writing the minimum, if not exact, percentage of post-consumer material, as defined in Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to CSU regardless whether the product meets the requirements of Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (PCC 12205).

38. Child Support Compliance Act

For any contract in excess of \$100,000, Contractor acknowledges in accordance with Public Contract Code Section 7110, that:

- (a) Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- (b) Contractor, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

39. Americans With Disabilities Act (ADA)

Contractor warrants that it complies with California and federal disabilities laws and regulations. (Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq). Contractor hereby warrants the products or services it will provide under this Contract comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services. Contractor further agrees to indemnify and hold harmless CSU from any claims arising out of Contractor's failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a material breach of this Contract.

40. Debarment and Suspension

By accepting a contract with the CSU, Contractor certifies neither it nor its principals or its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency (*2 Code Federal Regulations [CFR] 180.220*, in accordance with the Office of Management and Budget guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235)).

41. Expatriate Corporations

Contractor declares and certifies that it is not an expatriate corporation, and is not precluded from contracting with CSU by The California Taxpayer and Shareholder Protection Act of 2003, Public Contract Code Section 10286, et seq.

42. Citizenship and Public Benefits

If Contractor is a natural person, Contractor certifies he or she is a citizen or national of the United States or otherwise qualified to receive public benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 110 STAT.2105, 2268-69).

43. Loss Leader

Contractor certifies and declares it is not engaged in business within this State of California to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. Note: Authority Cite: (PCC 12104.5(b).)

CSU GENERAL PROVISIONS FOR SERVICE ACQUISITIONS

44. DVBE and Small Business Participation

- (a) If Contractor has committed to achieve small business (SB) participation it shall, within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract), report to CSU: (1) the name and address of the SB(s) who participated in the performance of the Contract; (2) the total amount the prime Contractor received under the Contract; and (3) the amount each SB received from the prime Contractor. (Govt. Code § 14841.)
- (b) If Contractor has committed to achieve disabled veteran business enterprise (DVBE) participation, it shall, within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract), report to CSU:
- (1) the name and address of the DVBE(s) who participated in the performance of the Contract;
 - (2) the total amount the prime Contractor received under the Contract; and
 - (3) the amount each DVBE received from the prime Contractor. The Contractor shall also certify that all payments under the Contract have been made to the DVBE. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

45. Contractor's Staff

Contractor warrants that its staff assigned to performing work under this Contract are legally able to perform such duties in the country where the work is being performed.

46. Force Majeure

(a) Neither Party shall be liable for any failure to perform its obligations under this Contract for the period of time that it is prevented, hindered, or delayed in performing those obligations by circumstances beyond its control, including, but not limited to, fire, strike, war, riots, acts of terrorism, disaster, acts of God, acts of any governmental authority, communicable disease outbreak, epidemic or pandemic, unavailability or shortages of labor, materials, or equipment, disruption of transportation, or any other comparable event beyond the control of the Party whose performance is affected (each, a "Force Majeure Event").

(b) The Party claiming Force Majeure shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event, provide written notice to the other Party of the nature, extent, and expected duration of the Force Majeure Event and use its diligent efforts to mitigate the effects of the Force Majeure Event upon such Party's performance under this Contract, it being understood that upon completion of the Force Majeure Event, the Party whose performance was affected must, as soon as reasonably practicable, recommence the performance of its obligations under this Contract.

(c) Notwithstanding any other term in this Contract, including, but not limited to, the foregoing subsections of this section, during the period of a Force Majeure Event affecting performance by Contractor, CSU may elect to do all or any of the following:

- (i) suspend the Contract for the duration of the Force Majeure Event and be relieved of any payment obligation for goods or services not delivered or accepted due to the Force Majeure Event;
- (ii) obtain elsewhere the goods or services not delivered or accepted due to the Force Majeure Event;
- (iii) extend the time for Contractor's performance by a period equal to the duration of the Force Majeure Event; and/or
- (iv) terminate the Contract as to any goods or services not already received with no further financial obligation if the Force Majeure Event continues to exist for more than thirty (30) days.

47. COVID-19

In the event that CSU considers it necessary or prudent to cancel this Contract due to circumstances related to COVID-19, or to any reoccurrence of the COVID-19 outbreak, CSU may do so and be relieved of any further financial obligation, risk, or other liability by providing seventy-two (72) hours prior written notice of cancellation to Contractor. CSU's right to cancel the Contract pursuant to this section shall not be limited or restricted in any manner by any other term or section of this Contract.

48. Material Change of Circumstances

The terms of this Contract are based on conditions in existence on the date that Contractor commences performance. In the event of a material change in the conditions that adversely affects the ability of Contractor to perform its obligations, Contractor shall reasonably cooperate with CSU to minimize the impact from such change in conditions on Contractor's performance and shall, if requested by CSU, negotiate in good faith to adjust the terms of this Contract on a mutually agreeable basis to address the impact of such material change in conditions. This provision shall not limit CSU's ability to avail itself of any rights or remedies provided to CSU by law, equity or any other term of this Contract.

RIDER X

Supplemental Federal Procurement Provisions for Emergency Contracts

The following federally required contract terms shall be binding on the Parties in the event that this Contract constitutes an emergency purchase, to the degree that they are applicable to this Contract and legally required for CSU to secure public assistance and reimbursement pursuant to federal regulations and the Federal Emergency Management Agency ("FEMA") or any other related Federal funding in relation to this Contract. In the event of any conflict between the terms in this Rider X and any other term(s) of this Contract, the terms in this Rider X shall prevail to the degree that they are applicable and legally required for the CSU to secure FEMA public assistance and reimbursement.

(2 C.F.R. § 200.326; 2 C.F.R., Part 200, Appendix II)

1. REMEDIES FOR CONTRACTOR'S BREACH (all contracts in excess of \$250,000)

- a. In the event any deliverables furnished or services provided by Contractor in the performance of this Contract should fail to conform to the requirements herein, or to the sample submitted by Contractor, CSU may reject the same, and it shall thereupon become Contractor's duty to forthwith reclaim and remove all nonconforming deliverables and correct the performance of services, without expense to the CSU, and to immediately replace all such rejected items with others conforming to the specifications or samples. Should Contractor fail, neglect, or refuse to do so, CSU shall thereupon have the right, but not the obligation, to purchase in the open market, in lieu thereof, a corresponding quantity of any such items or services and to deduct the cost of such cover from any moneys due or that may thereafter become due to Contractor.
- b. In the event Contractor fails to make prompt delivery of any item or service as specified in the Contract, the same conditions as to CSU's right, but not obligation, to purchase in the open market and receive reimbursement from Contractor, as set forth in (a) above shall apply.
- c. If the CSU terminates this Contract, either in whole or in part, for Contractor's default or breach, Contractor shall compensate CSU, in addition to any other remedy CSU may have available to it, for any loss or damage sustained and cost incurred by the CSU in procuring any items or services that Contractor agreed to supply.
- d. CSU's rights and remedies provided in this Section 1 (Remedies for Contractor's Breach) shall not be exclusive and shall be in addition to any other rights and remedies provided by law, equity, or this Contract.

2. TERMINATION FOR CAUSE OR CONVENIENCE

- a. *Termination for Convenience.* CSU has the right to terminate this Contract at any time and without future financial obligation upon thirty (30) days written notice to Contractor.
- b. *Termination for Cause.* CSU may terminate the Contract and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants contained in this Agreement at the time and in the manner provided in the Agreement. In the event of such termination, the CSU may proceed with the work in any manner deemed proper by the CSU. The cost to the CSU shall be deducted from any sum due the Contractor under the Contract, and the balance, if any, shall be paid the Contractor upon demand.

3. CLEAN AIR ACT (all contracts and subcontracts in excess \$150,000, including indefinite quantities where the amount is expected to exceed \$150,000 in any year)

- a. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*
- b. Contractor agrees to report each violation to the CSU and understands and agrees that the CSU will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

4. FEDERAL WATER POLLUTION CONTROL ACT (all contracts and subcontracts in excess \$150,000, including indefinite quantities where the amount is expected to exceed \$150,000 in any year)

- a. Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.*
- b. Contractor agrees to report each violation to the CSU and understands and agrees that the CSU will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

5. DEBARMENT AND SUSPENSION

- a. This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- b. Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c. This certification is a material representation of fact relied upon by CSU. If it is later determined that Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to CSU, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

6. PROCUREMENT OF RECOVERED MATERIALS (all contracts for work involving the use of materials)

- a. In the performance of this Contract, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 - 1. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - 2. Meeting contract performance requirements; or
 - 3. At a reasonable price.
- b. Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.
- c. Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

7. ACCESS TO RECORDS

The following access to records requirements applies to this Contract:

- a. Contractor agrees to provide CSU, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- b. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

- c. Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.
- d. In compliance with the Disaster Recovery Act of 2018, the CSU and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

8. DEPARTMENT OF HOMELAND SECURITY (DHS) SEAL, LOGO, AND FLAGS

Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

9. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the Contract. Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

10. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Contract.

11. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions pertaining to this Contract

12. EQUAL EMPLOYMENT OPPORTUNITY

If the Agreement is for "Construction Work," defined as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services, the following provision shall apply.

During the performance of this Contract, Contractor agrees as follows:

- a. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. 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 race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint

or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- d. Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

- i. CSU further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Contract.
- j. CSU agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.
- k. CSU further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, CSU agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance

has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

13. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

If the Agreement is for an amount in excess of \$100,000 and involves the employment of mechanics or laborers (e.g., a contract for construction services), the following provision shall apply.

- a. *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- c. *Withholding for unpaid wages and liquidated damages.* CSU shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- d. *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

14. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (as amended)

- a. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.
- b. If the Agreement is for an amount in excess of \$100,000, Contractor must sign and submit to CSU the certification set forth in Attachment A:

ATTACHMENT A (EMERGENCY CONTRACTS)
APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

CSU Contractor Number

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

SECTION 5**BID SHEET**

In compliance with your proposal response for refuse collection services, you hereby propose to complete the stated work, as described, at the rates listed herein. If the University accepts your proposal, Contractor agrees to enter into a contract for Services under Event # SJSU-RFP-00000428-2023.

SECTION 5.1**FD&O - ON CALL****REFUSE AND RECYCLING COLLECTION MONTHLY COSTS**

Location	Container	Size	Frequency	Haul Cost (each time)	Total Monthly Costs (est.)*
BC#2 (10th St.)	Compactor	24 yds	On call	\$818.00	\$1636.00
IS (San Fernando)	Compactor	24 yds	On call	\$818.00	\$1636.00
DH(San Salvador)	Compactor	24yds	On call	\$818.00	\$1636.00
Corporation Yard	Compactor	34 yds	On call	\$1093.00	\$2186.00
So. Campus (Stadium)	1 Bin	20 yds	On call	\$518.00	\$1036.00
Art Foundry	1 Bin	10yds	On call	\$435.00	\$870.00
Engineering Courtyard	1 Bin	40 yds	On call	\$685.00	\$1370.00
Engineering Courtyard	1 Bin	10yds	On call	\$435.00	\$870.00
Hammer Theatre	1 Bin	3 Yds	On Call	\$35.00	\$70.00

Industrial Studies Courtyard	1 Bin	10 yds	On Call	\$435.00	\$870.00
Central Plant	Compactor	24 yds	On Call	\$372.00	\$744.00
Monthly Sub Total for this Section					\$12924.00

NOTE: The total monthly costs for "on call" compactors and bins are to be based on the potential for two (2) service calls per month. The actual number of calls shall be contingent on actual need.

* *Total Monthly Costs = Two (2) Haul Costs.*

****Add Alt #1 and #2 will be temporary until the university purchases the compactor for Add Alt #3 which will replace Add Alt #1 and #2.**

SECTION 5.2**FD&O - SCHEDULED PICK UP****REFUSE AND RECYCLING COLLECTION MONTHLY COSTS**

Location	Container	Size	Frequency	Total Monthly Costs
Simpkins Center	1 Bin	6 yds	3 x week	\$653.00
Simpkins Athletic Bldg	1 Bin	3 yds	3 x week	\$420.00
So. Campus (Humboldt)	1 Bin	3 yds	3 x week	\$420.00
*REVISED MLK Library	Compactor 1x	10 yds	1 x week	\$2179.00
MLK Library	Open Top X2 Mixed paper & Cardboard	4 yds	Mx2 Tues-Frix 1	\$240.00

*MLK Library – Compactor 10 yds 1 x per week

Monthly Sub Total for this Section	\$3912.00
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SECTION 5.3**SPARTAN SHOPS & STUDENT UNION - AS SPECIFIED
REFUSE AND RECYCLING COLLECTION MONTHLY COSTS**

Location	Container	Size	Frequency	Monthly Service Cost (scheduled)
SU Loading Dock San Fernando	Compactor Food Waste	20 yd	1x/Week Fridays	\$3565.00
SU Loading Dock San Fernando	2-Bins Mixed Recyclables	8 yd	5x/Week	\$980.00
Dining Commons 8 th Street	Compactor Food Waste	20 yd	*On Call Fridays	\$1782.00
Dining Commons 8 th Street	4-Bins, Mixed Recyclables	4yd	5x/Week	\$1605.00
Event Center	3-Bins, Mixed Waste/Refuse	4yd	2x/ Week: Tues & Sat before 8 am	\$996.00
Event Center	1 Bin Cardboard	4yd	2x/Week: Tues & Sat before 8 am	\$160.00

Monthly Sub Total for this Section	\$9088.00
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*NOTE: The total monthly costs for "on call" compactors and bins are to be based on the potential for two (2) service calls per month. The actual number of calls shall be contingent on actual need.

* *Total Monthly Costs = Two (2) Haul Costs.*

SECTION 5.4**UNIVERSITY HOUSING - SCHEDULED
REFUSE AND RECYLING COLLECTION MONTHLY COSTS**

Location	Container	Size	Frequency	Monthly Service Cost (scheduled)
Washburn Hall	1 Bin Mixed Waste/Refuse	6yd	3 x week	\$653.00
Joe West Hall	4 Bins Mixed Waste/Refuse	2yd	3 x week	\$1370.00
Campus Village	4 Bins Mixed Waste/Refuse	3 yd	5 x week	\$2802.00
Campus Village	4 Bins Mixed Recyclables	3yd	2 x week	\$606.00

Monthly Sub Total for this Section	\$5431.00
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All monthly service cost includes scheduled services as indicated in the specifications.

Bid Total for Section 5.1, 5.2, 5.3. 5.4: \$ 34117.90 Month

SECTION 5.5
ADDITIONAL SERVICES AS NEEDED

The pricing listed in Section 5.5 shall be considered binding to the awarded contractor, under the terms of this bid and subsequent agreement. Your bid price will not be considered in determining the award of this contract. The following services will be procured based on the needs of the university.

Section 5.5.1
CAMPUS WIDE - ON CALL ADDITIONAL BIN/SERVICES

Container	Size	Frequency	Haul Cost (per haul)
Bin Refuse	20yds	On call	\$518.00
Bin Refuse	30 yds	On call	\$685.00
Bin Refuse	40yds	On call	\$685.00
Bin Green Waste	10 yds	On call	\$393.00
Bin Green Waste	20 yds	On call	\$454.00
Bin Green Waste	30 yds	On call	\$572.00
Bin Metal	20yds	On call	\$0
Bin Metal	30 yds	On call	\$0
Bin Metal	40yds	On call	\$0
Bin Wood	20yds	On call	\$417.00
Bin Wood	30 yds	On call	\$516.00
Bin Wood	40 yds	On call	\$516.00

Bin Mixed recyclables	10 yds	On call	\$311.00
Bin Mixed recyclables	20 yds	On call	\$311.00
Bin Mixed recyclables	30yds	On call	\$372.00
Bin Mixed recyclables	40 yds	On call	\$372.00
Bin-Used beverage containers (cans & bottles)	10 yds	On call	\$500.00
Self-haul to haulers site	Refuse	Cost per cy	\$N/A
Self-haul to haulers site	Green Waste	Cost per cy	\$40.00

SECTION 5.5.2
PRESSURE WASHING SERVICES

Item	Hourly Rate
Pressure Washing of Compactors - Inside of compacted trash storage & hopper areas once per quarter	\$0

SECTION 5.5.3**COMPOST & MULCH COSTS**

Purchase shall be at the discretion of the university.

Item	Cost Per Cubic Yard
Compost - Suitable for organic use, self pick-up from hauler's site	\$30.00
Compost- Suitable for non-organic use, self pick-up from hauler's site	\$30.00
Mulch - Self pick-up from hauler's site	\$50.00
Compost - Suitable for organic use, delivered by hauler	\$35.00
Compost, Suitable for non-organic use, delivered by hauler	\$35.00
Mulch - Delivered by hauler	\$55.00

The University is interested in negotiating aggressive payment terms, including discounts for early payment (i.e. 5%-20, Net 30). Please indicate your best payment option for consideration. Terms less than Net-30 are not acceptable.

Payment terms offered: Net 30

Contractor Name GW Debris Services LLC

Name & Title of Contractor Designee Tracy Adams, Chief Executive Officer

Signature of Contractor Designee 

Telephone (408) 938-4938