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San Diego Unified Port District

Document No. **63318**

Filed **APR 08 2015**

Office of the District Clerk

**AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
AZTEC LANDSCAPING, INC.
for
AS NEEDED PRESSURE WASHING SERVICES
AGREEMENT NO. 42-2015**

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and AZTEC LANDSCAPING, INC., a California Corporation (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall provide services to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or his designated representative informed of the progress of said services at all times.

a. **As-Needed Services**

(1) Service Provider is aware that the services to be provided under this Agreement are on an as-needed basis as determined by the District. Service Provider may or may not receive a request to provide such services, and Service Provider may not receive the maximum expenditure of funds allocated for these services. No work or services will be performed until a task authorization has been signed by the District Representative.

(2) Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A: Scope of Services as requested by District by issuance of specific Task Authorization and agreed to by Service Provider.

(3) Services rendered under this Agreement shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA) for said services, in the format as shown in the attached Exhibit A,

attached hereto and incorporated herein. A Task Authorization shall not be considered effective until the Task Authorization has been signed by the District's designated representative.

2. **TERM OF AGREEMENT.** This Agreement shall commence on July 1, 2015 and shall terminate on June 30, 2019, subject to earlier termination as provided below.
3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:
 - a. **Maximum Expenditure.** The maximum expenditure under this Agreement shall not exceed \$86,161.81. Said expenditure shall include without limitation all sums, charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.
 - b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.
 - c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs.

Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. RECORDS

- a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.
- b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.
- c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall

preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-SERVICE PROVIDERS**

- a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's Sub-Service Providers shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's Sub-Service Providers. Service Provider shall compensate each Service Provider's Sub-Service Providers in the time periods required by law. Any Service Provider's Sub-Service Providers employed by Service Provider shall be independent Service Providers and not agents of District. Service Provider shall insure that Service Provider's Sub-Service Providers satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.

- b. Service Provider shall also include a clause in its Agreements with Service Provider's Sub-Service Providers which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's Sub-Service Providers to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

- a. In performance of this Agreement, Service Provider and Service Provider's Sub-Service Providers shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.
- b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision beyond rendition of such information, advice, or recommendations.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

- a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost

(including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.

- b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and defending any Claim arising from the services of the Service Provider provided for in this Agreement.
- c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

- a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

- (1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars (\$1,000,000) per Occurrence and two million dollars (\$2,000,000) Aggregate for bodily injury, personal injury and property damage.
 - (a) The deductible or self-insured retention on this Commercial General Liability shall not exceed \$5,000 unless District has approved of a higher deductible or self-insured retention in writing.
 - (b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District. An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).
 - (c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.
 - (d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").
- (2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than

one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

- (3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars (\$1,000,000) each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.
 - (4) Umbrella or Excess Liability insurance with limits no less than one million dollars (\$1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer's Liability policies.
- b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.

- c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.
- d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.
11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or Sub-Service Providers.
12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District

unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.
14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.
15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.
17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.
18. **DISPUTE RESOLUTION**
- a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other

procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

- b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, Sub-Service Provider and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.
- c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS**

- a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or Subcontractors) who provide any labor, services, equipment and/or materials (collectively, "Services") in connection with any work shall comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.
- b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls to the General Services & Procurement Department, 1400 Tidelands Avenue, National City, California 91950.

21. **SERVICE PROVIDER/CONTRACTOR REGISTRATION PROGRAM**

- a. In accordance with the provisions of Labor Code section 1771.1. (a) A contractor or subcontractor shall not be qualified to bid on; be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

- b. 2.4.1 No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
 - c. No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
 - d. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
22. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.
23. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.
- a. Submit all correspondence regarding this Agreement, including Insurance Certificates and Endorsements to:

Paige Schallberger, Department Business Manager
General Services Department
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488
Tel. (619) 686-8169
Email:pschallb@portofsandiego.org

- b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:

Marcy Grismer, VP of Operations
Aztec Landscaping, Inc.
7980 Lemon Grove Way
Lemon Grove , CA 91945
Tel. (619) 464-3303
Fax (619) 460-1106
Email: marcy@azteclandscaping.com

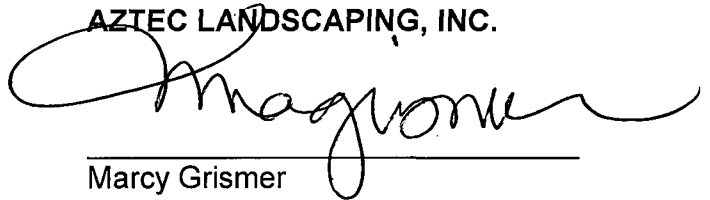
- c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT



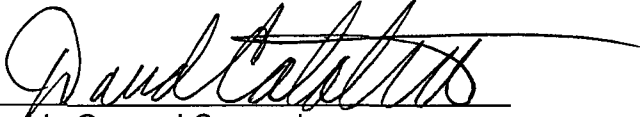
Karen Porteous
Executive Vice President

AZTEC LANDSCAPING, INC.



Marcy Grismer
VP of Operations

APPROVED AS TO FORM AND LEGALITY



Deputy General Counsel

ATTACHMENT A
SCOPE OF SERVICES
San Diego Unified Port District

A. General Information

Service Provider shall provide As Needed Pressure Washing Services at the San Diego Unified Port District (District) facilities and properties within the Cities of San Diego, Coronado, National City, Chula Vista, and Imperial Beach.

Services shall include high and low density pressure washing with variable temperature settings, wastewater recovery and disposal. Service Provider shall perform removal of foreign contaminants, such as dirt, graffiti, bird droppings, gum and wax. Service areas include maintenance cleaning of sprung structures located at B Street Cruise Ship Terminal and as needed maintenance cleaning of buildings, sidewalks, parking lots, benches, tables, piers, docks, windows, gangways, patios, flatwork, utility poles, and trash enclosures. In high trafficked areas Service Provider will be required to complete services in late evening or early morning hours. Service Provider shall provide all labor, supervision, materials, equipment and all related incidentals required to perform As Needed Pressure Washing Services. The unit prices in the fee schedule shall include full compensation for all labor, supervision, fuel, all applicable taxes and/or tax increases, materials, equipment, tools, cleanup, waste disposal, and incidentals required to perform As Needed Pressure Washing Services, and no other compensation will be allowed. Service Provider shall move, cover or protect any structures or equipment that may be damaged during As Needed Pressure Washing Services. Service Provider shall remove from Tidelands all materials, tools, equipment, debris and coverings upon completion of services.

While working on District property, the Service Provider's employees shall wear uniforms with appropriate company name and logo. Service Provider's vehicles shall be clearly marked with appropriate company name and logo.

B. Safety

Service Provider shall abide by all local, federal, State of California CAL/OSHA, OSHA, and District safety codes, policies, and procedures. Service Provider will be responsible for fines incurred if not in compliance with OSHA standards. Before the start of work, Service Provider shall post signs and provide barricades to safely protect the public. Service

Provider shall remove all signs and barricades at the completion of the work. Service Provider shall follow current Caltrans traffic control guidelines when performing work as applicable. Service Provider shall provide required submittals to the District Representative. A list of submittals may be found in the Submittals Section of this Scope of Services.

1. Service Provider shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the services provided.
2. Service Provider shall give notices and comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property to protect them from damage, injury or loss, and shall erect and maintain all necessary safeguards for such safety and protection.
3. Material usage shall be accomplished with strict adherence to California Division of Industrial Safety, or other governing regulations, and all manufacturers' warnings and application instructions listed on the Material Safety Data Sheet and on the product container label.
4. Injury & Illness Prevention Program - Service Provider shall prepare and submit to the District's representative, one copy of their Injury and Illness Prevention Program (IIPP) that addresses all the actions necessary to establish a safe working environment, prior to the commencement of on-site work. It is the Service Provider's responsibility to take all reasonable precautions to ensure the safety of the public and its employees and to comply with all federal, state, and local regulations. It is the Service Provider's responsibility to establish and maintain safe onsite working conditions for the duration of the project.

C. Environmental

1. All San Diego Port District Tidelands are regulated under Regional Water Quality Control Board Order No. R9-2013-0001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0109266, waste Discharge Requirements for Discharges of Urban Run-off from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego county, and the San Diego Unified Port District (Municipal Permit), as adopted, amended, and/or modified. The Municipal Permit prohibits any activities that could degrade storm water quality. All work to be completed as part of the Agreement must comply with all Municipal Permit requirements

and District direction related to permitted activities including the following requirements:

- a. No discharges of any material may enter the storm drain system or San Diego Bay including water, wash water, dust, petroleum products, soil or debris. Service Provider must immediately remove any such material that inadvertently enters the storm drain system and notify the District Representative.
- b. If any activity could potentially release materials to the storm drain system or the bay, the District Representative must be notified prior to activity and appropriate protection of the storm drain system shall be implemented as described in the California Stormwater Best Management Practices Handbooks developed by the California Stormwater Quality Association (www.cabmphandbooks.com), or the US EPA's Preliminary Data Summary of Urban Stormwater Best Management Practices (www.epa.gov/waterscience/guide/stormwater/). All storm drain protection systems must minimize the discharge of pollutants and be adequately maintained.
- c. Any materials being stored which could release constituents by wind or run-off transport shall be protected by overhead cover, secondary containment, tarpaulins, or other appropriate methods.
- d. Best Management Practices (BMPs) must be implemented to prevent water, wash water, and/or debris from being tracked or transported off of the work site.
- e. Any fuel products, lubricating fluids, grease or other products and/or waste released from Service Provider's vehicles or equipment shall be collected and disposed of immediately, in accordance with State, Federal, and local laws.
- f. All job site waste materials will be properly disposed of at the completion of work, including unsalvageable materials that may have been in the storm drain conveyance system.
- g. Service Provider shall ensure that all employees are trained on the nature and implementation of the special provisions outlined above. This training shall include identifying the location of the storm drains on the job site, highlighting the proximity of the bay and the direct connection between the storm drain and the bay, and identifying all BMPs to be implemented to prevent the discharge of pollutants to the storm drain conveyance system or the bay.

District Environmental and Land Use Management staff may conduct a storm water inspection to verify that BMPs are properly implemented at any time during the project. Additional BMPs may be recommended or required to eliminate or prevent discharges to the stormwater conveyance system or the receiving water.

Environmentally Preferable Products - In alignment with the District's Green Port Policy, the District will strive to minimize environmental impacts directly attributable to operations on San Diego Bay and the tidelands. In alignment with this Policy, the District has established criteria for the procurement of environmentally preferable products.

Accordingly, where practicable and cost effective, Service Provider shall use cleaning and disinfecting products that meet Green Seal certification at all District facilities. All cleaning and pressure washing products claiming Green Seal certification shall be required to bear this certification. Products recognized by the Environmental Protection Agency's (EPA) Safer Detergents Stewardship Initiative or the Design for the Environment Program are not required to be Green Seal certified. More information is available at www.greenseal.org and www.epa.gov/dfe. Germicidal detergents needed to perform services under this Agreement are not required to be Green Seal certified. Service Provider shall only use District approved equipment, materials, and supplies and shall comply with the District's Environmental Sustainability Policy. Accordingly, where practicable and cost effective, Service Provider shall use products that meet Green Seal certification for all services rendered under this Agreement. All products claiming Green Seal certification shall be required to bear this certification. More information is available at www.greenseal.org and www.epa.gov/dfe.

The District may permit the substitution or addition of environmentally preferable products when such products are readily available at a competitive cost and satisfy the District's performance needs. The District may choose to provide any environmentally preferable products for Service Provider's use during services rendered under this Agreement.

D. Execution

Task Authorization – As Needed Pressure Washing Services shall be undertaken by the Service Provider only upon issuance of a Task Authorization (Exhibit A – Sample of Task Authorization) by the District for said services. The Service Provider shall not perform services until the District Representative provides a written Task Authorization specifically indicating the scope and negotiated cost for the As Needed Pressure Washing Services. A Task Authorization shall not be considered effective until the form has been signed by the District. The District does not

guarantee a minimum or a total amount of as needed services against this agreement. Service Provider is wholly responsible for verifying all quantities and dimensions for estimating costs for the services.

Prior to the start of services, District may request Service Provider to test pressure and temperature of water to ensure no damage is done to underlying surfaces. Cleaning agents used shall comply with section III above.

1. **Cleaning of Large Sprung Structure** – Service Provider shall perform cleaning of the one (1) large sprung structure (approximately 160' L X 60' W X 20' H) at the B Street Cruise Ship Terminal. Upon the direction of the District Representative, Service Provider shall sample clean a small area of the sprung structure to ensure damage will not occur. Once approved by the District Representative, Service Provider shall thoroughly clean all exterior surfaces. Schedules may vary due to cruise ship operations. A cruise ship schedule will be provided to the Service Provider. All cleaning schedules shall be contained in the Task Authorization.
2. **Cleaning of Small Sprung Structure** – Service Provider shall perform cleaning of one (1) small sprung structure (approximately 80' L x 60'W x 20' H) at the B Street Cruise Ship Terminal. Upon the direction of the District Representative, Service Provider shall sample clean a small area of the sprung structure to ensure damage will not occur. Once approved by the District Representative, Service Provider shall thoroughly clean all exterior surfaces. Schedules may vary due to cruise ship operations. A cruise ship schedule will be provided to the Service Provider. All cleaning schedules shall be contained in the Task Authorization.
3. **As Needed Services** – The District may request additional pressure washing services that are not specifically defined in the above Execution. The District does not guarantee a minimum or total amount of the additional services.

E. Work and Response Time

Service Provider shall provide As Needed Pressure Washing Services that meet the following response times:

1. As Needed Service Calls - Service Provider shall provide as needed services in accordance with the written Task Authorization notification. Service Provider shall have an answering service, cell phone, or office personnel available during normal business hours to receive service request notifications. All work shall be coordinated with the District Representative between the hours of

7:00 a.m. and 4:00 p.m., Monday through Friday. No scheduled work shall be performed on Saturdays, Sundays, or designated holidays (see list of Federal Holidays – Exhibit C) unless authorized by the District Representative.

2. Rework - The District Representative shall inspect the quality of work and if required, Service Provider shall correct the work deficiencies at no additional cost to the District.

F. Submittals

Service Provider shall provide the following submittals to the District Representative, prior to the commencement of work.

1. Materials - Service Provider shall submit, for District Representative's acceptance, a list of all materials proposed to be used under this Agreement.
2. Permits - Whenever and/or wherever traffic control is required for public safety and convenience, Service Provider shall obtain a City Traffic Control Permit(s) for the pressure washing service. Service Provider shall also obtain all other permits incidental to the work, or made necessary by its operation, including but not limited to, those permits required for night work, overload and equipment, and pay all fees and costs incurred for and by the permit requirements. However, Service Provider shall not be entitled to reimbursement from the District for said fees and costs.
3. Equipment List - Service Provider shall submit, for District Representative's approval, a list of all motorized equipment proposed for use under this Agreement. No motorized equipment shall be used by Service Provider under this Agreement until the equipment is approved, in writing, by the District Representative.
4. Service Provider shall furnish three copies of Safety Data Sheet (SDS) for all chemicals used on District properties.
5. Injury and Illness Prevention Program (IIPP) - Service Provider shall submit one (1) copy of Injury and Illness Prevention Program (IIPP) that addresses all the actions necessary to establish a safe working environment, to the District Representative prior to the commencement of work.

G. Security Background Check and Badging

The District may require Service Provider's personnel to pass a security background check and wear a badge while on District property. Service Provider's personnel who do not initially pass the security check, or who subsequently have their security clearance withdrawn for any reason, shall not service in support of this Agreement.

The District reserves the right to limit the number of employees for security background check and badging. Service Provider shall submit to the District Representative within a minimum of seventy-two (72) hours a list of employees with security and badging clearance and maintain an updated list. Service Provider shall return all badges of terminated or terminating employees within seventy-two (72) hours of notice.

Service Provider shall comply with all local, state, federal, and District codes, policies and procedures. Service Provider shall abide by all security requirements incidental to the service or made necessary by its operation.

H. Licensing and Certification

Service Provider shall furnish to the District representative a copy of any license or certification necessary or related to the performance of services under this Agreement.

**ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District**

1. COMPENSATION

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Task Authorizations shall be Lump Sum.

Each invoice shall include:

Date work performed;
Description of the work performed;
Direct Costs.

(2) **Reimbursable Expenses**

Sub-Service Provider Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

Note: Reimbursement for direct costs in excess of \$50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

(3) The fee schedule below is a list of prices for Pressure Washing Services. Service Provider shall bill the District in accordance with the fee schedule below:

FEE SCHEDULE
Term 1
Date of Term (7/1/15-6/30/16)

Item No.	Item	Unit of Measure	Unit Price	Estimated Quantities	Total
A	Cleaning of Sprung (Large) Structure 160' L X 60' W X 20' H	EA	\$ 830.00	x 1	\$ 830.00
B	Cleaning of Sprung (Small) Structure 80' L x 60'W x 20' H	EA	\$ 665.00	x 1	\$ 665.00
C	As Needed Services	Per Task Authorization based on negotiated rates		Not to Exceed	\$20,000
TOTAL AMOUNT FOR TERM ONE					\$ <u>21,495.00</u>

FEE SCHEDULE
Term 2
 Date of Term (7/1/16-6/30/17)

Item No.	Item	Unit of Measure	Unit Price	Estimated Quantities	Total
A	Cleaning of Sprung (Large) Structure 160' L X 60' W X 20' H	EA	\$ 846.60	x 1	\$ 846.60
B	Cleaning of Sprung (Small) Structure(s) 80' L x 60'W x 20' H	EA	\$ 678.30	x 1	\$ 678.30
C	As Needed Services	Per Task Authorization based on negotiated rates		Not to Exceed	\$20,000
TOTAL AMOUNT FOR TERM TWO					\$ <u>21,524.90</u>

FEE SCHEDULE
Term 3
Date of Term (7/1/17-6/30/18)

Item No.	Item	Unit of Measure	Unit Price	Estimated Quantities	Total
A	Cleaning of Sprung (Large) Structure 160' L X 60' W X 20' H	EA	\$ 863.53	x 1	\$ 863.53
B	Cleaning of Sprung (Small) Structure(s) 80' L x 60'W x 20' H	EA	\$ 691.87	x 1	\$ 691.87
C	As Needed Services	Per Task Authorization based on negotiated rates		Not to Exceed	\$20,000
TOTAL AMOUNT FOR TERM THREE					\$ <u>21,555.40</u>

FEE SCHEDULE
Term 4
Date of Term (7/1/18-6/30/19)

Item No.	Item	Unit of Measure	Unit Price	Estimated Quantities	Total
A	Cleaning of Sprung (Large) Structure 160' L X 60' W X 20' H	EA	\$ 880.80	x 1	\$ 880.80
B	Cleaning of Sprung (Small) Structure(s) 80' L x 60'W x 20' H	EA	\$ 705.71	x 1	\$ 705.71
C	As Needed Services	Per Task Authorization based on negotiated rates		Not to Exceed	\$20,000
TOTAL AMOUNT FOR TERM FOUR					\$ <u>21,586.51</u>
TOTAL AMOUNT FOR ALL FOUR TERMS					\$ <u>86,161.81</u>

2. INVOICING

- a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.
- b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:
- (1) Agreement No. 42-2015
 - (2) If applicable, the Task Authorization(s) (TA) number being charged.
 - (3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. 63318 and that payment has not been received."
 - (4) Dates of service provided
 - (5) Date of invoice
 - (6) A unique invoice number
- c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.
- d. Invoices shall be mailed to the attention of:
- Invoice Processing Center - General Services
1400 Tidelands Ave.
National City, CA 91950
- e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.
- f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

**EXHIBIT A
TASK AUTHORIZATION FORM
San Diego Unified Port District**



(DEPARTMENT NAME)
San Diego Unified Port District
1400 Tidelands Ave
National City, CA 91950
(619) 686-6321

TASK AUTHORIZATION NO. 01-01

DATE

COMPANY NAME &
ADDRESS & FAX

Subject: Task Authorization for Agreement No. XX-XXXX

You are authorized to proceed with the work described in this correspondence, in an amount not to exceed **\$XXXXX**. This Task Authorization is in accordance with the terms of the subject agreement. **Please cite TA #01-01** on invoice(s) for this Task.

TASK DESCRIPTION

1.	Requestor:		4.	WO Number:	
2.	Date of Request:		5.	Start Date/End Date	
3.	Task Budget:				
6.	Task Title:				
7.	Scope of Services				

TASK DESCRIPTION, continued

AGREEMENT SUMMARY

Term of Year 1 Agreement XXXXXXXXX
Value of Additional

1 Services	\$ XXXXXX
2 Executed TA Total	\$ 0.00
3 Pending TA Total	\$ 0.00
4 Available Funds	\$ XXXXXX
5 Task Authorization Amount	\$ XXXXXX
6 Remaining Balance	\$ XXXXXX

APPROVALS

APPROVED: YES NO

Signature:

Name:

Name:

Title:

Title: Department Business Manager

Date:

Date:

EXHIBIT B CERTIFICATE OF INSURANCE San Diego Unified Port District

By signing this form, the authorized agent or broker **certifies** the following:

- (1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.
- (2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage **noted on page 2 of this certificate.**
- (3) Signed copies of **all** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to: **San Diego Unified Port District**
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 –OR–
Email: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)			SDUPD Agreement Number: _____ This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.	
CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability <input type="checkbox"/> Occurrence Form <input type="checkbox"/> Claims-made Form Retro Date _____ <input type="checkbox"/> Liquor Liability Deductible/SIR: \$ _____		Inception Date: Expiration Date:	Each Occurrence: \$ _____ General Aggregate: \$ _____
	Commercial Automobile Liability <input type="checkbox"/> All Autos <input type="checkbox"/> Owned Autos <input type="checkbox"/> Non-Owned & Hired Autos		Inception Date: Expiration Date:	Each Occurrence: \$ _____
	Workers' Compensation – Statutory Employer's Liability		Inception Date: Expiration Date:	E.L. Each Accident \$ _____ E.L. Disease Each Employee \$ _____ E.L. Disease Policy Limit \$ _____
	Excess/Umbrella Liability		Inception Date: Expiration Date:	Each Occurrence: \$ _____ General Aggregate: \$ _____
CO LTR	COMPANIES AFFORDING COVERAGE		A. M. BEST RATING	
A				
B				
C				
D				
A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A- VII or better unless approved in writing by the District.				
Name and Address of Authorized Agent(s) or Broker(s)			Phone Numbers	
			Toll Free: _____ Fax Number: _____	
			E-mail Address: _____	
			Signature of Authorized Agent(s) or Broker(s)	
			Date: _____	

SAN DIEGO UNIFIED PORT DISTRICT
REQUIRED INSURANCE ENDORSEMENT

<u>ENDORSEMENT NO.</u>	<u>EFFECTIVE DATE</u>	<u>POLICY NO.</u>
NAMED INSURED:		
GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES): All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises		

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.
2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.
3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").
4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.
5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

 (NAME OF INSURANCE COMPANY)

 (SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

<p>MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:</p> <p>San Diego Unified Port District c/o Ebix BPO P.O. Box 12010-3 Hemet, CA 92546-8010 – OR – Email to: sdupd@prod.certificatesnow.com Fax: 1-866-866-6516</p>

**EXHIBIT C
DISTRICT HOLIDAYS
San Diego Unified Port District**

FEDERAL HOLIDAYS

January	New Year's Day
January	Martin Luther King Jr. Day
February	President's Day
May	Memorial Day
July	Independence Day
September	Labor Day
October	Columbus Day
November	Veterans Day
November	Thanksgiving Day
December	Christmas Day



GENERAL SERVICES DEPT.
 San Diego Unified Port District
 1400 Tidelands Ave
 National City, CA 91950
 (619) 686-6321
 Fax (619) 686-8025

TASK AUTHORIZATION NO. 01-01

September 01, 2015

Marcy A. Grismer
 Aztec Landscaping, Inc.
 7980 Lemon Grove Way
 Lemon Grove, CA 91945
 Fax: (619)-460-1106

Subject: Task Authorization for Agreement No. 4600000654 (42-2015)
 As-Needed Pressure Washing

You are authorized to proceed with the work described in this correspondence, in an amount not to exceed **\$1,495.00**. This Task Authorization is in accordance with the terms of the subject agreement. **Please cite TA #01-01** on invoice(s) for this Task.

TASK DESCRIPTION

1.	Requestor:	Amy Tigri	4.	WO Number:	4053802
2.	Date of Request:	09/01/15	5.	Start Date/End Date:	09/11/15-09/18/15
3.	Task Budget:	\$1,495.00			
6.	Task Title: CST Power Wash (2) Sprung Structures				
A	Thoroughly clean all exterior surfaces of (1) Large Sprung Structure (160'L X 60'W X 20'H) \$830.00 x (1) Large Sprung Structure				\$830.00
B	Thoroughly clean all exterior surfaces of (1) Small Sprung Structure (80'L X 60'W X 20'H) \$665.00 x (1) Small Sprung Structure				\$665.00
NOTE: Schedule may change due to CST events or weather. POC: Amy Tigri 619-346-1325					
TOTAL					\$1,495.00

APPROVALS

APPROVED: YES NO

Name: Amy Tigri *Amy Tigri*
Title: Management Analyst
Date: 9/1/15

APPROVED: YES NO

Name: Paige Schallberger
Title: Department Assistant Director
Date: *Paige Schallberger*

DIRECTOR APPROVAL:

Signature: *[Signature]*
Name: Marco Cromartie
Title: General Services
Department Director
Date: 9/3/15

