



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt Resolution Authorizing City Manager to Execute Contracts for Fiscal Year 2013/14 with United Cerebral Palsy of San Joaquin, Amador, and Calaveras Counties, of Stockton, for Downtown Cleaning (\$46,686.00), Transit Facility Cleaning (\$38,455.50) and Hutchins Street Square Landscape Maintenance (\$15,995.87)

MEETING DATE: June 19, 2013

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt resolution authorizing City Manager to execute contracts for Fiscal Year 2013/14 with United Cerebral Palsy of San Joaquin, Amador, and Calaveras Counties, of Stockton, for downtown cleaning in the amount of \$46,686, transit facility cleaning in the amount of \$38,455.50 and Hutchins Street Square landscape maintenance in the amount of \$15,995.87.

BACKGROUND INFORMATION: United Cerebral Palsy (UCP) has been working for the Public Works Department since 2000 at several City facilities. Staff is proposing to contract with UCP for downtown cleaning, transit facility cleaning and Hutchins Street Square landscape maintenance. In the downtown area, emphasis is placed on School Street and addresses street furniture, trash, litter, spills, and leaf removal; the transit facility cleaning addresses the grounds surrounding Lodi Station, the Lodi Parking Structure, and sheltered bus stops; and work at Hutchins Street Square includes weekly landscape maintenance, such as weeding, shrub trimming and debris removal.

The UCP program provides meaningful work for the disabled. Each UCP crew includes four persons plus a supervisor. The program includes transportation and direct supervision for the crew at the rate of \$46.50 per hour for the downtown and transit facility cleaning and \$45.25 for the Hutchins Street Square landscape maintenance. UCP is the only known nonprofit organization that pays the disabled the State minimum wage. Other organizations are known to pay crew members less and cite additional benefits such as training, transportation, supervision, and overhead as reasons for below-minimum wage compensation. In addition to strengthening the self-esteem of these crew members, the citizens of Lodi continue to receive excellent services at a very competitive price.

Per Lodi Municipal Code Section 3.20.070, Bidding, the bidding process may be dispensed when the City Council determines that the purchase or method of purchase is in the best interests of the City. Staff recommends waiving the method of receiving competitive bids since it is advantageous for the City to receive this service at a very competitive price.

FISCAL IMPACT: Maintaining a clean downtown core, transit facility and Hutchins Street Square enhances the appearance of Lodi, resulting in increased visitation and sales tax generation.

APPROVED: _____


Konradt Bartlam, City Manager

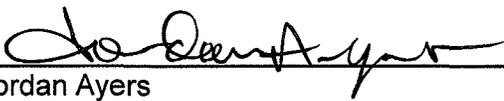
Adopt Resolution Authorizing City Manager to Execute Contracts for Fiscal Year 2013/14 with United Cerebral Palsy of San Joaquin, Amador, and Calaveras Counties, of Stockton, for Downtown Cleaning (\$46,686.00), Transit Facility Cleaning (\$38,455.50) and Hutchins Street Square Landscape Maintenance (\$15,995.87)

June 19, 2013

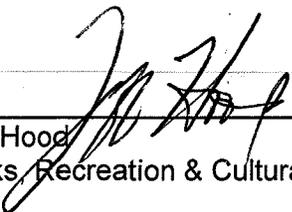
Page 2

FUNDING AVAILABLE: Funds for these contracts are provided in the following 2013/14 operating budgets.

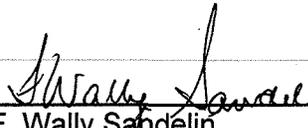
Downtown Cleaning:	\$46,686.00 – Street Fund (3215037)
Transit Facility Cleaning:	\$38,455.50 – Transit Fund (125052)
Hutchins Street Square Landscape Maintenance:	\$15,995.87 – HSS Fund (347115)



Jordan Ayers
Deputy City Manager/Internal Services Director



Jeff Hood
Parks, Recreation & Cultural Services Director



F. Wally Sandelin
Public Works Director

Prepared by Sean Nathan, Associate Engineer

FWS/SEN/pmf

cc: Deputy Public Works Director – Utilities
Building & Event Supervisor

Contract for "Downtown Lodi Cleaning Crew"

This contract agreement is made and entered into this 1st day of July 2013 between the United Cerebral Palsy Association of San Joaquin, Amador, and Calaveras Counties, (hereafter referred to as the Contractor) and the City of Lodi, (hereafter referred to as the Customer). This contract intends to define the responsibilities associated with the provision of a "Downtown Lodi Cleaning" service by the Contractor for the Customer. The Contractor, beginning July 1, 2013 will provide services associated with the "Downtown Lodi Cleaning" project. The duties outlined in the contract will not officially begin until Customer specifies.

The services for "Downtown Lodi Cleaning" outlined in the following proposal will be conducted by persons with disabilities affiliated with the Contractor's Supported Employment program. This program is considered cost-effective for the State of California because it transitions adults with special needs into gainful employment opportunities that they would otherwise not be able to obtain under normal circumstances. Because of the unique working relationship associated with this contract, the City of Lodi's specific needs for "Downtown Lodi Cleaning" will be met as well as the needs of the disabled worker.

The working relationship defined under this contract may be extended or terminated by either party with a written one-month notice or mutually agreed upon time.

This contract can be extended annually if mutually agreeable by both the Customer and Contractor.

In addition to the terms outlined between the Contractor and the Customer, both parties agree that:

- a) No alterations or variation of the terms of the contract shall be valid unless made in writing and signed by the Contractor and the Customer and no oral understanding or agreement not incorporated in the contract shall be binding on either party to the contract.
- b) Implementation of this contract cannot occur until both parties have approved the terms specified in the contract.
- c) The Customer retains the right to use the crew for other "cleaning projects" by mutual agreement between the Customer and Contractor. Additional charges for other projects will be assessed prior to beginning any project not related to "Downtown Lodi Cleaning".

It is suggested that the Customer, upon agreement of these terms, supply the Contractor an outline of specific responsibilities related to the "Downtown Lodi Cleaning" project's duties as outlined by the City of Lodi include:

- Work hours, Monday – Friday, 7:00 a.m. – 11:00 a.m., except holidays
- Empty trash containers Monday & Friday
- Clean all Downtown furniture weekly, dust benches, bollards, light standards
- Blow and collect leaves
- Remove litter, broken glass, cleanup spills
- Remove fallen leaves weekly
- Wash sidewalk areas around trash containers monthly
- Report hazards immediately – broken tree limbs, loose pavers, bent signs, etc.

The Contractor's responsibilities

1. The Contractor will provide the staff to make up one (1) crew of up to four (4) crewmembers, to ensure the production needs of the contract are met. The Contractor will assign one (1)

supervisor/job coach to ensure quality and accuracy of all duties associated with the required work. It shall be the responsibility of the supervisor/job coach to keep accurate account of each service performed and to monitor the quality standards set forth by the Customer. With prior approval, the Contractor may make modifications to the work station/area to accommodate crewmembers at no cost to the Customer.

2. The Contractor will perform "Downtown Lodi Cleaning" as designated by the Utility Superintendent – PW. The cleaning schedule will be a rotating schedule to ensure all designated Downtown areas receive adequate cleaning for the month. For convenience and safety UCP agrees to begin cleaning Downtown at 7:00 a.m. – 11:00 a.m., Monday through Friday.
3. It shall be the responsibility of the Contractor to train, supervise, schedule and oversee all crewmembers at no cost to the Customer. The Contractor agrees to provide the trainer(s)/supervisor(s) to the Customer at no additional charge to the Customer. The trainer(s)/supervisor(s) will remain on-site, in the immediate work area while crewmembers are present. The Contractor has the sole responsibility of all Workers' Compensation and wages paid to each crewmember and staff assigned to the work site.
4. The Contractor and not the Customer, will pay all crewmember wages; all personnel costs and liabilities (e.g., Workers' Compensation, insurance, state and federal taxes as well as any reimbursement costs), associated with the "Downtown Lodi Cleaning" services rendered.
5. Detailed tracking documents and the invoice will be submitted to the Customer on a monthly basis.
6. The Contractor will properly maintain all equipment and supplies to ensure that the project services associated with the daily operations not be negatively affected. If the Contractor damages any property due to negligence, or causes harm to persons through negligence, the Contractor will be responsible for all liabilities including repairing or replacing the Customer's property.
7. Notwithstanding the provisions of section 5 below under the Customer's responsibilities, all crewmembers will comply with the health and safety regulations established by the Customer while performing the contract services.

The Customer's Responsibilities

1. The Customer will reimburse the Contractor by the fifteenth (15th) working day of each month, after submission of invoice for services of \$46.50 for each hour associated with the "Downtown Lodi Cleaning".
2. The Customer will provide all Contractor crewmembers with "Downtown Lodi Cleaning" supplies and equipment specific to 'Special Services' as outlined in the proposal, to ensure the production and productivity of the contract is performed to the Customer's standards.
3. The Customer, within reason, will assist the Contractor crewmembers in locating and centralizing tools and equipment specific to the contract on an as needed basis.
4. The Customer will maintain confidentiality of all records and transactions with the Contractor.
5. The Customer will indemnify and hold harmless the State of California, its officers, agents and employees from any and all claims and losses occurring or resulting to any persons, firm or corporation that may be injured or damaged by the Contractor in the performance of this contract. This indemnity shall not apply to on the job injuries caused by the Contractor's Workers' Compensation injuries incurred by the Contractor's crewmembers.

The Contractor and the agent employees of the Contractor, in the performance of the contract, are acting in an independent capacity and not as officers or employees of the State of California.

Contract for "Transit Facility Cleaning"

This contract agreement is made and entered into this 1st day of July, 2013 between United Cerebral Palsy Association of San Joaquin, Amador, and Calaveras Counties, (hereafter referred to as the Contractor) and the City of Lodi, (hereafter referred to as the Customer). This contract intends to define the responsibilities associated with the provision of a "Transit Facility Cleaning" service by the Contractor for the Customer. The Contractor, beginning July 1, 2013, will provide services associated with the "Transit Facility Cleaning" project. The duties outlined in the contract will not officially begin until Customer specifies.

The services for "Transit Facility Cleaning" outlined in the following proposal will be conducted by persons with disabilities affiliated with the Contractor's Supported Employment program. This program is considered cost-effective for the State of California because it transitions adults with special needs into gainful employment opportunities that they would otherwise not be able to obtain under normal circumstances. Because of the unique working relationship associated with this contract, the City of Lodi's specific needs for "Transit Facility Cleaning" will be met as well as the needs of the disabled worker.

The working relationship defined under this contract may be extended or terminated by either party with a written one-month notice or mutually agreed upon time.

In addition to the terms outlined between the Contractor and the Customer, both parties agree that:

- a) No alterations or variation of the terms of the contract shall be valid unless made in writing and signed by the Contractor and the Customer and no oral understanding or agreement not incorporated in the contract shall be binding on either party to the contract.
- b) Implementation of this contract cannot occur until both parties have approved the terms specified in the contract.
- c) The Customer retains the right to use the crew for other "cleaning projects" by mutual agreement between the Customer and Contractor. Additional charges for other projects will be assessed prior to beginning any project not related to "Transit Facility Cleaning".

It is suggested that the Customer, upon agreement of these terms, supply the Contractor an outline of specific responsibilities related to the "Transit Facility Cleaning" projects duties as outlined by the City of Lodi. Specific responsibilities for all parking lots include removal of litter, debris, leaves, and weeds as needed. At the Lodi Station Parking structure, specific responsibilities include those itemized above as well as washing down spilled or leaked fluids and emptying trash containers.

This contract can be extended annually if mutually agreeable by both the Customer and Contractor.

The Contractor's Responsibilities

1. The Contractor will provide the staff to make up one (1) crew of up to (4) crewmembers, to ensure the production needs of the contract are met. The Contractor will assign one (1) supervisor/job coach to ensure quality and accuracy of all duties associated with the required work. It shall be the responsibility of the supervisor/job coach to keep accurate account of each service performed and to monitor the quality standards set forth by the Customer. With prior approval, the Contractor may make modifications to the work station/area to accommodate crewmembers at cost to the Customer.
2. The Contractor will perform "Transit Facility Cleaning" for City owned facilities such as the Lodi Train Station, the Lodi Station Parking Structure and Grapeline bus shelter as designated by the Transportation Manager. The cleaning schedule will be a rotating schedule to ensure all designated areas receive adequate cleaning for the month. The Contractor will also collect garbage from bus stops as needed. The Contractor will be responsible for the bus stops mentioned in Exhibit A.

Bus Stops Exhibit A

Target, Lowe's, Lower Sacramento Road North of Elm Street, Lower Sacramento Road by Meritage Apartments, Salisbury's (Turner Road and Woodhaven Lane), Lodi Lake on Turner Road near the main gate,

Lockeford Street at Calaveras Street, Hale Park, Loel Center, Smart and Final, Central Avenue at Tokay Street, Central Avenue at Boys and Girls Club, Kofu Park, Municipal Service Center, Lower Sacramento Road at Tejon Street, Stockton Street at Lodi Parks and Recreation, Stockton Street at Pine Street, Central Avenue at Cypress Street, Cherokee Lane at Rancho San Miguel, Kettleman Lane at BevMo, Lodi Adult School, Hutchins Street at Century Boulevard, Ham Lane at Lodi Avenue, Ham Lane at Lodi Memorial Hospital, Kettleman Lane at IHOP, Cherokee Lane at Hale Street, Cherokee Lane at Lodi Avenue, Church Street at Locust Street, Kettleman Lane at Ham Lane, Lower Sacramento Road at Vine Street.

3. It shall be the responsibility of the Contractor to train, supervise, schedule and oversee all crewmembers at no cost to the Customer. The Contractor agrees to provide the trainer(s)/supervisor(s) to the Customer at no additional charge to the Customer. The trainer(s) / supervisor(s) will remain onsite, in the immediate work area while crewmembers are present. The Contractor has the sole responsibility of all Workers' Compensation and wages paid to each crewmember and staff assigned to the work site.
4. The Contractor and not the Customer, will pay all crewmember wages; all personnel costs and liabilities (e.g., Workers' Compensation, insurance, state and federal taxes as well as any reimbursement costs), associated with the "Transit Facility Cleaning" services rendered.
5. Detailed tracking documents, time studies and the invoice will be submitted to the Customer on a monthly basis.
6. The Contractor will properly maintain all equipment and supplies to ensure that the project services associated with the daily operations are not negatively effected. If the Contractor damages any property due to negligence, or causes harm to persons through negligence, the Contractor will be responsible for all liabilities including repairing or replacing the Customer's property.
7. Notwithstanding the provisions of section 5 below under the "Customer's Responsibilities", all crewmembers will comply with the health and safety regulations established by the Customer while performing the contract services.

The Customer's Responsibilities

1. The Customer will reimburse the Contractor by the fifteenth (15th) working day of each month, after submission of invoice for services of \$46.50 for each hour associated with the "Transit Facility Cleaning". This cost will not exceed \$40,000 per year regardless of hours worked. This shall be considered full compensation for all the Contractor's expenses incurred in the performance of the contract.
2. The Customer will provide all Contractor crewmembers with "Transit Facility Cleaning" supplies and equipment specific to "Special Services" as outlined in the proposal, to ensure the production and productivity of the contract is performed to the Customer's standards.
3. The Customer, within reason, will assist the Contractor crewmembers in locating and centralizing tools and equipment specific to the contract on an as needed basis.
4. The Customer will maintain confidentiality of all records and transactions with the Contractor.
5. The Customer will indemnify and hold harmless the State of California, its officers, agents and employees from any and all claims and losses occurring or resulting to any persons, firm or corporation that may be injured or damaged by the Contractor in the performance of this contract. This indemnity shall not apply to on the job injuries caused by the Contractor's Workers' Compensation injuries incurred by the Contractor's crewmembers.

Transit Facility Cleaning Contract – Federal Clauses

The following terms and conditions, namely paragraphs 1 through 11, are incorporated in and made a part of the attached contract between the City of Lodi and United Cerebral Palsy Association of San Joaquin, Amador, and Calaveras Counties, as though fully set forth therein.

1. Energy Conservation

CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 *et seq.*

2. Access to Records

The following access to records requirements apply to this Contract:

- A. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, U. S. Secretary of Transportation, the Comptroller General of the United States or any of their authorized representatives access to all third party contract records as required by 49 U.S.C. § 5325(g). Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
- B. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
- C. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
- D. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- E. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- F. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.36(i)(11).
- G. FTA does not require the inclusion of these requirements in subcontracts.

3. Federal Changes

CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Department of Transportation, Federal Transit Administration, Master Agreement (FTA MA 17 dated October 1, 2010), between City of Lodi and FTA, as they may be amended or promulgated from time to time during the term of this contract. CONTRACTOR's failure to so comply shall constitute a material breach of this contract.

4. No Government Obligation to Third Parties

The CITY OF LODI and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to CITY OF LODI, CONTRACTOR, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The CONTRACTOR agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the SUBCONTRACTOR who will be subject to its provisions.

5. Program Fraud and False or Fraudulent Statements or Related Acts.

The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate.

The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the CONTRACTOR, to the extent the Federal Government deems appropriate.

The CONTRACTOR agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the SUBCONTRACTOR who will be subject to the provisions.

6. Termination

A. Termination for Convenience (General Provisions)

The CITY OF LODI may terminate this contract, in whole or in part, at any time by written notice to the CONTRACTOR. The CONTRACTOR shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to CITY OF LODI to be paid the CONTRACTOR. If the CONTRACTOR has any property in its possession belonging to CITY OF LODI, the CONTRACTOR will account for the same, and dispose of it in the manner CITY OF LODI directs.

B. Termination for Default [Breach or Cause] (General Provisions)

If the CONTRACTOR does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the CONTRACTOR fails to perform in the manner called for in the contract, or if the CONTRACTOR fails to comply with any other provisions of the contract, CITY OF LODI may terminate this contract for default. Termination shall be effected by serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by CITY OF LODI that the CONTRACTOR had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or beyond the control of the CONTRACTOR, CITY OF LODI, after setting up a new delivery of performance schedule, may allow the CONTRACTOR to continue work, or treat the termination as a termination for convenience.

C. Opportunity to Cure (General Provisions)

The CITY OF LODI in its sole discretion may, in the case of termination for breach or default, allow the CONTRACTOR an appropriately short period of time in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to (Recipient)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from CITY OF LODI setting forth the nature of said breach or default, (Recipient) shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude (Recipient) from also pursuing all available remedies against Contractor and its sureties for said breach or default.

D. Waiver of Remedies for any Breach

In the event that (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by CITY OF LODI shall not limit CITY OF LODI's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

E. Termination for Convenience of Default (Cost-Type Contracts)

The CITY OF LODI may terminate this contract, or any portion of it, by serving a notice of termination on the Contractor. The notice shall state whether the termination is for convenience of the CITY OF LODI or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the CITY OF LODI, or property supplied to the Contractor by the CITY OF LODI. If the termination is for default, the CITY OF LODI may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the CITY OF LODI and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the CITY OF LODI, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the CITY OF LODI determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the CITY OF LODI, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

7. Government-wide Debarment and Suspension (Nonprocurement)

The CONTRACTOR agrees to comply, and assures the compliance of each third party CONTRACTOR and SUBCONTRACTOR at any tier, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Government wide Debarment and Suspension (Nonprocurement)," within 49 C.F.R. Part 29.

8. Civil Rights

- A. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the CONTRACTOR agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- B. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
1. Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. 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. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.
 2. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.
 3. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

The CONTRACTOR also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

9. Disadvantaged Business Enterprise

Contractor Assurance. Pursuant to 49 CFR part 26, the Contractor is required to make the following assurance in its agreement with the City and to include this assurance in any agreements it makes with subcontractors in the performance of this contract:

"The Contractor or Subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure of the Contractor or Subcontractor to carry out these requirements is a material breach of contract, which may result in the termination of contract by the City, or any other such remedy the City may deem appropriate".

The City's DBE Program, as required by 49 CFR part 26, as approved by DOT, is incorporated by reference in this section.

Implementation of this DBE Program is a legal obligation and failure to carry out its terms shall be treated as a violation of this contract. Upon notification of failure to carry out its approved program, the DOT and/or the Federal Transit Administration (FTA) may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq).

10. Prompt Payment

a. Prompt Progress Payment to Subcontractors

Attention is directed to the provisions in Federal Regulations (49 CFR 26.29) concerning payment to subcontractors. The contractor shall make prompt and regular incremental acceptances of portions, as determined by the CITY OF LODI of the contract work and pay retainage to the prime contractor based on these acceptances.

b. Prompt Payment of Payment of Withheld Funds to Subcontractors

The prime contractor agrees to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Lodi. This clause applies to both DBE and non-DBE subcontracts.

Any violation of this provision shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code.

This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance; and/or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE subcontractors

11. Incorporation of FTA Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any CITY OF LODI request, which would cause CITY OF LODI to be in violation of the FTA terms and conditions.

The Contractor and the agent employees of the Contractor, in the performance of the contract, are acting in an independent capacity and not as officers or employees of the State of California.

Transit Facility Cleaning Cost Projection

FY 13-14	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	Total
Hrs. Serviced	71.5	71.5	65	74.75	61.75	65	68.25	65	68.25	71.5	73.5	71	827
Parking Lot Cost per Hr.	\$46.50	\$46.50	\$46.50	\$46.50	\$46.50	\$46.50	\$46.50	\$46.50	\$46.50	\$46.50	\$46.50	\$46.50	
Parking Lot Cost per Month	\$3,324.75	\$3,324.75	\$3,022.50	\$3,475.88	\$2,871.38	\$3,022.50	\$3,173.62	\$3,022.50	\$3,173.62	\$3,324.75	\$3,417.75	\$3,301.50	\$38,455.50

By binding signatures, United Cerebral Palsy of San Joaquin, Calaveras, & Amador Counties and the City of Lodi agree to all the stipulations in the agreement and its attachments:

Signature of Contractor Representative

Date

CITY OF LODI

Konradt Bartlam, City Manager

Date

ATTEST:

Randi Johl, City Clerk

APPROVED AS TO FORM:

D. Stephen Schwabauer, City Attorney

**Landscape Maintenance Contract
City of Lodi
Hutchins Street Square**

This contract agreement is made and entered into, this 1st day of July, 2013 between United Cerebral Palsy Association of San Joaquin, Amador, and Calaveras Counties, (hereafter referred to as the Contractor) and the City of Lodi, Hutchins Street Square, (hereafter referred to as the Customer).

This contract defines the responsibilities associated with the provision of "Landscape Maintenance" services by the Contractor for the Customer. The Contractor, beginning July 1, 2013, will provide services associated with the "Landscape Maintenance" project.

The services for "Landscape Maintenance" outlined in the following proposal will be conducted by persons with disabilities affiliated with the Contractor's Supported Employment program. This program is considered cost-effective for the State of California because it transitions adults with special needs into gainful employment opportunities that they would otherwise not be able to obtain under normal circumstances. Because of the unique working relationship associated with this contract the City of Lodi's specific needs for "Landscape Maintenance" will be met as well as the needs of the disabled worker.

The working relationship defined under this contract may be extended or terminated by either party with a written one-month notice or mutually agreed upon time.

This contract can be extended annually if mutually agreeable by both the Customer and Contractor.

The Contractor's responsibilities

1. The Contractor will provide the staff to make up one (1) crew of up to four (4) crewmembers, to ensure the production needs of the contract are met. The Contractor will assign one (1) supervisor/job coach to ensure quality and accuracy of all duties associated with the required work. It shall be the responsibility of the supervisor/job coach to keep accurate account of each service performed and to monitor the quality standards set forth by the Customer. With prior approval, the Contractor may make modifications to the work station/area to accommodate crewmembers at no cost to the Customer.
2. The contractor will perform the work associated with "Landscape Maintenance" at the City's Hutchins Street Square location.
3. It shall be the responsibility of the Contractor to train, supervise, schedule and oversee all crewmembers at no cost to the Customer. The Crew Instructor(s) will remain on-site, in the immediate work area while crewmembers are present.
4. The Contractor and not the Customer will pay all crewmember and supervisor/job coach wages; all personnel costs and liabilities (e.g., Worker's Compensation, insurance, state and federal taxes as well as any reimbursement costs), associated with the "Landscape Maintenance" services rendered.
5. Detailed tracking documents and the invoice will be submitted to the customer on a monthly basis.
6. The Contractor will properly maintain all equipment and supplies to ensure that the project services associated with the daily operations are not negatively effected. If the Contractor damages any property due to negligence, the Contractor will be liable to repair or replace the Customer's property.

7. All crewmembers will comply with the health and safety regulations established by OSHA, the State of California, and the Customer while performing the contract services.
8. The Contractor will make up the lost hours due to holidays, the following business day.
9. The Contractor will provide the following service once a week;
 - a. Weed whack all areas including utility boxes, sprinklers heads etc.
 - b. Blow and clean up all areas worked by contractor.
 - c. Weed and trim all shrubs, trees and plant life in flowerbeds.

The Customer's responsibilities

1. The Customer will reimburse the Contractor by the fifteenth (15th) working day of each month, after submission of invoice for services rendered, associated with the "Landscape Maintenance". The method of reimbursement shall reflect a rate of \$45.25 per hour multiplied by the total number of hours worked for that month.
2. The Customer will provide all Contractor crewmembers, with "Landscape Maintenance" supplies and equipment specific to the daily "Landscape Maintenance" duties as well as 'Special Services' as outlined in the proposal, to ensure the production and productivity of the contract is performed to the Customer's standards.
3. The Customer within reason will assist the Contractor crewmembers in locating and centralizing tools and equipment specific to the contract when necessary, to improve services. Other consultations will be conducted on an as needed basis.
4. To the greatest extent permitted by the public records act and other applicable law, the Customer will maintain confidentiality of all personal and medical records and transactions specific to the Contractor's employees.

Landscape Maintenance Cost Projection

FY 13-14	July	August	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	Total
Hrs. Serviced	41.5	36	32	36	20	16	20	16	32	36	36	32	353.5
Cost Per Hr.	\$45.25	\$45.25	\$45.25	\$45.25	\$45.25	\$45.25	\$45.25	\$45.25	\$45.25	\$45.25	\$45.25	\$45.25	
Cost Per Month	\$1,877.87	\$1,629	\$1,448	\$1,629	\$905	\$724	\$905	\$724	\$1,448	\$1,629	\$1,629	\$1,448	\$15,995.87

By binding signatures, United Cerebral Palsy of San Joaquin, Calaveras, & Amador Counties and the City of Lodi, Hutchins Street Square agree to all the stipulations in this agreement and its attachments:

Signature of Contractor Representative

Date

CITY OF LODI

Konradt Bartlam, City Manager

Date

ATTEST:

APPROVED AS TO FORM

Randi Johl, City Clerk

D. Stephen Schwabauer, City Attorney

RESOLUTION NO. 2013-124

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO EXECUTE
CONTRACTS FOR FISCAL YEAR 2013/14 FOR
DOWNTOWN CLEANING, TRANSIT FACILITY
CLEANING, AND HUTCHINS STREET SQUARE
LANDSCAPE MAINTENANCE

=====

WHEREAS, United Cerebral Palsy (UCP) has been working for the Public Works Department since 2000 at several City facilities; and

WHEREAS, the Downtown emphasis is placed on School Street and addresses street furniture, trash, litter, spills, and leaf removal; the Transit Facility service addresses the exterior of the Lodi Station, the Lodi Parking Structure, and sheltered bus stops; and the Hutchins Street Square service includes weekly landscape maintenance such as weeding, shrub trimming, and debris removal; and

WHEREAS, the UCP program provides meaningful work for the disabled. The program includes transportation and direct supervision for the crew at a contract rate of \$46.50 per hour for Downtown cleaning and Transit Facility cleaning; and \$45.25 for Hutchins Street Square landscape maintenance. UCP is the only known non-profit organization that pays the disabled the State minimum wage. In addition to strengthening the self-esteem of these crew members, the citizens of Lodi continue to receive excellent services at a very competitive price.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute the contracts for fiscal year 2013/14 with United Cerebral Palsy of San Joaquin, Amador, and Calaveras Counties, of Stockton, for Downtown cleaning in the amount of \$46,686; Transit Facility cleaning in the amount of \$38,455.50; and Hutchins Street Square Landscape Maintenance in the amount of \$15,995.87.

Dated: June 19, 2013

=====

I hereby certify that Resolution No. 2013-124 was passed and adopted by the City Council of the City of Lodi in a regular meeting held June 19, 2013, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Katzakian, and
Mayor Nakanishi

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Mounce

ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL
City Clerk