

AUG 31 2020

Approved

REQUEST FOR AGENDA PLACEMENT FORM

Submission Deadline - Tuesday, 12:00 PM before Court Dates

SUBMITTED BY: Ralph McBroom

TODAY'S DATE: August 27, 2020

DEPARTMENT: Purchasing

SIGNATURE OF DEPARTMENT HEAD:

REQUESTED AGENDA DATE: August 30, 2020

SPECIFIC AGENDA WORDING: Consideration and approval of Enviro-Master Services, Inc. Service Agreement and Johnson County Contract Terms Addendum for sanitation services including electrostatic spraying for Johnson County Guinn Justice Center.

PERSON(S) TO PRESENT ITEM: Ralph McBroom C.P.M.

SUPPORT MATERIAL: (See attached)

TIME: 5 min

(Anticipated number of minutes needed to discuss item)

ACTION ITEM: X

WORKSHOP

CONSENT:

EXECUTIVE:

STAFF NOTICE:

COUNTY ATTORNEY: X

AUDITOR:

PERSONNEL:

BUDGET COORDINATOR:

IT DEPARTMENT:

PURCHASING DEPARTMENT:

PUBLIC WORKS:

OTHER:

*****This Section to be completed by County Judge's Office*****

ASSIGNED AGENDA DATE: _____

REQUEST RECEIVED BY COUNTY JUDGE'S OFFICE _____

COURT MEMBER APPROVAL _____ Date _____



SERVICE AGREEMENT

Customer Name: Guinn Justice Center

Physical Address: 204 S. Buffalo Street

City: Cleburne State: TX Zip: 76033

Authorized Contact Name and Title: Ralph McBroom - Johnson County Purchasing Agent

Work Phone: 817-556-6382 Cell: 214-542-5173

Email: rncbroom@johnsoncountytexas.com

Account Representative Initials Jeff Madl Payment Method: Credit Card ACH COD Inv

Facility Information

Restrooms Cleaned: 29 Facility Touchpoint Spray

Services:

Sani-Service + Sani-Scrub + Sani-Guard + Drain Service + Products + Initial Cleaning Fee + Trip Fee = Subtotal

Initial Charges:

\$259.00 + n/a + \$750.00 + n/a + n/a + \$500.00 + 5.00 = \$1,514.00

Frequency: Dispenser Needed for Install:

Sani: Weekly Soap: 0

Scrub: n/a AF: 0

Spray: Weekly

Weekly Charges:

\$259.00 + \$750.00 + \$5.00 = \$1,014.00

Products/Notes:

Enviro-Master Services DFW will provide the following services for the Guinn Justice Center in Johnson County Texas.

1. An initial deep clean of all sinks, toilets and urinals, this initial cleaning takes 2-4 times as long as our regular weekly service, after that, we do the below steps weekly. We follow the following three steps every week when sanitizing and disinfecting restrooms.

- Clean and replace your urinal screens.
- Use chemicals, to clean and sanitize the chrome, toilet(s), sink(s) and urinal(s), removing any dirt, grime and uric scale.
- I apply a protective barrier, to your toilet, sinks and urinals.
- Finally, our Sani-Guard process using an electrostatic sprayer to apply the EPA registered disinfectant that is designated to kill COVID-19 specifically.

*This includes every toilet, sink and urinal in the building, including the holding cells.

The restrooms are now sanitized, disinfected, safe and healthy! To maintain these results, we ask your crew, daily, to wipe down all the porcelain fixtures using water and a clean cloth and maintain all other surfaces of the restroom as they normally would.

2. Weekly touchpoint spray with our Virus Vaporizer Service. We provide an electrostatically sprayed treatment that is focused on the touchpoint areas, common areas and high traffic areas of the facility.

1. Spray all door handles, touch sensors, stair rails and buttons in the building.
2. Spray all of the bathroom area.
3. Spray all 3 elevators and all 3 stair wells
4. Spray all 3 holding cells
5. Spray the central jury room
6. Spray break room and common rooms
7. Spray all the benches, chairs and touchpoints in the main foyers of all 4 floors

Agreement term shall be for Twelve (12) months from execution and shall automatically renew for successive twelve (12) month terms unless Enviro-Master DFW is provided written notice of Customer's desire to discontinue service thirty (30) days prior to expiration of any term. This Agreement is subject to the terms and conditions on its reverse side.

I HEREBY REPRESENT THAT I HAVE THE AUTHORITY TO SIGN THIS AGREEMENT.

Signature: _____

Date: 08/31/2020

Printed Name: Roger Harmon

Company Representative: _____

Title: VP of Sales

Date: 8/26/2020

Printed Name: Jeffrey P. Madl

Company Service and Products Agreement
Terms and Conditions

1. **Enviro-Master Service ("Company") Owns Dispensers.** All dispensers installed under this Agreement are owned by and shall remain the property of Company, EVM Services West, LLC. If any dispenser is damaged due to vandalism, abuse, or theft, Company will replace the dispenser and Customer will pay Company the then current replacement fee.

2. **Enviro-Master Promise of Good Service.** In the event that Customer: (1) provides a written material complaint to Company; (2) Company does not cure, address or resolve the Complaint within a fifteen day period of receipt; and, 3) Customer has paid all fees and provided Company the opportunity to retrieve its dispensers from Customer premises in good condition - Customer may then terminate Company's services by providing thirty (30) days written notice of its intention to do so.

3. **Payment Terms.** If Customer has elected COD payment, then Customer shall pay weekly at the time service is rendered. If Customer has elected credit card payment, then Customer's credit card shall be charged on the first business day of each month for Company's services/products provided in the previous month. If Customer has elected Net 30 payment terms, then Company will invoice Customer on the first business day of each month for services/products provided during the previous month. Customer agrees to pay monthly invoices no later than the first business day of the following month. If the outstanding balance is not paid in full within 45 days of billing, Company has the right to terminate this Agreement. All invoices shall be deemed to be true and correct unless a written objection to an invoice is provided by Customer to Company within thirty (30) days of the due date of such invoice. Any invoice not paid within thirty (30) days of billing shall be subject to a finance charge equal to 1.5 percent per month or the highest amount allowed by law, whichever is less. Customer agrees to pay all reasonable attorney fees and costs to enforce this Agreement. Company may negotiate price increases from time to time when its cost of products or services increase. Customer will be provided thirty (30) days written notice to either accept such price increase or terminate this Agreement.

4. **Indemnification.** Customer shall protect, defend, indemnify, and hold Company harmless from all third-party claims, losses, damages, costs, and expenses (including attorney's fees) and which arise in connection with this Agreement and with Customer's interim cleaning and use of any products in its restroom facilities.

5. **Expiration/Termination.** Upon the expiration or termination of this Agreement, Customer shall remit any unpaid charges and immediately permit Company to retrieve all dispensers on its premises. Company has no obligation to reinstall Customer's dispensers. Company is not liable for damages to Customer's property (except for gross negligence) should Company removes its dispensers. If this Agreement is terminated early for any reason, other than under the Enviro-Master Promise of Good Service or a refused price increase, Customer will pay Company, as liquidated damages, 50% of its average weekly invoice (over the previous eight week period) and multiplied by the number of weeks remaining in the unexpired Agreement term, plus the cost of any damaged dispensers.

6. **Scope of Service.** Company will perform all work set forth in its cleaning/sanitizing scope of service for Customer in a good and workman-like manner.

7. **Refusal of Scheduled Service.** Customer will not refuse service on agreed upon frequency schedule as to not interrupt Company schedules unless agreed upon by Company. A \$15 charge will be levied for refusal of scheduled service if not agreed upon by Company.

8. **Sale of Customer Business.** This Agreement remains binding on the Customer in the event of a change of management, sale, assignment, or other transfer of the business and/or assets. Obligations hereunder may be transferred only from the successor or purchaser of the Customer's business, by completing the below and providing a copy of same to Company.

9. **Miscellaneous.**

A. **Dispute Resolution.** All Disputes will be handled through court recognized binding Arbitration Process. Customer will be responsible for all costs Company incurs for defending the Agreement. **Governing Law.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the state of TEXAS.

B. Company reserves the right to amend the contractual services to Customer to ensure top quality service and products.

C. Customer will be charged for the weekly service and an additional \$10 for each incident in which a customer refuses Company to provide scheduled service.

**JOHNSON COUNTY CONTRACT TERMS
ADDENDUM – ENVIRO-MASTER SERVICES, INC. - 2020**

The Johnson County Commissioners Court Finds, and the Parties Agree, as Follows:

1.1

This Addendum is part of an Agreement between Johnson County, Texas, a political subdivision of the State of Texas, (hereinafter also referred to as "COUNTY"), and ENVIRO-MASTER SERVICES, INC. and EVM Services West, LLC as applicable (also referred to as "ENVIRO-MASTERS" or "COMPANY") hereunder (collectively, the "Parties" or each individually a "Party").

1.2

This Addendum is applicable to all documents governing the transactions the subject of this Agreement including but not limited to the EVM Services West, LLC Company Service and Products Agreement Terms and Conditions.

2.1

This Agreement will be governed by and construed according to the laws of the State of Texas. Venue for any action or claim arising out of the Agreement must be in the state district courts in Johnson County, Texas or the federal district courts in Dallas County, Texas. Any provision stating that County agrees to waive any right to trial by jury is hereby deleted.

2.2

Limitations for the right to bring an action, regardless of form, shall be governed by the laws of the State of Texas, Texas Civil Practice and Remedies Code §16.070, as amended, and any provision to the contrary is hereby deleted.

2.3

Under Texas law, a contract with a governmental entity that contains a claim against future revenues is void; therefore, any term which provides for such a claim is hereby deleted. Johnson County will, upon request of a party to the contract, certify the funds available to fulfill the terms of this Agreement.

3.1

The Parties agree that under the Constitution and laws of the State of Texas, Johnson County cannot enter into an agreement whereby Johnson County agrees to indemnify or hold harmless any other party; therefore, all references of any kind to Johnson County indemnifying and holding harmless any individuals or entities for any reason whatsoever are hereby deleted.

3.2

Article XI, Section 7(a) of the Texas constitution provides in relevant part:

... But no debt for any purpose shall ever be incurred in any manner by any city or county unless provision is made, at the time of creating the same, for levying and collecting a sufficient tax to pay the interest thereon and provide at least two percent (2%) as a sinking fund, except as provided by Subsection (b) ...

This provision is interpreted with respect to contractual obligations of Texas county and city government entities to prohibit such government entities from entering into an indemnity agreement and to nullify such agreement provisions.

4.1

The Parties agree and understand that County is a political subdivision of the State of Texas, and therefore has certain governmental immunity, sovereign immunity and limitations on liability, and that County's general liability and vehicle insurance coverage is with the Texas Association of Counties Risk Pool and said "insurance coverage" is limited to the statutory maximum limits of the Texas Tort Claims Act; therefore, any provisions to the contrary are hereby deleted. The Parties agree and understand that County does not waive any of its common law, statutory or constitutional defenses to which it may be entitled.

4.2

The Parties agree and understand that County will not agree to waive any rights and remedies available to County under the Uniform Commercial Code ("UCC"); therefore, any provision to the contrary is hereby deleted.

4.4

The Parties agree and understand that County will not agree to be responsible for any sales tax, use tax, or any other taxes, fees, fines or penalties that may be imposed, levied or assessed by any federal, state or local government or agency which relates to the Agreement, the equipment or its use; therefore, any provision to the contrary is hereby deleted.

4.5

The Parties agree and understand that County will provide statutory workers compensation for its employees; however, County does not agree to include a waiver of subrogation, and therefore any provisions to the contrary are hereby deleted.

5.1

Pursuant to Texas Government Code Section 2251.021 and this Agreement, a payment by a governmental entity under a contract is overdue on the 31st day after the later of:

- a. the date the governmental entity receives the goods under the contract;
- b. the date the performance of the service under the contract is completed; or
- c. the date the governmental entity receives an invoice for the goods or service.

Pursuant to Texas Government Code Section 2251.021 and this Agreement, a payment begins to accrue interest on the date the payment becomes overdue. The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of: (1) one percent; and (2) the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. Interest on an overdue payment stops accruing on the date the governmental entity or vendor mailed or electronically transmits the payment. Therefore, all provisions to the contrary are hereby deleted.

6.1

No officer, member or employee of County, and no member of its governing body and no other public officials of the governing body of the locality or localities in which the project is situated or being carried out who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project shall participate in any decision relating to this Agreement which affects his/her personal interest, have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

6.2

To the extent, if any, that any provision in this Agreement is in conflict with Texas Government Code §552.001 *et seq.*, as amended (the "Public Information Act"), the same shall be of no force and effect. Furthermore, it is expressly understood and agreed that Johnson County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act. In the event of a request for documents or materials pursuant to the Texas Public Information Act (Texas Government Code Chapter 552) or similar law pertaining to documents or information County reasonably believes that COMPANY might lawfully seek to claim as confidential, then County will forward the request to COMPANY. It shall be the obligation of COMPANY to prepare and submit to the Texas Attorney General's Office any claim and supporting brief or materials necessary to assert a claim that the documents or materials may be withheld pursuant to Texas Government Code Chapter 552 or other applicable law. County will cooperate with COMPANY in making such submission to the Texas Attorney General's Office. **COMPANY acknowledges and understands that contracts, agreements, payment and revenue of a political subdivision of the State of Texas are public information and are not confidential.**

6.3

Services provided under the Agreement shall be provided in accordance with all applicable state and federal laws.

6.4

Under the Constitution and laws of the State of Texas, public property is exempt from forced sales and liens may not attach thereto.

6.5

It is understood and agreed that Johnson County will not be subject to arbitration;

therefore, any paragraph or provision requiring arbitration, is hereby deleted.

6.6

Johnson County shall be responsible for the acts or failure to act of its employees, agents or servants, provided; however, its responsibility shall be subject to the terms, provisions and limitations of the Constitution and laws of the State of Texas, particularly the Texas Tort Claims Act.

7.1

At any time following the expiration of the initial 30 day period of the contract, COUNTY may terminate the contract at its discretion by giving COMPANY 30 days written notice of such termination.

7.2

If the Agreement provides for the continuation of this Agreement from year to year, then continuation is subject to current funds available for the Agreement, the allocation of funds to meet the terms of this Agreement, and subject to the approval of the Johnson County Commissioners Court. However, this Agreement need not be specifically identified in the annual budget or budget process. Utilization of the equipment or services provided by COMPANY pursuant to the terms of this Agreement by County will constitute the County's action and intent to continue this Agreement barring a specific written notice to the contrary. **Notwithstanding the foregoing, in no event shall this Agreement continue for a period exceeding 60 months from the date of execution of this Addendum without additional specific consideration and approval by the Commissioners Court of Johnson County, Texas.**

7.3

COMPANY certifies that pursuant to Section 231.006 of the Texas Family Code that the individual or business entity named in this contract is not ineligible to receive the specified payment(s) and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. COMPANY states that it is not ineligible to receive State or Federal funds due to child support arrearages

7.4

COMPANY verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. The term "boycott Israel" is as defined by Texas Government Code Section 808.001, effective September 1, 2017. COMPANY further verifies that it is not engaged in business with Iran, Sudan, or any foreign terrorist organization. The term "foreign terrorist organization" means an organization designated as foreign terrorist organization by the United States Secretary of State as authorized by 8 U.S.C. Section 1189.

