

#11

EXECUTIVE SUMMARY

TO: Mayor Blad and Council Members
FROM: Stacie VanKirk, Recreation Programs Manager
RE: **Custodial Contract CRC – Hawks Janitorial**
DATE: 9/2/2020

Council may wish to consider approving an on-going cleaning contract with Hawks Janitorial in the amount of \$3,000.00/month to clean the Community Recreation Center. Hawks Janitorial would replace the current cleaning company New Day Products, Inc. beginning October 3, 2020. Funds are available in the FY 2021 budget.

During the past year, the current cleaning services provider New Day Products, has failed to meet our expectations of cleaning the Community Recreation Center, resulting in on-going concerns being expressed by facility patrons. As a result, on Sept. 2, 2020 the Community Recreation Center issued notice to New Days Products that the City of Pocatello would be exercising its rights under terms of the Cleaning Service Agreement, to terminate the Agreement as of October 2, 2020.

With the termination notice going out, the Community Recreation Center is in need of a replacement cleaning company to begin work on October 3, 2020. Hawks Janitorial was awarded the Ross Park Aquatic Complex Cleaning Contract in May of 2020, and has met the expectations of the contract at the Complex. Therefore, staff feels that Hawks Janitorial will also be able to adequately clean the Community Recreation Center, as expected. Hiring Hawks Janitorial represents a \$5.00/month increase in monthly agreement fees as compared to New Day Products at \$2,995.00/month. However, overall costs to the City would actually decrease, due to Hawks Janitorial providing all their own cleaning supplies, with the Recreation Center providing only paper products and can liners.

Janitorial service funds are already allocated in the FY 2021 budget for this expense. No additional funds are being requested.

PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is entered into this _____ day of October, 2020, by and between the City of Pocatello, a municipal corporation of Idaho, hereinafter referred to as "City", and Hawkes Janitorial Contracting L.L.C., a Utah limited liability company registered to do business in the State of Idaho, hereinafter referred to as "Contractor."

WHEREAS, the City owns and operates the Community Recreation Center (hereinafter referred to as "CRC") located at 144 Wilson Avenue, Pocatello, Idaho; and

WHEREAS, Contractor provides janitorial services for various commercial industries; and

WHEREAS, the parties wish to enter into an agreement which would allow the City to employ the Contractor's professional janitorial services for the CRC;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS HEREIN CONTAINED, THE PARTIES AGREE AS FOLLOWS:

1. SCOPE OF WORK. Contractor shall use appropriate cleaning, sanitizing and disinfecting products and perform the following daily tasks at the CRC facility:

Six times weekly:

- A. Clean all glass entry doors and main glass
- B. Mop and vacuum all floors
- C. Empty trash and recycle bins
- D. Clean all break rooms, locker rooms and sinks
- E. Clean and sanitize bathrooms
- F. Clean mirrors in locker room, dance rooms and workout rooms

Three times weekly:

- A. Wipe down/sanitize/dust desks, computer screens and phones
- B. Mop exercise equipment
- C. Clean the walls of hot room and sauna area
- D. Detailed vacuuming around exercise equipment

One time weekly:

- A. Dust the top of all lockers and window sills
- B. Detailed cleaning of needed areas

Monthly:

- A. Detailed dusting of uncommonly used area
- B. Clean all extra glass
- C. Roll up carpets in long hallway and clean underneath

All cleaning chemicals shall be provided by Contractor with the City supplying the necessary paper products.

2. TERM. The term of this Agreement shall be from October 3, 2020 to September 30, 2021. This Agreement shall automatically renew on an annual basis unless otherwise terminated as outline in Section 17 below.

3. PAYMENT. The City agrees to pay the Contractor the monthly amount of Three Thousand Dollars (\$3,000.00), for the services rendered under this Agreement and identified in Section 1 above. Payment shall be made to Contractor upon the City's receipt of a written invoice at the end of each month.

4. INDEPENDENT CONTRACTOR RELATIONSHIP. The Contractor is an independent contractor and is not an employee of the City. The City shall determine the work to be done by the Contractor, but the Contractor shall determine the legal means by which it accomplishes the work specified by the City. Because the Contractor is engaged in its own independently established business, the Contractor is not eligible for, and shall not participate in, any employee health or other fringe benefit plans of the City.

5. STANDARD OF CARE. The Contractor shall exercise the same degree of care, skill and diligence in the performance of the services contracted for hereunder as is ordinarily provided by a professional in this field of work under similar circumstances.

6. FEDERAL, STATE AND LOCAL PAYROLL TAXES. No Federal, State or local income taxes, nor payroll taxes of any kind shall be withheld and paid by the City on behalf of the Contractor or any employees of the Contractor.

7. LICENSES AND LAW. The Contractor represents that it or its employees possess all licenses required to perform the services under this Agreement. The Contractor further agrees to use due care in the identification and interpretation of all applicable laws in the performance of the services hereunder. Changes in laws and regulations after the execution of this Agreement that were not known or reasonably foreseeable affecting the cost or time of performance may be the subject of a change order.

8. INDEMNIFICATION. The Contractor agrees to indemnify and hold harmless the City and its officers and employees from and against any and all losses, claims, damages, legal fees, expenses, actions, or liabilities or injury to persons or property arising out of any negligent acts, errors, or omissions, of Contractor, Contractor's agents, employees, or representatives arising from activities as a result of this Agreement.

This section shall survive the termination of this Agreement and shall continue to bind both parties.

9. INSURANCE. Without limiting the City's right to indemnification, it is agreed that prior to commencing any activities under this Agreement, the Contractor shall provide insurance coverage as follows:

A. Comprehensive general liability insurance, including coverage for premises liability, personal injury liability, broad-form property damage and independent

contractor's liability, in an amount of not less than One Million Dollars (\$1,000,000.00) per person per occurrence.

B. Personal property insurance in an amount sufficient to insure any and all of the Contractor's personal property which might be used in Contractor's operation of the business or which might be present on the City premises.

C. Worker's Compensation insurance as required by applicable state or federal statutes and furnish the City Clerk with satisfactory proof that such insurance is in effect.

D. An Accord Certificate of Insurance evidencing compliance with the foregoing insurance requirements shall be filed with the Clerk of City of Pocatello prior to or at the time of execution of this Professional Services Contract. The above described insurance shall contain contractual coverage sufficiently broad to insure the provisions of Section 8 "Indemnification." Contractor's failure to maintain insurance shall be a basis for immediate termination of this Professional Services Contract.

10. ASSIGNMENT PROHIBITED. Neither party shall assign any of its rights or delegate any of its duties or obligations under this Agreement without the express written consent of the other party.

11. NONWAIVER. Failure of either party to exercise any of the rights under this Agreement, or breach thereof, shall not be deemed to be a waiver or such right or a waiver of any subsequent breach.

12. CHOICE OF LAW. Any dispute under this Agreement shall be decided in accordance with the laws of the State of Idaho. Venue for any action shall be in the District Court of the Sixth Judicial District, Bannock County, Idaho.

13. ENTIRE AGREEMENT. This is the entire Agreement of the parties and can only be modified or amended in writing by the parties.

14. SEVERABILITY. If any part of this Agreement is held unenforceable, the remaining portions of the Agreement will nevertheless remain in full force and effect.

15. CORPORATE AUTHORITY: The individual executing this Professional Services Contract on behalf of Hawkes Janitorial Contracting L.L.C. hereby acknowledges and represents that he has the power and authority to so bind the company. In the event the party executing this document on behalf of Hawkes Janitorial Contracting L.L.C. does not have authority to so bind the corporation for any cause or reason, then such person acknowledges and agrees that he shall be personally liable under the terms hereof.

16. NOTICE. That all notices under this Agreement shall be deemed to be properly served if sent by first class mail, postage prepaid, to the last known address furnished by the parties hereto. Until hereafter changed by written notice, said addresses shall be as follows:

CITY: City of Pocatello
Attn: Community Recreation Center
P.O. Box 4169
Pocatello, ID 83205

CONTRACTOR: Hawkes Janitorial Contracting L.L.C.
1133 Rowland Road
Pocatello, ID 83204

The date of service of such notice is hereby deemed to be the dated postmark of the United States Postal Service.

17. TERMINATION. The City or the Contractor may terminate this Agreement with thirty (30) days written notice.

18. AMENDMENT. This Agreement may be amended in writing upon concurrence of both parties.

IN WITNESS WHEREOF, the authorized representatives of the parties do hereby execute this Agreement.

APPROVED BY LEGAL

Date 9/9/20 Atty B. Bybee

Comments _____

CITY OF POCATELLO, a municipal Corporation of Idaho

BRIAN C. BLAD, Mayor

ATTEST:

RUTH NEWSOM, City Clerk

HAWKES JANITORIAL CONTRACTING L.L.C.

By: _____
Title: _____

STATE OF IDAHO)
 :ss
County of Bannock)

On this _____ day of October, 2020, before me, the undersigned, a Notary Public for the State, personally appeared Brian C. Blad and Ruth Newsom, known to me to be the Mayor and City Clerk, respectively, of the City of Pocatello, and acknowledged to me that they executed the foregoing instrument for and on behalf of said municipal corporation and that said municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the date and year in this certificate first above written.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing in _____
Commission Expires _____

STATE OF _____)
 :ss
County of _____)

On this _____ day of October, 2020, before me, the undersigned, a Notary Public for the State, personally appeared _____, known to me or proved to me to be the _____ of Hawkes Janitorial Contracting L.L.C. who acknowledged to me that he/she executed the foregoing instrument on behalf of said limited liability company, and that said limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the date and year in this certificate first above written.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing in _____
Commission Expires _____