

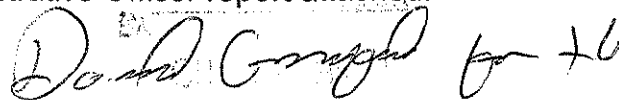
0150-08987-0000

TRANSMITTAL

TO The City Council	DATE AUG 28 2009	COUNCIL FILE NO.
FROM The Mayor		COUNCIL DISTRICT

**Proposed Contracts for Landscaping and Maintenance Services at
City Bike Path and Transit Facilities**

Transmitted for your consideration. See the
City Administrative Officer report attached.



MAYOR

RPC:ALB:06100015t

Report From
OFFICE OF THE CITY ADMINISTRATIVE OFFICER
Analysis of Proposed Contract
(\$25,000 or Greater and Longer than Three Months)

To: The Mayor	Date: 08-11-09	C.D. No.	CAO File No.: 0150-08987-0000
Contracting Department/Bureau: Department of Transportation		Contact: Jim Lefton, x2-8408; Mike Uyeno, x2-4982	
Reference: Department of Transportation report dated June 24, 2009; Referred for report by the Mayor on July 6, 2009			
Purpose of Contracts: Contract 1: To provide the management and performance of maintenance and landscaping services for two bike path facilities; Contract 2: To provide the management and performance of maintenance and landscaping services for seven City transit facilities.			
Types of Contracts: (X) New contracts () Amendments		Contracts Term Dates: Contract 1: October 1, 2009 through September 30, 2014 Contract 2: October 1, 2009 through September 30, 2014	
Contract Amounts: Contract 1: \$1,094,810; Contract 2: \$1,581,311 Contract 1: Proposed amount \$1,094,810 + Prior award(s) \$0 = Total \$1,094,810 Contract 2: Proposed amount \$1,581,311 + Prior award(s) \$0 = Total \$1,581,311			
Source of funds: Contract 1: Transportation Development Act Article III Funds; Contract 2: Proposition A Funds			
Name of Contractor: ShelterCLEAN			
Address: 11065 Penrose Street, Sun Valley, CA 91352			
	Yes	No	N/A*
1. Council has approved the purpose	X		
2. Appropriated funds are available	X		
3. Charter Section 1022 findings completed	X		
4. Proposals have been requested	X		
5. Risk Management review completed	X		
6. Standard Provisions for City Contracts included	X		
7. Contractor has complied with:	Yes	No	N/A*
a. Equal Employmt. Oppty./Affirm. Action	X		
b. Good Faith Effort Outreach**	X		
c. Equal Benefits Ordinance	X		
d. Contractor Responsibility Ordinance	X		
e. Slavery Disclosure Ordinance	X		
f. Bidder Certification CEC Form 50	X		
*N/A = not applicable ** Contracts over \$100,000			

COMMENTS

The Department of Transportation (DOT) requests authority to execute two separate contracts with ShelterCLEAN for management and performance of maintenance and landscaping services for two bike path facilities (Contract 1 – Attachment A) and seven City transit facilities (Contract 2 – Attachment B). The proposed contract periods are five-year concurrent terms, beginning October 1, 2009 through September 30, 2014. Total compensation for the contracts for bike path facilities and for transit facilities are \$1.1 million and \$1.6 million, respectively, over a five year period. Therefore, over the five-year period, compensation to the contractor for both contracts will not exceed \$2.7 million.

Background

As maintenance and landscaping services are required at two bike path facilities and seven City transit facilities, DOT provided scope of work summaries to City departments, including the Public Works Department – Bureau of Street Services (BSS), the Department of General Services (GSD)

 ALB	 Assistant CAO	 City Administrative Officer
CAO 661 Rev. 5/2007		

and the Department of Recreation and Parks (RAP), that may employ City workers in job classifications that could perform various aspects of the required work. Due to a lack of response from City departments, DOT released a Request for Proposals (RFP) on March 10, 2009 for the required services. Copies of the RFP were also sent to BSS, GSD and RAP.

The RFP summarized the work needed that would be separated into two contracts: 1) for services at two bike path facilities (the Orange Line Bike Path and the Chandler Boulevard Bike Path) and 2) for services at seven City transit facilities (Chatsworth, Northridge, Sun Valley, Sylmar, Van Nuys, the Warner Center Transit Hub and the Encino Park and Ride). All of these bike path and transit facilities are located in the San Fernando Valley. Proposers, including any City departments, had the option to bid on one or both contracts. If a proposer bid on both contracts, then the proposer would provide an "economy of scale" cost sheet, detailing the savings to the City if the proposer were selected for both contracts.

Five firms responded to the RFP. Of the five, two firms provided proposals for both contracts and three firms provided proposals for only the contract for services at the two bike path facilities. The two firms that bid on both potential contracts also provided "economy of scale" cost sheets. No firms submitted proposals for only the contract for services at the City transit facilities.

Selection panels consisting of representatives from Metro, the City of El Monte and DOT bike path and transit management staff scored all written and interview portions of the proposals. Evaluation criteria consisted of (1) qualifications of the proposer – 25 points, (2) qualifications of the proposed staff – 25 points, (3) management plan – 25 points and (4) cost effectiveness – 25 points. ShelterCLEAN, Inc. received the highest scores for both potential contracts.

While another firm proposed a lower cost estimate for services at the two bike path facilities, that firm did not provide cost estimates for all the services required. ShelterCLEAN, Inc. provided a proposal that included all services required. Therefore, ShelterCLEAN, Inc.'s proposal was found to be more cost effective. Work performed under this proposed contract will include landscaping and maintenance of the irrigation systems, sweeping, clearing and cleaning of the bike path surface.

ShelterCLEAN, Inc. provided the lowest cost estimate for services at the seven City transit facilities. This firm also demonstrated the most experience maintaining and landscaping transit facilities. Work performed under this proposed contract will include a weekly schedule of routine maintenance of each facility, including parking lot cleaning/sweeping and landscaping. Other as-needed tasks may include graffiti removal, lighting repairs and replacement of broken irrigation systems.

ShelterCLEAN, Inc. complies with the City's contracting requirements. This firm shall also invoice monthly, providing a detail of work completed, including payroll and other documents supporting all charges. Any one-time as-needed tasks that will result in compensation of more than \$1,000 will require approval from the City. Any tasks that ShelterCLEAN, Inc. is not able to perform, will be subcontracted to the most responsive of three bidders, as selected by the City. The City retains the rights to audit and inspect records and activities.

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

- 1) Authorize the General Manager of the Department of Transportation (DOT) to enter into a five-year contract with ShelterCLEAN, Inc. for the management and performance of maintenance and landscaping services for two City bike path facilities, subject to the City Attorney as to form and legality; and
- 2) Authorize the General Manager of DOT to enter into a five-year contract with ShelterCLEAN, Inc. for the management and performance of maintenance and landscaping services for seven City transit facilities, subject to the approval of the City Attorney as to form and legality.

FISCAL IMPACT STATEMENT

The maximum compensation for each proposed contract with ShelterCLEAN, Inc. for the management and performance of maintenance and landscaping services for two bike path facilities and seven City transit facilities is \$1.1 million and \$1.6 million, respectively. Total compensation to ShelterCLEAN, Inc. over the five-year period, therefore, will not exceed \$2.7 million.

The contract for services at two bike path facilities (\$1.1 million) will be funded by Transportation Development Act Article III funding. Funding is available and provided for this purpose on an annual basis. The contract for services at seven City transit facilities (\$1.6 million) will be funded through the City's Proposition A Local Assistance Transit Fund. Funding for the services provided for this contract in 2009-10 is budgeted in the 2009-10 Proposition A Fund Adopted Budget. Funding for future years of the contract will be provided through the budget, contingent upon availability of funding. Both proposed contracts include provisions that allow the City to terminate the contract for any cause, which may include lack of available funding, any time in the five-year period with 30 days notice.

The recommendations in this report comply with the City's Financial Policies in that budgeted funds are available for this purpose. There is no impact to the General Fund.

RPC:ALB:06100015

Attachments

ATTACHMENT

CITY OF LOS ANGELES

INTERDEPARTMENTAL CORRESPONDENCE

2009 JUL -6 AM 8:22
CITY ADMINISTRATIVE OFFICER

Date: June 26, 2009

To: Honorable Antonio R. Villaraigosa, Mayor
Attention: Pamela Finley, Legislative Coordinator

From: 
Rita L. Robinson, General Manager
Department of Transportation

SUBJECT: EVALUATION OF PROPOSALS FOR MANAGEMENT AND PERFORMANCE OF LANDSCAPING AND MAINTENANCE SERVICES FOR BIKE PATH AND TRANSIT FACILITIES AND SELECTION OF A SERVICE CONTRACTOR

SUMMARY

On March 10, 2009, the Department of Transportation (LADOT) issued a Request for Proposals (RFP) for selection of a contractor(s) for the management and performance of landscaping and maintenance services for several of the City's bike path and transit facilities. Interested firms were invited to submit one proposal for landscaping and maintenance services at two of the City's bike path facilities and a separate proposal for landscaping and maintenance services at the City's seven transit facilities. Firms that chose to submit proposals for both the bike path facilities and the transit centers were asked to submit "economy of scale" cost sheets outlining any savings to the City that would result if their firm were awarded contracts for both the bike path and transit facilities.

Five firms responded to the RFP by the due date of May 5, 2009. Two firms submitted a proposal for the transit facilities and five submitted proposals for the bike path facilities. The two firms that submitted proposals for the transit facilities also submitted proposals for the bike path facilities. Both of these firms submitted information about economies of scale savings, but only one of them submitted complete data as outlined in the RFP. LADOT's contract administrators evaluated each proposal and found all proposals responsive in meeting the City's contract requirements. LADOT subsequently held interviews with each proposer on May 14, 2009. There were two separate interview panels, consisting of experts from outside agencies and LADOT's bike path and transit facilities project management staff.

ShelterCLEAN, Inc., the incumbent contractor for transit facilities, submitted proposals for both the bike path and transit facilities as well as proposing a lower "economy of scale" cost if it were awarded both contracts. ShelterCLEAN, Inc. was ranked highest

by both panels. Based on the evaluation results, LADOT recommends that ShelterCLEAN, Inc. be awarded separate five-year contracts for management and performance of landscaping and maintenance services for the bike path facilities and for similar services for the transit facilities upon approval of this report by City Council and the Mayor.

RECOMMENDATIONS

That the Council, SUBJECT TO THE APPROVAL OF THE MAYOR:

1. AUTHORIZE the General Manager, Department of Transportation, to enter into a five-year contract with ShelterCLEAN, Inc., for the management and performance of maintenance and landscaping services for two City bike path facilities, subject to the approval of the City Attorney as to form and legality.
2. AUTHORIZE the General Manager, Department of Transportation, to enter into a five-year contract with ShelterCLEAN, Inc., for the management and performance of maintenance and landscaping services for seven City transit facilities, subject to the approval of the City Attorney as to form and legality.

BACKGROUND

Bike Path Facilities

LADOT's Bikeways Section strives to facilitate the implementation of new bike paths throughout the City of Los Angeles as part of its overall effort to build out a Citywide bikeway network, guided by the City's Bicycle Plan. As part of this implementation program, new bike paths must be maintained once they are built. Currently, the Department of Recreation and Parks (RAP) maintains seven of LADOT's bike paths, some of which include adjacent landscaping. As part of the scope required to maintain each of these bike paths, landscaping and irrigation systems must be maintained regularly along with regular sweeping, clearing and cleaning of the bike path surface. RAP performs this work for LADOT based on a Memorandum of Agreement (MOA) established between the two departments.

In October, 2005, the Orange Line bike path was completed by Metro and opened to the public. On August 17, 2007, a license agreement was executed between the City and Metro (Contract number C-112123), transferring maintenance responsibilities of the Orange Line bike path to LADOT. Also in 2007, the Chandler Boulevard bike path was completed by the City's Community Redevelopment Agency (CRA) and opened to the public. On December 21, 2007, CRA issued a memorandum to LADOT, transferring maintenance responsibilities of the Chandler Boulevard bike path to LADOT. In an effort to provide long-term maintenance for these two new facilities, LADOT sought cost estimates from RAP. As part of the negotiations, RAP stated that new equipment would

need to be purchased and nine new positions would need to be created and filled, with all expenses billed to LADOT. The total estimate for annual maintenance including labor and materials for the first year was \$818,890. Though the equipment costs would be one-time purchases, the staff positions specified by RAP would require ongoing funding to be provided by LADOT at a cost of \$525,190 per year thereafter.

LADOT sought comparative information from the Bureau of Street Services (BSS) to gauge the cost effectiveness of RAP's proposal. Based on the information BSS provided, including a cost estimate provided from a BSS contracted landscaping contractor, RAP's estimate was found to be cost-prohibitive. As a result, LADOT sought to amend an existing BSS contract in an effort to employ the services of BSS's contracted landscaping contractors. BSS denied LADOT's request due to BSS not having adequate contract administration staffing to take on the additional responsibility.

LADOT then sought to piggyback an existing Department of General Services (GSD) contract with a landscaping contractor, with the understanding that LADOT would administer the additional work. The piggyback contract with Sunscapes Landscaping was executed in June, 2008 and expired on February 7, 2009 (Contract number C-113288). GSD could not renew its contract with Sunscapes because it had already been renewed the maximum number of times. Consequently, GSD issued an RFP to award a new contract. Meanwhile, to close the maintenance gap, LADOT issued a request for Authority for Expenditure (AFE) to Sunscapes for interim maintenance. In an effort to establish long-term maintenance, LADOT's Bikeways Section decided to partner with LADOT's Transit Bureau to issue a combined RFP for the two aforementioned bike path facilities and seven transit facilities.

Transit Facilities

In October 1992, Metrolink began its regional commuter rail service between the five counties and the Union Station terminal in Downtown Los Angeles. Metrolink is owned and operated by the Southern California Regional Rail Authority (SCRRA), a joint powers agency composed of members from five Southern California counties: Los Angeles, Orange, Riverside, San Bernardino and Ventura. To accommodate Metrolink passengers, LADOT developed and opened two Metrolink stations in 1992: Chatsworth station (a newly built station) and Van Nuys station (an existing Amtrak station). In February 1994, two additional Metrolink stations were developed and opened in Northridge and Sylmar/San Fernando. Finally in April 2001, the fifth Metrolink station was developed and opened in Sun Valley. These facilities provide inter-modal transfers between train, bus, shuttle, taxi, bicycle and automobile.

In addition to the Metrolink stations, the City, in cooperation with other public and private agencies, developed the Warner Center Transit Hub in the western San Fernando Valley area. The Warner Center Transit Hub, which opened in 2005, serves as the western terminus of the Metro Orange Line and other transit services including the City's DASH Warner Center. The City also operates the Encino park-and-ride lot, a

parking facility and transfer location for San Fernando Valley commuters using LADOT's Commuter Express bus service on weekdays.

To ensure effective and cost-efficient management and maintenance of above-mentioned transit facilities, LADOT has contracted with ShelterCLEAN for two consecutive five-year contract terms since 1998 through City's competitive request for proposals process. The second five-year contract (CF 03-2047, Contract number C-105772) expired on September 30, 2008. A previous RFP process in 2008 ended when the City Council concurred with LADOT's recommendation to reject all proposals and circulate a new RFP. As approved by the City Council, LADOT entered a month-to-month contract extension, for up to twelve months, with ShelterCLEAN (CF 08-2267, Contract number 105772-3) to continue the landscaping and maintenance service for LADOT's transit facilities.

DISCUSSION

Prior to the RFP issuance, LADOT met with union representatives from SEIU's Local 721 to respond to concerns about City services being awarded to private contractors rather than City departments. At a December 4, 2008 meeting with a representative of SEIU Local 721, LADOT agreed to transmit a summary of the scope of work to be performed, as identified in the RFP, to three City departments that were identified as possessing the job classifications that could perform certain aspects of the work. On December 19, 2008, LADOT sent this summary scope of work to GSD, RAP and BSS, and subsequently followed up with each department.

On February 12, 2009, LADOT and SEIU met with a representative from RAP to explore the possibility of having RAP employees do the work specified in the RFP. The RAP representative clearly indicated to LADOT and SEIU that his department did not have the adequate resources, personnel and equipment to perform the work specified in the RFP. While LADOT advised SEIU that it would seriously consider any proposals from City departments to perform the work specified in the RFP, neither GSD nor BSS responded to LADOT's solicitations.

Due to the absence of any concrete proposals from other City departments to perform the work specified in the RFP, on March 10, 2009, LADOT released the RFP to solicit proposals for the management and performance of landscaping and maintenance services for seven transit facilities (including five Metrolink stations (Chatsworth, Northridge, Sun Valley, Sylmar, Van Nuys), the Warner Center Transit Hub, and the Encino Park-and Ride Lot) and two bike path facilities (Orange Line Bike Path and Chandler Boulevard Bike Path). The Department sent copies of the RFP to the three other identified City departments (RAP, BSS and GSD). All nine facilities are located in the City's San Fernando Valley. The RFP summarizes the scope of work and tasks to be performed by contractors for each type of facility separately to help proposers easily understand LADOT's expectations and requirements for the contractual service. As

part of the RFP's terms, proposers had the option to submit separate proposals for either bike path and/or transit facilities, or they could elect to submit proposals for both the bike path and transit facilities along with "economy of scale" cost sheets outlining any savings to the City if the firm were awarded both contracts.

Contractor Selection

Prior to releasing the RFP, LADOT sent out a letter of solicitation on November 7, 2008 to 147 firms to determine which ones were interested in receiving the RFP. Thirty-three (33) firms expressed interest in receiving the RFP. In addition, LADOT placed the RFP on the City's Business Assistance Virtual Network (BAVN) website and advertised the RFP in four local newspapers (Daily News, LA Opinion, Los Angeles Sentinel, and Los Angeles Daily Journal) and in the American Public Transportation Association's monthly journal.

On April 2, 2009, LADOT held a pre-proposal conference to highlight significant issues concerning maintenance and landscaping services for the bike path and transit facilities stipulated by the RFP and to answer questions from prospective proposers. Representatives from LADOT were in attendance to answer questions pertaining to the RFP as well as the City's contract requirements, including MBE/WBE/OBE Outreach Effort, the Contractor Responsibility Ordinance, the Equal Benefits Ordinance, and the Worker Retention and Living Wage Ordinance. The due date for proposals was set for May 5, 2009.

Five firms submitted proposals by the due date. Two firms, Michaelson, Connor & Boul, Inc. (MCB) and ShelterCLEAN, Inc., submitted proposals for both bike path and transit facilities and three firms submitted a proposal for the bike path facilities only (Accent Landscape, American Heritage Landscape and Sunscapes Landscape). All five proposers received passing scores for the City's MBE/WBE/OBE Good Faith Outreach Effort requirement and their proposals were deemed responsive to the RFP.

Two selection panels, each consisting of representatives from Metro, the City of El Monte, and LADOT's bike path and transit project management staff, were organized to separately evaluate all written proposals and interview representatives from each of the qualified proposers (a total of seven interviews were conducted for the five proposers for bike path facilities and two proposers for transit facilities). All proposals were evaluated based on the following criteria:

<u>Evaluation Criteria</u>	<u>Points</u>
1. Qualifications of Proposer	25
2. Qualifications of Proposed Staff	25
3. Management Plan	25
4. Cost Effectiveness	<u>25</u>
Total	100 (per rater)

Evaluation of Bike Path Facilities Proposals

American Heritage Landscape is a full scope landscape construction, landscape management, irrigation and pest control company. It has maintained wide concrete paths in the City of Santa Clarita. Its qualifications seemed to indicate a somewhat limited breadth of experience in pathway maintenance, but a strong background in landscaping maintenance. American Heritage proposed their current Los Angeles Branch Manager for the company as Principal for the project. The Principal would meet with Supervisors and Foremen for scheduling, ordering of materials and supplies and dealing with any specific issues including emergencies and vacations. The proposed Inspector has supervised similar contracts for the company. Additionally, six full-time individuals would be assigned to the Bike Path Facilities contract: two full-time Foremen and one part-time Supervisor. The management plan included two teams: one three-man crew with a dedicated foreman would start at the eastern end and work west while another crew of the same size would start at the western end and work east.

Sunscapes Landscape is a certified small business specializing in all phases of landscape construction including design and maintenance. Sunscapes Landscape has been maintaining the same Bike Path Facilities identified in the RFP since June, 2008. While their performance has been overall satisfactory, it appears they did not adequately estimate the work required under the currently contracted scope of work and as a result, portions of the bike path were neglected. Sunscapes' proposed Principal would be on site daily and is very familiar with the jobsite. This staff member has previously worked with the installation of landscaping along the Bike Path Facilities. The company's Office Manager would oversee daily operations. The company president would be the prime liaison between LADOT, Metro and the general public. The proposed lead Field Supervisor is a certified irrigation technician. The two proposed lead Groundsmen have worked with the Bike Path Facilities since June, 2008. The management plan included a Lead Supervisor in charge of the overall quality. The remaining categories of work would be separated into specific jobs as follows: graffiti, trash and debris disposal; weed abatement and spraying; general maintenance (edging, clipping, pruning etc.); irrigation repairs and water scheduling; and office staff.

MCB is a property management company headquartered in Huntington Beach, California. The firm is a women-owned business with experience primarily in pest control service, janitorial service, and general landscaping/property maintenance services for several federal and municipal buildings as well as private commercial and office buildings in multiple states. Managing transit facilities would be a new addition to MCB's portfolio of properties. MCB's proposed Project Director is a marketing and logistics specialist currently serving as Marketing Manager for the firm. The proposed Inspector is currently working for a cable television company and also owns a "handyman" business performing construction and "handyman" repairs on construction projects. Both proposed personnel did not have direct experience managing landscaping and maintenance service crews for bike path facilities. Given its property management specialization, MCB proposed to subcontract with Miken Construction

Company, a property services and construction company, to perform the landscaping work. MCB also proposed to subcontract with Watkins Pest Control to perform pest control for the project. The management plan included the equipment to be used by the Inspector, a willingness to open an office in the San Fernando Valley for the Inspector, and extensive details with regards to each service/task and the responsible subcontractor, frequency and cost. However, the plan did not identify the crew sizes.

ShelterCLEAN is a California incorporation based in Sun Valley. The company specializes in maintenance, installation, repair, and refurbishing of street furniture; the management, administration, maintenance of bus stops and transit centers; graffiti removal, and installation of outdoor advertising specifically in bus shelters, street kiosks, malls, and shopping centers. ShelterCLEAN has successfully managed the Transit Facilities in partnership with TruGreen LandCare, a specialized company in landscaping and irrigation, as its subcontractor, for over ten years. ShelterCLEAN proposed an existing Shift Leader for route specialist crews to serve as Bike Path Facilities Inspector. ShelterCLEAN proposed its General Manager overseeing its business in Southern California and Arizona as Principal overseeing the work performed by the Inspector and subcontractors. ShelterCLEAN proposed to subcontract with TruGreen LandCare, a landscaping firm based in Canoga Park, California, to perform landscaping and irrigation work for the Bike Path Facilities.

Accent Landscape has performed commercial and industrial landscape maintenance for 27 years. They performed long-term service for the Hughes Aircraft Company and Raytheon as well as Metro's predecessor, the Southern California Rapid Transit District (SCRTD). They continue to work with Metro, maintaining the busway portion of the Orange Line under a five-year contract. Accent Landscape identified an Inspector for the facilities. The company president would be the Principal for the project.

Evaluation Scores
Management and Performance of Landscaping and Maintenance Services
For Bike Path Facilities

	<u>Raters</u>				
<u>Proposers</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>Total</u>
ShelterCLEAN	80	88	88	87	343
Accent Landscape	72	77	79	80	308
American Heritage Landscape	69	79	82	78	308
MCB	74	75	77	71	297
Sunscapes Landscape	65	70	69	72	276

Proposed Costs for Maintenance and Landscaping of Bike Path Facilities

In addition to the raw costs provided by the proposers, the level of service compared with cost was analyzed in order to determine true cost effectiveness. While MCB offered the lowest cost to provide the landscaping and maintenance services for the bike path facilities, it was determined that their qualifications and management plan did not adequately address the needs of the facilities as specified under the RFP. ShelterCLEAN's costs, though slightly higher than MCB's and Accent Landscape's (less than \$75,000 per year difference, on average), were judged to be a more effective use of funds for the level of service proposed. The following summarizes the proposed costs from the five proposers:

**Proposed Cost of Landscaping and Maintenance Services
for Bike Path Facilities**

<u>Proposer</u>	<u>Five-Year Total Fixed Cost</u>	<u>Five-Year Cost Difference Compared to Low Cost</u>
MCB	\$808,872	Low Cost
Accent	\$1,012,366	\$203,494 (+25.2%)
ShelterCLEAN	\$1,177,163	\$368,291 (+45.5%)
American Heritage	\$2,158,000	\$1,349,128 (+166.8%)
Sunscapes	\$2,447,800	\$1,638,928 (+202.6%)

Evaluation of Transit Facilities Proposals

As discussed in the Bike Path Proposals section, MCB is a property management company. Managing transit facilities would be a new addition to MCB's portfolio of properties. MCB proposed the same project director, a marketing and logistics specialist, for both facilities. The proposed Facilities Manager for Transit Facilities currently works for a cable television company and also owns a "handyman" business performing construction and "handyman" repairs on construction projects. Both proposed project personnel did not have day-to-day experience managing landscaping and maintenance service crews for transit facilities. To improve its submittal, MCB proposed to team up with a landscaping company to perform the landscaping work for the transit facilities. The proposed subcontractor specializes in landscaping work and has been providing landscaping service to Metro for its Orange Line Transitway Project in the San Fernando Valley.

MCB's proposed management plan was comprehensive and meticulous. The plan included the working details for each of the seven transit facilities, tasks to be performed for each facility, and the estimated cost associated with each task for every transit facility. In the plan, MCB acknowledged the challenge of supervising service provided by subcontractors. To address this challenge, MCB promised to establish a new branch

office in the San Fernando Valley area should the firm be awarded contracts. In its management plan, MCB also proposed a unique web-based property management system which would allow LADOT staff to track maintenance activities for each facility. MCB also proposed a Quality Control Manager to establish a specific quality control plan to meet LADOT's requirements and expectations.

As opposed to MCB's lack of experience in caring for transit facilities, ShelterCLEAN has been maintaining LADOT's transit facilities since 1998. A California incorporated firm based in the San Fernando Valley, ShelterCLEAN specializes in maintenance, installation, repair, and refurbishing street furniture; the management, administration, maintenance of bus stops and transit centers; graffiti removal, and installation of outdoor advertising specifically in bus shelters, street kiosks, malls, and shopping centers. ShelterCLEAN has successfully partnered with TruGreen LandCare, a specialized company in landscaping and irrigation based in Canoga Park, California, for the landscaping maintenance element during the two five-year contract terms.

ShelterCLEAN proposed that its current Facilities Manager continue overseeing LADOT's transit facilities if the firm is chosen as contractor. The proposed Facilities Manager has been effective in managing the TruGreen landscaping team and other subcontractors for special assignments pertaining to transit facilities, such as timely graffiti removal. ShelterCLEAN's proposed project director has 29 years of experience in the transit facilities related field and has good connections with landscaping and maintenance subcontractors.

ShelterCLEAN proposed a thorough and well-organized management plan for transit facilities based on practical experience gained over the past two contract terms. The proposed management plan delineated work to be performed in detail with respect to each task specified in the RFP, including duties of the Facilities Manager; weekly work schedules for the routine maintenance of each transit facility; including station maintenance, parking lot cleaning/sweeping and landscaping. The RFP also discussed how occasional variable cost tasks such as graffiti removal, lighting repairs, replacement of broken irrigation systems, etc. would be performed.

**Evaluation Scores
Management and Performance of Landscaping and Maintenance Services
For Transit Facilities**

<u>Raters</u>					
<u>Proposers</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>Total</u>
ShelterCLEAN	90	90	95	95	370
MCB	74	80	80	80	314

Proposed Costs for the Maintenance and Landscaping of Transit Facilities

The two proposers, MCB and ShelterCLEAN, both submitted a comprehensive five-year total fixed cost for the landscaping management and maintenance of City transit facilities and their estimated cost met the specifications listed in the RFP. As indicated below, Shelter Clean's proposed cost was the lowest cost submitted, approximately \$883,000 less than the proposed cost submitted by MCB over the five year contract term (average of approx. \$177,000 per year in savings).

**Proposed Costs for Maintenance and Landscaping Services for
Transit Facilities**

<u>Proposer</u>	<u>Five-Year Total Fixed Cost</u>	<u>Five-Year Cost Difference Compared to Low Cost</u>
ShelterCLEAN	\$1,635,099	Low Cost
MCB	\$2,518,028	\$882,927 (+54.0%)

Proposed Costs for Maintenance and Landscaping for Bike Path and Transit Facilities
(Economy of Scale)

MCB and ShelterCLEAN also submitted "economy of scale" costs for the landscaping management and maintenance of Transit Facilities and Bike Path Facilities which would provide savings to the City of the firm were awarded contracts for both sets of facilities. MCB's proposed Economy of Scale information merely indicated a saving of approximately \$380,000 from its separate cost proposals without clearly explaining how the savings would occur. In addition, MCB's proposed cost for "Economy of Scale" suggested that part of the Transit Facilities' Manager time would be used to oversee the bike paths. This proposed sharing of staff time was not permitted by LADOT and was stated clearly in the RFP. Furthermore, MCB's economy of scale information did not include separate cost sheets as required by the RFP.

ShelterCLEAN submitted a separate set of cost sheets clearly indicated the savings that would result if it were awarded both contracts. As indicated below, ShelterCLEAN's proposed economy of scale cost to maintain both the bikeway and transit facilities is \$2,676,121, which is approximately \$271,000 less than the comparable proposal submitted by MCB. ShelterCLEAN's economy of scale proposal is also approximately \$136,000 less than the total cost of its two standalone proposals. The breakdown of the total economy of scale cost proposal submitted by ShelterCLEAN amounts to \$1,581,311 for transit facilities and \$1,094,810 for bike path facilities.

**Proposed Costs of Landscaping and Maintenance Services
for Bike Path Facilities and Transit Facilities
(Economy of Scale)**

<u>Proposer</u>	<u>Five-Year Total Fixed Cost</u>	<u>Five-Year Cost Difference Compared to Low Cost</u>
ShelterCLEAN	\$2,676,121*	Low Cost
MCB	\$2,947,450	\$271,329 (+9.2%)

CONCLUSION

Separate evaluation panels initially worked independently to evaluate the bike path and transit facilities proposals, assigning scores to each proposal based on the proposer's qualifications, the qualifications of the proposed staff, the proposed management plan, and the proposed cost. Then both evaluation panels gathered to thoroughly discuss the pros and cons of awarding a contract to a single firm based on the economy of scale information. Panels concluded unequivocally that ShelterCLEAN's proposal to undertake both contracts was both operationally and financially sound. Collectively, the panels recommended that LADOT award separate contracts to ShelterCLEAN for the management and performance of landscaping and management services for both the bike path and transit facilities for the a five-year contract term.

FINANCIAL IMPACT

Bike Path Facilities

Funding has been included in the City's apportionment of Transportation Development Act Article III (TDA) funds, which are apportioned each fiscal year and include a stipulated amount for maintenance. Therefore, there is no impact on the City's General Fund. Additional funding is also available through the City's adopted FY 2009-10 Proposition C Budget. Therefore, there is no impact on the City's General Fund.

Transit Facilities

Funding has been included in the City's approved FY 2009-10 Proposition A Local Transit Assistance Budget. Therefore, there is no impact on the City's General Fund.

Attachments

ATTACHMENT A

AGREEMENT BETWEEN THE CITY OF LOS ANGELES AND SHELTERCLEAN, INC.

This Agreement is between the City of Los Angeles, a municipal corporation (hereinafter referred to as "CITY") and ShelterCLEAN, Inc. (hereinafter referred to as "CONTRACTOR").

WITNESSETH

Whereas, CITY issued a request for proposal (RFP) on 3/10/2009 to solicit companies interested in providing bike path and landscaping maintenance services, which RFP is on file with the City Clerk and is incorporated herein reference; and

Whereas, CONTRACTOR, submitted a proposal (hereinafter referred to as "PROPOSAL") dated 5/5/2009, in response to the RFP, which PROPOSAL is incorporated herein by reference; and

Whereas, said PROPOSAL, was selected by CITY as the most responsive PROPOSAL received for said services; and

Whereas the RFP, PROPOSAL and this Contract shall be hereinafter be referenced collectively as the "AGREEMENT".

Now, therefore, the parties hereto agree as follows:

1. APPOINTMENT

CITY hereby contracts with ShelterClean, Inc., the CONTRACTOR, to provide bike path and landscaping maintenance services for the Orange Line and Chandler Boulevard Bike Paths upon the terms and conditions as set forth in this AGREEMENT.

2. TERM

The term of this AGREEMENT shall extend for five (5) years from the date of execution of the Contract, unless sooner terminated as provided herein.

3. DUTIES

A. Scope of Work

- 3.1 CONTRACTOR shall render the services as fully described and set forth in this AGREEMENT or by amendment to the AGREEMENT.

B. Contractual Responsibilities

- 3.2 CONTRACTOR agrees to provide all personnel, supervision of said personnel, materials, and equipment required to complete all work as described in this AGREEMENT to the full satisfaction of CITY.
- 3.3 CONTRACTOR shall provide a quarterly monthly summary report that includes employee and subcontractor evaluations, individual bike path facility maintenance information and documented operational problems, patron complaints, incidents, a description of action taken regarding these issues, and other relevant information requested by CITY. The summary report shall be submitted by the fifteenth (15th) day of the month following the quarter. In addition, CONTRACTOR and CITY shall meet on a quarterly basis to discuss any issues or problems that may arise.
- 3.4 CONTRACTOR shall assess the performance of all company personnel assigned to the PROJECT and PROJECT subcontractors. CONTRACTOR will evaluate the efficiency and effectiveness of said personnel and the cost-to-service economy of PROJECT subcontractors. CONTRACTOR shall replace project personnel, if necessary, to ensure smooth and effective operation and high quality maintenance of the PROJECT. CITY shall be apprised of and approve personnel changes.
- 3.5 CITY shall issue PROJECT keys to CONTRACTOR. CONTRACTOR shall be responsible for all keys to PROJECT functions, such as irrigation controllers and any other keys required to operate the PROJECT. Keys shall be handled in a secure and accountable manner and shall not be distributed to any party outside CONTRACTOR's assigned PROJECT personnel.

- 3.6 CONTRACTOR shall monitor CITY Bike Path Facilities, as specified in the RFP, and report to CITY Staff immediately any emergency situations that occur.

4. COMPENSATION

City shall compensate CONTRACTOR for work which CONTRACTOR has performed under the Fixed and Variable Cost categories. Work shall be delivered in the manner satisfactory and acceptable to CITY and is described in the RFP and PROPOSAL.

A. Fixed Costs

- 4.1 CITY agrees to pay full compensation for said fixed costs services, including all allowable expenses incurred and incident thereto, an estimated amount not to exceed a ceiling price of \$1,094,809.99 for Fixed Costs during the Five (5) year contract period, as show on Exhibit BPF-5: Total Fixed Cost (Economy of Scale) of the PROPOSAL.

B. Variable Costs

- 4.2 CITY agrees to pay CONTRACTOR for satisfactory performance of variable cost work or unscheduled work at the hourly rates set forth in Exhibit BPF-6, entitled Sample Landscape/Irrigation Variable Costs (Economy of Scale), of the PROPOSAL. The hourly rates as provided shall include all applicable labor surcharges such as taxes, insurance and fringe benefits, as well as indirect costs, general and administrative expenses, overhead and profit. Compensation will be based upon the specified hourly rates multiplied by the number of service hours.
- 4.3 Variable cost or unscheduled work in excess of \$1000 that CONTRACTOR cannot perform shall be subcontracted by CONTRACTOR after CONTRACTOR obtains as least three (3) bids for performance of said work and submits bids to CITY for selection of bidder. CONTRACTOR shall not charge commission for the performance of subcontracted Variable Cost work nor apply any percentage mark-up to either labor or materials required for variable work under this contract.
- 4.4 Variable Cost work in excess of \$1000 will require the CITY's approval of a written cost estimate prepared by CONTRACTOR or subcontractor, with the type and quantity of materials specified and the number of labor hours

indicated. CITY reserves the right to change this cost ceiling as it deems necessary, with appropriate notice to CONTRACTOR.

- 4.5 If at any time CONTRACTOR has reason to believe that the total cost of the Variable Cost work will exceed the written cost estimate, CONTRACTOR shall notify CITY in writing to that effect and provide the revised estimate of the total cost of the performance and the work. Work that exceeds the cost estimate must be approved by CITY prior to start or continuation of work. No work shall commence without written authorization by CITY except in the case of emergency work that requires immediate attention.

5. INVOICE PROCEDURES

- 5.1 Invoices for payment of services shall document all charges and fees collected, and be prepared in such form and supported by such copies of original invoices, payrolls and other documents as may be required by CITY to establish that the charges are allowable.
- 5.2 CITY requires the statement "I certify under penalty of perjury that I have complied with the provisions of the City's Living Wage Ordinance", followed by the signature of an authorized company signee shall appear on every invoice that contains payment of CONTRACTOR employee salaries.
- 5.3 CITY shall pay CONTRACTOR upon submission of approved monthly requests for payment. Invoices for previous month's work should be submitted by the tenth (10th) day of the following month.
- 5.4 CITY, at its discretion, may withhold payment for work that was deemed unsatisfactory in either the Fixed or Variable Cost categories. Unsatisfactory work performance shall include, but not limited to, missed and/or neglected work tasks, late or untimely response, incomplete and/or unacceptable task performance by CONTRACTOR's employees or agents (subcontractors).
- 5.5 CITY agrees to pay CONTRACTOR amounts billed less disputed costs, if any, within thirty (30) days following receipt of invoice. Payment of expense disputes shall be resolved in an expedient manner.
- 5.6 In rendering service hereunder, CONTRACTOR shall be and remain an independent CONTRACTOR. It is expressly understood

and acknowledged by the parties hereto that any invoices payable hereunder shall be paid in gross amount, without reduction for any federal or state withholding or other payroll taxes, or any other governmental taxes or charges. CONTRACTOR is responsible for assuming and remitting any applicable federal or state withholding taxes, estimated tax payments, social security payments, unemployment compensation payments, or any other fees, taxes or expenses whatsoever.

6. WORK PERFORMANCE

- 6.1 CONTRACTOR guarantees that all work performed shall be in accordance with this AGREEMENT and shall be warranted free of defects for a minimum period of one year, from the time that CITY accepts the work, or the manufacturer's warranty period. In the event of failure of this warranty, CONTRACTOR shall take the necessary actions to correct the failure and the consequences thereof, at CONTRACTOR's sole expense, in the most expeditious manner as permitted by existing circumstances. If upon notification by CITY, CONTRACTOR does not promptly take the necessary corrective steps, CITY without waiving any other rights or remedies it may have at law or otherwise may correct the failure or cause other to do so and deduct from CONTRACTOR's monthly invoice the sum of the expenses and costs incurred in connection therewith.
- 6.2 CITY reserves the right to increase or decrease services as stated in the AGREEMENT, with thirty (30) days written notice to CONTRACTOR. The costs for such service adjustment shall be derived from the hourly rates for services as set forth in Exhibits BPF-5 and BPF-6 of the PROPOSAL.

7. PERFORMANCE PENALTIES

Performance Penalties, as described in the RFP, shall be imposed for late performance, or lack thereof, to provide the services under this AGREEMENT. All services shall be performed at all of CITY's transit facilities as applicable.

8. AUDIT, RECORDS, INSPECTION AND ACCESS

- 8.1 CONTRACTOR shall keep full and accurate records and accounts of all activities in connection with this AGREEMENT including without limitation reasonable substantiation of all expenses incurred based upon actual costs.

- 8.2 CITY or it's duly authorized representatives, shall have the right upon forty-eight (48) hours notice to CONTRACTOR, to audit and copy as desired all records, receipts, vouchers, payrolls, time sheets, time cards, expense reports, purchase orders, receiving reports, delivery tickets, vendor quotations, and data, journals and ledgers, data stored in computers, and all other data relating to the services rendered by CONTRACTOR under this AGREEMENT necessary to audit and verify charges by CONTRACTOR under this CITY contract.
- 8.3 CONTRACTOR shall retain and reserve all aforementioned documents and records, at no cost to CITY for a period of three (3) years, in a local office location in Southern California, following an audit of PROJECT cost, and grant secure all necessary access thereto.

9. PROJECT MANAGEMENT

- 9.1 Alan Mudge, principal-in-charge, and the part-time Inspector designated by CONTRACTOR, shall assume ultimate responsibility for, and participate in, all activities.
- 9.2. Mr. Mudge shall supervise the Inspector, who in turn, shall oversee all staff and subcontractors assigned to PROJECT. CONTRACTOR shall not replace Mr. Mudge, the designated Inspector or other key staff without prior notice to CITY and subsequent written approval by CITY.

10. CONTRACTORS STATUS/SUBCONTRACTORS

- 10.1 CONTRACTOR shall refrain from any action which would create or tend to create obligations, expressed or implied, on behalf of CITY, it being understood that CONTRACTOR is not and shall not be the legal representative or agent of CITY and that CONTRACTOR shall not be authorized to make any promise, warrant or representation except as specifically provided for this AGREEMENT or as otherwise agreed to in writing between the parties.
- 10.2 CITY shall have no liability to any subcontractor(s) for payment for service under this AGREEMENT or other work performed by CONTRACTOR, and any subcontract entered into by CONTRACTOR pursuant to the conduct of service under this AGREEMENT shall duly note that the responsibility for payment for the service performed shall be the sole responsibility of CONTRACTOR.

11. TERMINATION

CITY may at any time prior to completion of the term of contract, terminate this AGREEMENT for any cause, including, but not limited to, default by CONTRACTOR, upon written notice to CONTRACTOR at least thirty (30) days prior to the effective date of such termination. Similarly, CITY retains the right to terminate the work of a subcontractor for any cause, including, but not limited to, default by the subcontractor, upon written notice to CONTRACTOR at least thirty (30) days prior to the effective date of such termination. Best faith efforts will be made by both CITY and CONTRACTOR to correct identified problems and issues prior to contract termination written notices being issued. In such event, all records prepared by CONTRACTOR under the AGREEMENT will become the property of CITY and CONTRACTOR will be paid for services rendered and reasonable termination and settlement costs up to the date of termination.

12. IDEMNIFICATION

Except for the active negligence or willful misconduct of CITY, CONTRACTOR undertakes and agrees to defend, indemnify and hold harmless CITY and any and all CITY's Agents, Employees, Assigns, and Successors in Interest from and against all suits and cause of action, claims, losses, demands and expenses, including but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person including CONTRACTOR's employees and agents, or damage of or destruction to any property of either party hereto or of third parties, arising in any manner by reason of, or incident to, the performance of this AGREEMENT on the part of CONTRACTOR or subcontractor under any tier.

13. INSURANCE

CONTRACTOR shall comply with all of the insurances requirements under this AGREEMENT. Appendix A, Standard Provisions for City Contract, PSC-18, of the RFP, incorporated herein by this reference, describes in detail the insurance coverage and amounts required by this AGREEMENT.

14. WORKER'S COMPENSATION

CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 et seq., of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the code, and that it will comply with such provisions at all such times as they may apply during the performance of the work under this AGREEMENT.

15. STANDARD PROVISIONS FOR CITY CONTRACTS

Hereby incorporated by reference into this Contract are the Standard Provisions for City Contracts, revised October 2003, as attached in the RFP.

16. AMENDMENTS

This AGREEMENT may be amended at any time as necessary by mutual consent of CITY and CONTRACTOR. Amendments may include, but not be limited to service expansion or reduction in scope of work, nature of services, term of contract or other considerations.

Compensation to CONTRACTOR related to change in scope of work shall be negotiated upon costs as identified in the PROPOSAL.

Amendments shall be in writing, signed and dated by CITY and CONTRACTOR, and shall be incorporated into this AGREEMENT.

17. MISCELLANEOUS

- 17.1 Neither party assumes any liability for failure to fulfill the terms and conditions of this AGREEMENT caused by events beyond the reasonable control of each party. Such events, may include, but are not restricted to, the following: acts of God, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions strikes, freight embargoes, and unusually severe weather conditions, but in every case the failure to perform must be beyond the control and without the fault or negligence of CONTRACTOR or its subcontractors.
- 17.2 CONTRACTOR may not assign or subcontract this AGREEMENT, or any right, duty, or obligation existing hereunder, whether by operation of law or any other manner without the prior express written consent of CITY which shall neither be unreasonably withheld or delayed.
- 17.3 This AGREEMENT, the RFP, the PROPOSAL and all exhibits hereto contain the entire understanding between CONTRACTOR and CITY. No modification or addition to this AGREEMENT shall have any effect whatsoever unless set forth in writing and signed by both parties hereto.
- 17.4 All legal notices hereunder and communications with respect to this AGREEMENT shall be effective upon the mailing thereof by registered or certified mail, return receipt requested and postage prepaid to the persons below:

CITY:

Rita L. Robinson
General Manager
Department of Transportation
City of Los Angeles
100 S. Main St., 10th Floor
Los Angeles, CA 90012
(213) 928-8470

CONTRACTOR:

Jerry Cooper
President
ShelterCLEAN, Inc.
c/o Shelter Express, Inc.
444 Merrick Road, Suite 370
Lynbrook, NY 11563
(516) 881-3535

- 17.5 Written cost estimates, work authorizations and similar project related communications will be exchanged between the following named below:

CITY:

Tim Fremaux
Transportation Engineering Associate
Bikeways Section
Department of Transportation
City of Los Angeles
100 S. Main St., 9th Floor
Los Angeles, CA 90012
(213) 972-4957

CONTRACTOR:

Alan Mudge, Vice President
ShelterCLEAN, Inc
11065 Penrose St.
Sun Valley, CA 91352
(818) 767-9162

- 17.6 This AGREEMENT shall be binding on and inure to the benefit of the heirs, executors, administrators and assigns of the parties hereto.
- 17.7 In the event that either party brings suit to enforce the provisions of this AGREEMENT, the prevailing party shall be entitled to recover its reasonable cost and attorney's fees.
- 17.8 Any item of work contained in the RFP or the PROPOSAL shall be performed by CONTRACTOR. In the event of any conflict or misunderstanding between the parties, the terms of this contract shall govern over the RFP or the PROPOSAL, while terms of the RFP shall govern over the PROPOSAL, unless specifically stated otherwise.
- 17.9 This AGREEMENT shall be governed by the law of the State of California, excluding the conflict of law rules of that State.

17.10 Contractor Evaluation Ordinance

At the end of this contract, the CITY will conduct an evaluation of the CONTRACTOR's performance. The CITY may also conduct evaluations of the CONTRACTOR's performance during the term of the contract. As required by Section 10.39.2 of the Los Angeles Administrative Code, evaluations will be based on a number of criteria, including the quality of the work product or service performed, the timeliness of performance, the CONTRACTOR's compliance with budget requirements, and the expertise of personnel that the CONTRACTOR assigns to the contract. The CONTRACTOR will be provided with a copy of the final CITY evaluation and allowed 14 calendar days to respond. The CITY will use the final CITY evaluation, and any response from the CONTRACTOR, to evaluate proposals and to conduct reference checks with awarding other personal services contracts.

In witness thereof, the authorized parties have below signed:

SHELTER CLEAN, INC.

Jerry Cooper, President

Date: _____

CITY OF LOS ANGELES

Rita L. Robinson, General Manager
Department of Transportation

Date: _____

APPROVED AS TO FORM AND LEGALITY:

Rockard J. Delgadillo
City Attorney

Shelley I. Smith, Assistant City Attorney

Date: _____

ATTEST:

June Lagmay
City Clerk

Deputy City Clerk

Date: _____

Contract Number: _____

Council File: _____

ATTACHMENT B

AGREEMENT BETWEEN THE CITY OF LOS ANGELES AND SHELTERCLEAN, INC.

This Agreement is between the City of Los Angeles, a municipal corporation (hereinafter referred to as "CITY") and ShelterCLEAN, Inc. (hereinafter referred to as "CONTRACTOR").

WITNESSETH

Whereas, CONTRACTOR is currently under contract to CITY to manage and perform the various maintenance functions at CITY's transit facilities (hereinafter referred to as "PROJECT");

Whereas, CITY contract with CONTRACTOR expires 9/30/2009; and

Whereas, CITY issued a request for proposal (RFP) on 3/10/2009 to solicit companies interested in providing such services, which RFP is on file with the City Clerk and is incorporated herein reference; and

Whereas, CONTRACTOR, submitted a proposal (hereinafter referred to as "PROPOSAL") dated 5/5/2009, in response to the RFP, which PROPOSAL is incorporated herein by reference; and

Whereas, said PROPOSAL, was selected by CITY as the most responsive PROPOSAL received for said services; and

Whereas the RFP, PROPOSAL and this Contract shall be hereinafter be referenced collectively as the "AGREEMENT."

Now, therefore, the parties hereto agree as follows:

1. APPOINTMENT

CITY hereby contracts with ShelterClean, Inc., the CONTRACTOR, to provide management and maintenance services for the Chatsworth, Northridge, Sun Valley, Sylmar/San Fernando, Van Nuys Metrolink Stations, the Chatsworth Train Depot, and the Encino Park-and-Ride lot upon the terms and conditions as set forth in this AGREEMENT.

2. TERM

The term of this AGREEMENT shall extend for five (5) years from the date of execution of the Contract, unless sooner terminated as provided herein.

3. DUTIES

A. Scope of Work

- 3.1 CONTRACTOR shall render the services as fully described and set forth in this AGREEMENT or by amendment to the AGREEMENT.

B. Contractual Responsibilities

- 3.2 CONTRACTOR agrees to provide all personnel, supervision of said personnel, materials, and equipment required to complete all work as described in this AGREEMENT to the full satisfaction of CITY.
- 3.3 CONTRACTOR shall provide a quarterly monthly summary report that includes employee and subcontractor evaluations, individual station maintenance information and documented operational problems, patron complaints, incidents, a description of action taken regarding these issues, and other relevant information requested by the CITY. The summary report shall be submitted by the fifteenth (15th) day of the first month of the following quarter. In addition, Contractor and CITY shall meet on a quarterly basis to discuss any issues or problems that may arise.
- 3.4 CONTRACTOR shall assess the performance of all company personnel assigned to the PROJECT and PROJECT subcontractors. CONTRACTOR will evaluate the efficiency and effectiveness of said personnel and the cost-to-service economy of PROJECT subcontractors. CONTRACTOR shall replace project personnel, if necessary, to ensure smooth and effective operation and high quality maintenance of the PROJECT. CITY shall be apprised of and approve personnel changes.
- 3.5 CITY shall issue PROJECT keys to CONTRACTOR. CONTRACTOR shall be responsible for all keys to PROJECT functions, such as electrical boxes, irrigation controllers, depot and tenant spaces, bus operator restrooms, and any other keys required to operate the

PROJECT. Keys shall be handled in a secure and accountable manner and shall not be distributed to any party outside CONTRACTOR's assigned PROJECT personnel.

- 3.6 CONTRACTOR shall monitor CITY Transit Facilities, as specified in the RFP on a daily basis, and report to CITY Staff immediately any emergency situations that occur. Emergency situations shall include but not limited to downed trees due to high winds, power outages, etc.

4. COMPENSATION

City shall compensate CONTRACTOR for work which CONTRACTOR has performed under the Fixed and Variable Cost categories. Work shall be delivered in the manner satisfactory and acceptable to CITY and is described in the RFP and PROPOSAL.

A. Fixed Costs

- 4.1 CITY agrees to pay full compensation for said fixed costs services, including all allowable expenses incurred and incident thereto, an estimated amount not to exceed a ceiling price of \$1,581,310.84 for Fixed Costs during the Five (5) year contract period, as show on Exhibit TF-10: Total Fixed Cost (Economy of Scale) of the PROPOSAL.

B. Variable Costs

- 4.2 CITY agrees to pay CONTRACTOR for satisfactory performance of variable cost work or unscheduled work at the hourly rates set forth in Exhibit TF-11: Sample Landscape/Irrigation Variable Costs (Economy of Scale), of the PROPOSAL. The hourly rates as provided shall include all applicable labor surcharges such as taxes, insurance and fringe benefits, as well as indirect costs, general and administrative expenses, overhead and profit. Compensation will be based upon the specified hourly rates multiplied by the number of service hours.
- 4.3 Variable Cost or unscheduled work in excess of \$1,000 that CONTRACTOR cannot perform shall be subcontracted by CONTRACTOR after CONTRACTOR obtains at least three (3) bids for performance of said work and submits bids to CITY for selection of bidder. CONTRACTOR shall not charge commission for the performance of subcontracted Variable

Cost work nor apply any percentage mark-up to either labor or materials required for variable work under this contract.

- 4.4 Variable Cost work in excess of \$1,000 will require CITY's approval of a written cost estimate prepared by CONTRACTOR or subcontractor, with the type and quantity of materials specified and the number of labor hours indicated. CITY reserves the right to change this cost ceiling as it deems necessary, with appropriate notice to CONTRACTOR.
- 4.5 If at any time CONTRACTOR as reason to believe that the total cost of the Variable Cost work will exceed the written cost estimate, CONTRATOR shall notify CITY in writing to that effect and provide the revised estimate of the total cost of the performance and the work. Work that exceeds the cost estimate must be approved by CITY prior to start or continuation of work. No work shall commence without written authorization by the CITY except in the case of emergency work, as described in Section 3.6, that requires immediate attention.

5. INVOICE PROCEDURES

- 5.1 Invoices for payment of services shall document all charges and fess collected, and be prepared in such form and supported by such copies of original invoices, payrolls and other documents as may be required by CITY to establish that the charges are allowable.
- 5.2 CITY requires the statement "I certify under penalty of perjury that I have complied with the provisions of the City's Living Wage Ordinance", followed by the signature of an authorized company signee shall appear on every invoice that contains payment of CONTRACTOR employee salaries.
- 5.3 CITY shall pay CONTRACTOR upon submission of approved monthly requests for payment. Invoices for previous month's work should be submitted by the tenth (10th) day of the following month.
- 5.4 CITY, at its discretion, may withhold payment for work that was deemed unsatisfactory in either the Fixed or Variable Cost categories. Unsatisfactory work performance shall in included, but not limited to, missed and/or neglected work tasks, late or untimely response, incomplete and/or unacceptable task performance by CONTRACTOR's employees or agents (subcontractors).

- 5.5 CITY agrees to pay CONTRACTOR amounts billed less disputed costs, if any, within thirty (30) days following receipt of invoice. Payment of expense disputes shall be resolved in an expedient manner.
- 5.6 In rendering service hereunder, CONTRACTOR shall be and remain an independent CONTRACTOR. It is expressly understood and acknowledged by the parties hereto that any invoices payable hereunder shall be paid in gross amount, without reduction for any federal or state withholding or other payroll taxes, or any other governmental taxes or charges. CONTRACTOR is responsible for assuming and remitting any applicable federal or state withholding taxes, estimated tax payments, social security payments, unemployment compensation payments, or any other fees, taxes or expenses whatsoever.

6. WORK PERFORMANCE

- 6.1 CONTRACTOR guarantees that all work performed shall be in accordance with this AGREEMENT and shall be warranted free of defects for a minimum period of one year, from the time that CITY accepts the work, or the manufacturer's warranty period. In the event of failure of this warranty, CONTRACTOR shall take the necessary actions to correct the failure and the consequences thereof, at CONTRACTOR's sole expense, in the most expeditious manner as permitted by existing circumstances. If upon notification by CITY, CONTRACTOR does not promptly take the necessary corrective steps, CITY without waiving any other rights or remedies it may have at law or otherwise may correct the failure or cause other to do so and deduct from CONTRACTOR's monthly invoice the sum of the expenses and costs incurred in connection therewith.
- 6.2 CITY reserves the right to increase or decrease services as stated in the AGREEMENT, with thirty (30) days written notice to CONTRACTOR. The costs for such service adjustment shall be derived from the hourly rates for services as set forth in Exhibits TF-10 and TF-11 of the PROPOSAL.

7. PERFORMANCE PENALTIES

Performance Penalties, as described in the RFP, shall be imposed for late performance, or lack thereof, to provide the services under this AGREEMENT. All services shall be performed at all of CITY's transit facilities, as applicable.

8. AUDIT, RECORDS, INSPECTION AND ACCESS

- 8.1 CONTRACTOR shall keep full and accurate records and accounts of all activities in connection with this AGREEMENT including without limitation reasonable substantiation of all expenses incurred based upon actual costs.
- 8.2 CITY or it's duly authorized representatives, shall have the right upon forty-eight (48) hours notice to CONTRACTOR, to audit and copy as desired all records, receipts, vouchers, payrolls, time sheets, time cards, expense reports, purchase orders, receiving reports, delivery tickets, vendor quotations, and data, journals and ledgers, data stored in computers, and all other data relating to the services rendered by CONTRACTOR under this AGREEMENT necessary to audit and verify charges by CONTRACTOR under this CITY contract.
- 8.3 CONTRACTOR shall retain and reserve all aforementioned documents and records, at no cost to CITY for a period of three (3) years, in a local office location in Southern California, following an audit of PROJECT cost, and grant secure all necessary access thereto.

9. PROJECT MANAGEMENT

- 9.1 Alan Mudge, principal-in-charge, and the full-time Facilities Manager designated by CONTRACTOR, shall assume ultimate responsibility for, and participate in, all activities.
- 9.2 Mr. Mudge shall supervise the Facilities Manager, who in turn, shall oversee all staff and subcontractors assigned to PROJECT. CONTRACTOR shall not replace Mr. Mudge, the designated Facilities Manager or other key staff without prior notice to CITY and subsequent written approval by CITY.

10. CONTRACTORS STATUS/SUBCONTRACTORS

- 10.1 CONTRACTOR shall refrain from any action which would create or tend to create obligations, expressed or implied, on behalf of CITY, it being understood that CONTRACTOR is not and shall not be the legal representative or agent of CITY and that CONTRACTOR shall not be authorized to make any promise, warrant or representation

except as specifically provided for this AGREEMENT or as otherwise agreed to in writing between the parties.

- 10.2 CITY shall have no liability to any subcontractor(s) for payment for service under this AGREEMENT or other work performed by CONTRACTOR, and any subcontract entered into by CONTRACTOR pursuant to the conduct of service under this AGREEMENT shall duly note that the responsibility for payment for the service performed shall be the sole responsibility of CONTRACTOR.

11. TERMINATION

CITY may at any time prior to completion of the term of contract, terminate this AGREEMENT for any cause, including, but not limited to, default by CONTRACTOR, upon written notice to CONTRACTOR at least thirty (30) days prior to the effective date of such termination. Similarly, CITY retains the right to terminate the work of a subcontractor for any cause, including, but not limited to, default by the subcontractor, upon written notice to CONTRACTOR at least thirty (30) days prior to the effective date of such termination. Good faith efforts will be made by both CITY and CONTRACTOR to correct identified problems and issues prior to contract termination written notices being issued. In such event, all records prepared by CONTRACTOR under the AGREEMENT will become the property of CITY and CONTRACTOR will be paid for services rendered and reasonable termination and settlement costs up to the date of termination.

12. IDEMNIFICATION

Except for the active negligence or willful misconduct of CITY, CONTRACTOR undertakes and agrees to defend, indemnify and hold harmless CITY and any and all CITY's Agents, Employees, Assigns, and Successors in Interest from and against all suits and cause of action, claims, losses, demands and expenses, including but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person including CONTRACTOR's employees and agents, or damage of or destruction to any property of either party hereto or of third parties, arising in any manner by reason of, or incident to, the performance of this AGREEMENT on the part of CONTRACTOR or subcontractor under any tier.

13. INSURANCE

CONTRACTOR shall comply with all of the insurances requirements under this AGREEMENT. Appendix A, Standard Provisions for City Contract, PSC-18, of the

RFP, incorporated herein by this reference, describes in detail the insurance coverage and amounts required by this AGREEMENT.

14. WORKER'S COMPENSATION

CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 et seq., of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the code, and that it will comply with such provisions at all such times as they may apply during the performance of the work under this AGREEMENT.

15. STANDARD PROVISIONS FOR CITY CONTRACTS

Hereby incorporated by reference into this Contract are the Standard Provisions for City Contracts, revised October 2003, as attached in the RFP.

16. AMENDMENTS

This AGREEMENT may be amended at any time as necessary by mutual consent of CITY and CONTRACTOR. Amendments may include, but not be limited to service expansion or reduction in scope of work, nature of services, term of contract or other considerations.

Compensation to CONTRACTOR related to change in scope of work shall be negotiated upon costs as identified in the PROPOSAL.

Amendments shall be in writing, signed and dated by CITY and CONTRACTOR, and shall be incorporated into this AGREEMENT.

17. MISCELLANEOUS

- 17.1 Neither party assumes any liability for failure to fulfill the terms and conditions of this AGREEMENT caused by events beyond the reasonable control of each party. Such events, may include, but are not restricted to, the following: acts of God, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions strikes, freight embargoes, and unusually severe weather conditions, but in every case the failure to perform must be beyond the control and without the fault or negligence of CONTRACTOR or its subcontractors.
- 17.2 CONTRACTOR may not assign or subcontract this AGREEMENT, or any right, duty, or obligation existing hereunder, whether by

operation of law or any other manner without the prior express written consent of CITY which shall neither be unreasonably withheld or delayed.

- 17.3 This AGREEMENT, the RFP, the PROPOSAL and all exhibits hereto contain the entire understanding between CONTRACTOR and CITY. No modification or addition to this AGREEMENT shall have any effect whatsoever unless set forth in writing and signed by both parties hereto.
- 17.4 All legal notices hereunder and communications with respect to this AGREEMENT shall be effective upon the mailing thereof by registered or certified mail, return receipt requested and postage prepaid to the persons below:

CITY:

Rita L. Robinson
General Manager
Department of Transportation
City of Los Angeles
100 S. Main St., 10th Floor
Los Angeles, CA 90012
(213) 928-8470

CONTRACTOR:

Jerry Cooper
President
ShelterCLEAN, Inc.
c/o Shelter Express, Inc.
444 Merrick Road, Suite 370
Lynbrook, NY 11563
(516) 881-3535

- 17.5 Written cost estimates, work authorizations and similar project related communications will be exchanged between the following named below:

CITY:

Tom Chang, Supervising
Transportation Planner I
Transit Center Development Section
Department of Transportation
City of Los Angeles
100 S. Main St., 10th Floor
Los Angeles, CA 90012
(213) 928-9783

CONTRACTOR:

Alan Mudge, General Mgr.
ShelterCLEAN, Inc.
11065 Penrose St.
Sun Valley, CA 91352
(818) 767-9162

- 17.6 This AGREEMENT shall be binding on and inure to the benefit of the heirs, executors, administrators and assigns of the parties hereto.
- 17.7 In the event that either party brings suit to enforce the provisions of this AGREEMENT, the prevailing party shall be entitled to recover its reasonable cost and attorney's fees.

17.8 Any item of work contained in the RFP or the PROPOSAL shall be performed by CONTRACTOR. In the event of any conflict or misunderstanding between the parties, the terms of this contract shall govern over the RFP or the PROPOSAL, while terms of the RFP shall govern over the PROPOSAL, unless specifically stated otherwise.

17.9 This AGREEMENT shall be governed by the law of the State of California, excluding the conflict of law rules of that State.

17.10 Contractor Evaluation Ordinance

At the end of this contract, the CITY will conduct and evaluation of the CONTRACTOR's performance. The CITY may also conduct evaluations of the CONTRACTOR's performance during the term of the contract. As required by Section 10.39.2 of the Los Angeles Administrative Code, evaluations will be based on a number of criteria, including the quality of the work product or service performed the timeliness of performance, the CONTRACTOR's compliance with budget requirements, and the expertise of personnel that the CONTRACTOR assigns to the contract. The CONTRACTOR will be provided with a copy of the final CITY evaluation and allowed 14 calendar days to respond. The CITY will use the final CITY evaluation, and any response from the CONTRACTOR, to evaluate proposals and to conduct reference checks with awarding other personal services contracts.

In witness thereof, the authorized parties have below signed:

SHELTERCLEAN, INC. (c/o SHELTER EXPRESS, INC.):

Jerry Cooper, President

Date: _____

CITY OF LOS ANGELES:

Rita L. Robinson, General Manager
Department of Transportation

Date: _____

APPROVED AS TO FORM AND LEGALITY:

Rockard J. Delgadillo
City Attorney

Shelley I. Smith, Assistant City Attorney

Date: _____

ATTEST:

June Lagmay
City Clerk

Deputy City Clerk

Date: _____

Contract Number: _____

Council File: _____