

JACKSON PUBLIC SCHOOLS

Custodial Services Contract

This Contract is entered into on January 10, 2005 between the Jackson Public Schools, Jackson County, Michigan, a Michigan public school corporation, 522 Wildwood, Jackson, Michigan 49201 ("JPS") and Enviro-Clean Services, Inc. a Michigan corporation, 2457 112th Avenue, Holland, Michigan 49424 ("Enviro-Clean")

RECITALS:

A. JPS used the request for proposals process to select Enviro-Clean to perform custodial services for JPS.

B. Enviro-Clean represents that it is qualified and has the ability to perform such services and has agreed to perform such services in accordance with the terms and conditions of this Contract.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and the performance of the conditions contained herein, JPS and Enviro-Clean agree as follows:

1. Scope of Services:

a. Subject to the terms and conditions set forth in this Contract, Enviro-Clean shall provide to JPS the custodial services described in the Request for Proposals dated November 5, 2004 ("RFP") and the Enviro-Clean proposal dated December 2, 2004 ("Proposal"). The RFP and the Proposal are incorporated herein by reference and made a part of this Contract to define the scope of services.

b. The staffing to provide such services shall be Option A as described in the Proposal (15 full-time employees on days and 35 full-time employees on nights).

c. The level of services shall be consistent with Option A as specified in the Proposal and Exhibit 1 - Custodial Specifications, Exhibit 2 - Cleaning Frequencies and Exhibit 3 - Task Definitions of the RFP and such services shall be provided for the schools and facilities listed in Exhibit 4 and described in Exhibit 6 of the RFP.

d. Enviro-Clean shall not be compensated for services outside the scope of services set forth above unless, prior to the commencement of such services.

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b. The staffing to provide such services shall be Option A as described in the Proposal (15 full-time employees on days and 35 full-time employees on nights).

c. The level of services shall be consistent with Option A as specified in the Proposal and Exhibit 1 - Custodial Specifications, Exhibit 2 - Cleaning Frequencies and Exhibit 3 - Task Definitions of the RFP and such services shall be provided for the schools and facilities listed in Exhibit 4 and described in Exhibit 6 of the RFP.

d. Enviro-Clean shall not be compensated for services outside the scope of services set forth above unless, prior to the commencement of such services.

(1) Enviro-Clean notifies JPS and JPS agrees in writing that such services are outside the scope of services to be performed.

(2) Enviro-Clean estimates the additional compensation required for the additional services

(3) JPS, after notice, approves in writing the additional services and amount of compensation therefore.

2. **Term and Termination:**

a. **Term:** The term of this Contract shall begin on December 20, 2004 and shall continue through June 30, 2008 unless earlier terminated as provided in this Contract.

b. **Termination:** This Contract may be terminated before the expiration of the term on the first to occur of any of the following:

(1) In the event all parties mutually agree in writing, this Contract may be terminated on the terms and dates stipulated therein.

(2) JPS may terminate this Contract upon sixty (60) days written notification to Enviro-Clean if Enviro-Clean's performance is not satisfactory as determined by JPS in its sole discretion, or if Enviro-Clean deviates from specified product quality or cost agreements.

(3) Enviro-Clean may terminate this Contract if JPS fails to pay an invoice within sixty (60) days of receipt as provided in paragraph 3.

(4) Either party may terminate this Contract in the event of a material or substantial breach by the other party if the non-defaulting party provides written notice of the breach to the defaulting party and the breach is not corrected within thirty (30) days.

3. **Compensation:**

a. **Amount:** JPS shall pay Enviro-Clean for services rendered pursuant to this Contract on a flat fee basis at the rate of \$1,532,119.32 for a full contract year or \$127,676.61 for each calendar month. The compensation paid for the period from December 20, 2004 through December 31, 2004 shall be based on actual costs incurred by Enviro-Clean during such period at the rates and costs set forth in the Proposal.

b. Billing: An invoice for a calendar month shall be submitted by Enviro-Clean to the JPS Maintenance and Operations Department after the end of such calendar month, but on or before the 15th day of the next calendar month. The invoice shall be accompanied by operating and composite statements as required by Section 8.08 of the RFP and paragraph 9 of this Contract.

c. Payment: All invoices sent by Enviro-Clean to JPS shall be paid within thirty (30) days of receipt. Enviro-Clean shall have the right to terminate services if an invoice is not paid within sixty (60) days of receipt, provided that Enviro-Clean first provides at least twenty (20) days written notice to JPS of intent to terminate services.

4. Health and Safety: Enviro-Clean shall require its employees to abide by all health and safety requirements imposed by law. Further, Enviro-Clean and all of its employees shall abide by safety and health regulations specified by the JPS.

5. Sanitation and Environment:

a. Enviro-Clean shall maintain sanitary working areas and shall comply with all federal, state, and local health and sanitation regulations that apply to custodial service operations.

b. JPS reserves the right to inspect all cleaning areas, storage areas, office and any other space under Enviro-Clean control at any time with or without notice.

c. Enviro-Clean is committed to recycling and is responsible for maintaining proactive energy conservation programs and, as a minimum, shall include the following:

- Waste reduction: Enviro-Clean shall employ all reasonable measures to reduce and prevent waste.
- Recycling: Enviro-Clean shall participate in any existing and/or future recycling programs established by JPS.
- Safety: Enviro-Clean shall use a proactive safety program for its employees and operations at the schools, as well as comply with all JPS safety rules that apply to custodial services operations.

6. Equipment and Facilities Maintenance and Sanitation:

a. The premises, equipment and facilities shall be maintained in a condition satisfactory to the school. Enviro-Clean shall adhere to the highest

standards of cleanliness and sanitary practices to insure continual sanitation in all functions and matters related to the custodial service operation.

b. Enviro-Clean will be responsible for specified stripping and sealing of floors, carpet cleaning, cleaning draperies and blinds, upholstered furniture, and cleaning walls and doors.

c. Enviro-Clean will remove all trash, garbage, and debris from all premises occupied by Enviro-Clean according to a schedule approved by JPS.

d. JPS shall have the right at all times to determine by inspection that facility cleanliness, sanitation and maintenance are satisfactory and in accordance with health standards.

7. **Personnel:**

a. Enviro-Clean shall maintain adequate staff at all times to ensure a high quality custodial service operation, including expert personnel for administration, purchasing, equipment consulting, and supervision. The contractor shall submit for each contract year starting July 1, 30 days in advance, the organization and staffing plan for administration of the custodial service operations covered under this Contract for review and approval by JPS. A qualified supervisor shall be on duty throughout the time that each custodial service operation is in operation.

b. JPS reserves the right to prior consultation in Enviro-Clean's choice of its unit managers. No assignment of such personnel shall be made without prior approval from JPS.

c. Enviro-Clean unit managers shall continue serving only as long as their performance is acceptable to JPS. Such consultation and approval shall be prior to announcing the transfer of the selected individual.

d. Enviro-Clean shall provide management staff, made known to JPS by name, to routinely review and inspect operations, personally fill vacancies, consult with JPS on current and future custodial service programs, and to act with full authority on Enviro-Clean's behalf in any and all matters pertaining to the specifications of this Contract.

e. Enviro-Clean will make provision for a manager to be accessible each day. Such manager shall be a non-production employee and shall be clearly identifiable as the individual in charge of the operation and available to give assistance.

f. All employees of Enviro-Clean assigned jobs at the schools shall be attired in uniform and have prominently displayed nametags.

g. Personnel or agents of Enviro-Clean shall observe all school traffic parking regulations. Drinking of alcoholic beverages or the use of illegal drugs or being under the influence of either on the job by Enviro-Clean employees will not be permitted. Smoking is prohibited inside all facilities owned, leased or operated by JPS including, but not limited to such space as classrooms, halls, lavatories, studios, opened and private offices, corridors, dining areas, restrooms, and common areas. Smoking is also prohibited on school grounds as outlined by law.

h. Enviro-Clean shall have the resources and staff for providing comprehensive training and staff development programs including the management of a diverse work force for employees at all levels of the organization.

i. All persons employed by Enviro-Clean to perform services pursuant to this Contract must undergo a criminal background check in accordance with JPS regulations. Enviro-Clean shall provide JPS with the results of all such background checks and shall terminate or not permit any person to perform services pursuant to this Contract that JPS reasonably objects to based on such results.

8. **Inspection:** JPS shall have access to all custodial service facilities to inspect the operation thereof and the work of Enviro-Clean with respect to the quality of procedures, sanitary and safety standards, cleanliness, appearance and conduct of Enviro-Clean employees, operating hours, and general housekeeping and upkeep of premises. JPS shall have the right to make reasonable regulations with regard to all such matters and Enviro-Clean agrees to comply with such regulations.

9. **Accounting Statements and Audits:**

a. After the end of each calendar month during the term, Enviro-Clean shall furnish to JPS an operating statement for each custodial service operation and a composite statement. The operating statement shall give a complete accounting of sales by category, including a breakdown of product cost, labor costs, other direct expenses and administrative and/or management charges.

b. Each operating statement and the composite statement shall present revenue and expense amounts for the period being reported and fiscal year-to-date with percentage ratios given for each item and period.

c. JPS's fiscal reporting period is July 1 through June 30. The Enviro-Cleans year-to-date report shall correspond with this period.

d. All operating statements and sales reports will be submitted by the 15th day following the last day of each calendar month and be accompanied by respective payments. For this purpose, a schedule of Enviro-Clean's accounting periods should be defined.

e. All start-up costs must be clearly identified.

f. JPS reserves the right to audit or cause to be audited Enviro-Clean's books and accounts with JPS at any time during the term of this Contract and for five (5) years thereafter.

10. **Advertising:** Enviro-Clean agrees not to use the Proposal or any subsequent agreement as part of any commercial advertising without prior approval of JPS.

11. **General Terms and Conditions:**

a. **Federal, State and Local Law Compliance:** JPS shall use its best efforts as reasonably requested by Enviro-Clean to assist Enviro-Clean in complying with any applicable federal, state or local laws, rules and regulations. Enviro-Clean shall in the performance of services pursuant to this Contract, fully comply with all applicable federal, state, or local laws, rules and regulations, and shall hold JPS, its officers, employees, agents and assignees harmless from any liability from failure of such compliance. This contract indemnification from Enviro-Clean to JPS shall include Enviro-Clean representations and warranties that this Contract is in compliance with all applicable federal and state law.

b. **Federal, State and Local Licenses, Permits and Fees:** Enviro-Clean shall give all notices and secure and pay for all licenses, permits and fees required by law for the proper completion of this Contract. Enviro-Clean shall comply with all laws, ordinances and codes applicable to this Contract, and to policies and procedures promulgated by JPS including but not limited to parking and traffic, no smoking, and safety and security.

c. **Taxes:** Enviro-Clean is responsible for personal property taxes and other applicable taxes related to the services provided under the Contract.

d. **Equal Employment Opportunity Requirements:** Enviro-Clean will comply with all laws and all published rules, regulations, reporting requirements, directives and orders of the Michigan Civil Rights Commission relevant to 1976 PA 453, as amended, which may be in effect prior to the taking of bids for any individual project. This may include providing information as to the practices, policies, and employment statistics of Enviro-Clean and each subcontractor, and will permit access to any books, records and accounts by JPS and/or its designee and its agents, for purposes of investigating compliance with this Contract and with rules, regulations, and orders of JPS and Michigan Civil Rights

Commission. A finding by JPS or the Michigan Civil Rights Commission that Contractor has not complied with the contractual obligations under this Contract may result in the cancellation of the Contract or ineligibility for future contracts with JPS. Enviro-Clean will include, or incorporate by reference, these provisions in every subcontract or purchase order and will be binding upon each subcontractor. Breach of this covenant may be regarded as a material and substantial breach of this Contract.

e. Discrimination: Enviro-Clean will not unlawfully discriminate against any individual because of race, religion, color, national origin, age, sex, height, weight, marital status or disability. Enviro-Clean will take affirmative action to insure that applicants for employment and employees during employment are treated without regard to their race, religion, color, national origin, age, sex, height, weight, marital status or disability except as permitted by law. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer; recruitment advertising, solicitations or advertisements for employees; layoff or termination; rates of pay or other forms of compensation; and selection for training and apprenticeship.

f. Warranty: Unless otherwise specified, all materials and equipment shall be new, and all work shall be of good quality and in conformance with the Contract documents. JPS endeavors to buy products made in the United States of America whenever an American-made product is available that meets or exceeds the specifications requested and the price is equal to or lower than a foreign-made product. Enviro-Clean is requested to bid American-made products and/or services whenever available. Enviro-Clean may bid foreign-made products or services when:

- They are specified.
- They are identified as an alternate by the bidder as long as they are technically acceptable.
- More than 50% of the product is manufactured or assembled in the United States.

g. OSHA Compliance: All goods or services to be furnished by Enviro-Clean shall meet all applicable State and Federal requirements of the Occupational Safety and Health Act. Alleged violations or deviations from said State and Federal requirements pertaining to any goods or services to be furnished by Enviro-Clean or Enviro-Clean's working conditions or employment practices, must be corrected and penalties levied by OSHA paid by the Enviro-Clean.

h. Business Relationship Affidavit: Enviro-Clean certifies that no elected or appointed official or employee of JPS has benefited or will benefit financially or materially from any consideration of its Proposal, the selection of Enviro-Clean, or this Contract.

i. Repairs to Property Damage: Any damage to JPS properties caused by Enviro-Clean, its agents or employees shall be repaired so that the properties are in as good condition as found. All repairs shall be accomplished at no cost to JPS and with JPS' approval.

j. Contract Assignment or Sub-Contract: This Contract shall not be assigned, transferred, or subcontracted in whole or in part without the prior written approval of JPS. Enviro-Clean shall not subcontract with any entity or person with whom JPS has a reasonable objection. Enviro-Clean shall not change subcontractors without the consent of JPS. Enviro-Clean shall ensure that each subcontractor be bound to Enviro-Clean, to the Contract, and to the terms and rights of these documents, including all general and supplementary conditions.

k. Indemnification: Enviro-Clean shall indemnify JPS, its agents and employees from all claims and expenses, including attorney fees, arising out of or associated with the services provided by Enviro-Clean. Enviro-Clean shall also indemnify JPS from damages or injuries incurred by JPS by reason of any defect in material, workmanship, and/or design of any goods furnished by Enviro-Clean. At the written request of JPS, Enviro-Clean shall investigate and defend those claims against JPS. Enviro-Clean shall not be responsible for any liability that may result from the acts of JPS, or its employees or agents.

l. Insurance Requirements: Enviro-Clean shall purchase and maintain for the life of the Contract insurance with limits of liability as required by law or as set forth below, whichever is greater.

(1) Worker's compensation and employer's liability at a minimum of \$500,000 or at statutory limits if greater.

(2) Commercial general liability made on an occurrence form basis which includes at minimum the following types of coverage:

- Contractual liability, advertising and personal injury, products and completed operations, and an installation floater, showing limits of \$1,000,000 per occurrence, and a general aggregate limit of \$2,000,000.
- Comprehensive Automobile Liability, which includes coverage for any auto, hired autos, and non-owned autos with a combined single limit of \$1,000,000.
- Bodily and personal injury of \$500,000 per accident and \$250,000 per person.
- Property damage of \$100,000.
- Combined single limit of \$1,000,000.

JPS shall be identified as an additional insured under the coverage. Certificates of insurance shall be on standard format acceptable to JPS and shall be filed with JPS before commencing this Contract. The certificates shall contain a provision that coverage provided under the policies will not be canceled until at least thirty (30) days prior written notice has been given to JPS. The Contractor shall require its subcontractors to maintain equivalent coverage.

m. FERPA Compliance: The Contractor and its employees and agents agree to comply with the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 USC 1232g with respect to the confidentiality of student records and personally identifiable student information, including but not limited to the requirement not to disclose any student record or personally identifiable student information to any other party without the written consent of the student's parent or legal guardian or from an eligible student who has reach majority age.

n. Relationship of Parties, No Third Party Beneficiaries: Enviro-Clean is an independent contractor under this Contract. This Contract gives no rights or benefits to anyone not named as part of this Contract and there are no third party beneficiaries to this Contract.

o. Extension of Agreement: JPS, by mutual agreement with Enviro-Clean, reserves the right to extend this contract for two (2) renewal terms of one (1) year duration, if that is determined to be in its best interest.

p. Notices: All notices shall be in writing and shall be deemed given when sent by recognized courier service or when mailed by First Class Mail, postage prepaid and addressed to the respective party as follows:

To JPS: Rodney V. Walz, Director of Operations
Jackson Public Schools Operations Center
1401 N. Brown St.
Jackson, Michigan 49202

With a copy to: William Hannon
Deputy Superintendent for Finance and
Operations
Jackson Public Schools
522 Wildwood Avenue
Jackson, Michigan 49201

To Enviro-Clean: Dan A. Koster, President
Enviro-Clean Services, Inc.
2457 112th Avenue
Holland, Michigan 49424

Either party may from time to time designate another person or address for notices by providing the other party with written notice of the change in the manner set forth above.

q. Entire Agreement: This Contract contains the entire Contract between the parties and shall not be changed except by further written agreements signed by both parties.

r. Governing Law: This Contract shall be construed and enforced in accordance with the laws of the State of Michigan.

s. Severability: If any portion of this Contract or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent the remainder of this Contract shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

t. Conflicts: In the event of any conflict between the terms of this Contract and the provisions of the RFP or the Proposal, the terms of this Contract shall prevail.

IN WITNESS WHEREOF, the parties have executed this Contract the day and year first above written.

JACKSON PUBLIC SCHOOLS,
Jackson County, Michigan

By: _____

Its: _____

ENVIRO-CLEAN SERVICES, INC.

By: _____

Its: _____