

PROFESSIONAL SERVICES AGREEMENT

OCWUT00100

ESMA Janitorial Services, LLC

This Professional Services Agreement (hereinafter “Agreement”) is entered into by and between **ESMA Janitorial Services, LLC** (hereinafter referred to as “**SERVICE PROVIDER**”), and the Oklahoma City Water Utilities Trust (hereinafter referred to as “**OCWUT**”).

WITNESSETH:

WHEREAS, on October 9, 2024, the **OCWUT** prepared a Request for Proposal (“**RFP**”) seeking a Professional Services Agreement for labor services related to the effective removal of trash, debris, brush, and overgrowth on public property, along with graffiti abatement on public and private property within the jurisdiction of Oklahoma City and addressing graffiti issues promptly and efficiently; and

WHEREAS, on November 6, 2024, the **OCWUT** received responses to its RFP; and

WHEREAS, a selection committee reviewed and evaluated the responses; and

WHEREAS, the **SERVICE PROVIDER** represented itself, both in its response (“Proposal”) and its interview (“Interview”) as having experience in the field of janitorial and exterior clean up services with trained staff willing, able, and capable of timely providing the services requested and required by the **OCWUT** in the **RFP**; and

WHEREAS, based upon the representations, guarantees, and warranties expressed by the **SERVICE PROVIDER** both in the Proposal and the Interview, the selection committee recommended, and the **OCWUT** selected and entered this Agreement with the **SERVICE PROVIDER**; and

WHEREAS, the **OCWUT** strives to obtain proposals from qualified businesses to provide labor services for effective removal of trash, debris, brush, and overgrowth on public property, along with graffiti abatement on public and private property within the jurisdiction of Oklahoma City; and

WHEREAS, **OCWUT** retains **SERVICE PROVIDER** to provide professional services as an independent **SERVICE PROVIDER**; and

Professional Services Agreement

Page 1 of 14

OCWUT00100

WHEREAS, SERVICE PROVIDER agrees to provide the **OCWUT** all services, in accordance with the standards exercised in the regular course of business, necessary to provide the **OCWUT** services, products, solutions and deliverables that meet all the purposes and functionality requested or described in the **RFP** and in this Agreement.

NOW, THEREFORE, for and in consideration of the above premises and the mutual covenants set forth herein, the **OCWUT** and **SERVICE PROVIDER** hereby mutually agree as follows:

1. Professional Services Agreement

Subject to the terms and conditions of this Agreement, **OCWUT** retains **SERVICE PROVIDER**, an independent contractor, to provide **OCWUT** with all services, products, solutions, and deliverables that meet all the purposes and functionality requested or described in the **RFP** and in this Agreement, in accordance with the standards exercised in the regular course of business.

- (a) This Agreement governs the Scope of Services including, but not limited to, all services, products, solutions, and deliverables to be provided by the **SERVICE PROVIDER** to the **OCWUT**. The Attachments are incorporated into this Agreement by reference and, should there be a conflict in language, terms, conditions, or provisions, the text of this Agreement shall have priority and precedential value as set forth in this paragraph.
- (b) The text of this Agreement, together with the Attachments, constitutes the entire Agreement and the only understanding and agreement between the **OCWUT** and the **SERVICE PROVIDER** with respect to the services, products, solutions, and deliverables to be provided by the **SERVICE PROVIDER** hereunder. This Agreement may only be amended, modified, or changed in writing when signed by all parties, or their respective specifically authorized representatives, as set forth in this Agreement.
- (c) If there is a conflict in language, terms, conditions, or provisions, in the text of this Agreement or in any Attachment herein, then the text of this Agreement

shall govern and control over any conflicting language, term, condition, or provision in any Attachment. As among the Attachments any conflict in the language, terms, conditions, or provisions shall be governed in the following order of priority and precedence:

Attachment “A” (“Scope of Services”),

Attachment “B” (“SERVICE PROVIDER’s Project Team”),

Attachment “C” (“SERVICE PROVIDER’s Contact Information”),

Attachment “D” (“Rate Card”),

Attachment “E” (“Insurance Certificate”),

Attachment “F” (“Non Discrimination Statement and Non-Collusion Affidavit”) .

2. Scope of Services

a) **SERVICE PROVIDER** is solely responsible for the actions, non-action, omissions, and performance of **SERVICE PROVIDER’S** employees, agents, contractors, and subcontractors (herein collectively included in the term “Service Provider’s Project Team”) and to ensure:

(1) the timely provision of the Project, timely performance of the Scope of Services, and the timely performance of all services, products, solutions and deliverables as each are defined in **Attachment “A”**,

(2) the Scope of Services, the Project and all services, and solutions and deliverables, including but not limited to, the Deliverables shall be performed on the properties as delineated in the General Responsibilities and Duties that is contained in **Attachment “A”**,

SERVICE PROVIDER will be solely responsible to ensure the **SERVICE PROVIDER’S Project Team** fully understands the Project, the Scope of Services, the Deliverables, the schedule for performance, and the **OCWUT’S** goals and purposes. **SERVICE PROVIDER** will be solely responsible to ensure the **SERVICE**

OCWUT00100

PROVIDER’S Project Team is adequately trained, instructed, and managed so that **SERVICE PROVIDER** timely provides the Project and satisfies **SERVICE PROVIDER’S** obligations under this Agreement. **SERVICE PROVIDER** may not change the **SERVICE PROVIDER’S Project Team** as set forth on **Attachment “D” (“SERVICE PROVIDER’S Project Team”)** without the prior written consent of the General Manager of **OCWUT (“General Manager”)** or designee.

b) **SERVICE PROVIDER** shall comply with all applicable federal, state, and local laws, standards, codes, ordinances, administrative regulations and all amendments and additions thereto, pertaining in any manner to the performance or services provided under this Agreement. **SERVICE PROVIDER** shall obtain all patents, licenses and any other permission required to provide all services, products, solutions, and deliverables and for use of all services, products, solutions, and deliverables by the **OCWUT**.

3. **Compensation**

(a) **OCWUT** shall pay **SERVICE PROVIDER** the compensation after completion of services or products as specified in **Attachment “D” (“Rate Card”)**,

(b) **OCWUT** and **SERVICE PROVIDER** acknowledge that the compensation to be paid **SERVICE PROVIDER** pursuant to this Agreement has been established at an amount reasonable for the availability and services of **SERVICE PROVIDER** and **SERVICE PROVIDER’S Project Team**.

4. **Independent Contractor Status**

(a) The parties hereby acknowledge and covenant that:

1. **SERVICE PROVIDER** is an independent contractor and will act exclusively as an independent contractor is not an agent or employee of the City of Oklahoma City (herein referred to as “**CITY**”) or **OCWUT** in performing the duties in this Agreement.

2. The parties do not intend, and will not hold out that there exists, any corporation, joint venture, undertaking for a profit or other form of business venture or any employment relationship among the parties other than that of an

independent contractor relationship.

(b) All payments to **SERVICE PROVIDER** pursuant to this Agreement shall be due and payable in the State of Oklahoma, even if the services of **SERVICE PROVIDER** are performed outside the State of Oklahoma.

(c) The **OCWUT** will not withhold any social security tax, workmen's compensation, Medicare tax, federal unemployment tax, federal income tax, or state income tax from any compensation paid to **SERVICE PROVIDER** as **SERVICE PROVIDER** is an independent contractor and the members of its **SERVICE PROVIDER'S Project Team** are not employees of The **CITY** or **OCWUT**. Any such taxes, if due, are the responsibilities of **SERVICE PROVIDER** and will not be charged to the **CITY** or **OCWUT**.

(d) **SERVICE PROVIDER** acknowledges that as an independent contractor, it and its **Project Team** are not eligible to participate in any health, welfare, or retirement benefit programs provided by the **CITY** or **OCWUT** for its employees.

5. Termination and Stop Work.

(a) This Agreement shall commence upon written execution by the last party hereto and shall continue in effect as stated herein, unless terminated by either party as provided for herein, until the Project is completed and accepted as provided herein. The **GENERAL MANAGER** or designee of **OCWUT** are hereby authorized to issue notices of termination or suspension on behalf of the **OCWUT**. This Agreement can be terminated, with or without cause, upon written notice, at the option of the **OCWUT**.

(b) Upon receipt of a notice of termination for *convenience* from the **OCWUT**, **SERVICE PROVIDER** shall immediately discontinue all services and activities (unless the notice directs otherwise). Upon payment for products or services fully performed and accepted, **SERVICE PROVIDER** shall deliver to the **OCWUT** all work, products, deliverables, documents, data, drawings, specifications, reports, calculations, field notes, tracings, plans, models, computer files, estimates, summaries and other information and materials accumulated or created in performing this Agreement, whether same are complete or incomplete, unless the notice directs otherwise. Upon termination for convenience by the **OCWUT**, the **OCWUT** shall pay **SERVICE PROVIDER** for completed services, up to the

time of the notice of termination for convenience, in accordance with the terms, limits and conditions of the Agreement.

(c) Upon notice of termination for cause from the **OCWUT**, **SERVICE PROVIDER** shall immediately discontinue all services and activities and shall not be entitled to any future payments up to the time of the notice of termination for *cause*, including, but not limited to, any services, performances, work, products, deliverables, solutions, costs, or expenses, and **SERVICE PROVIDER** shall release and waive any interest in any retainage. The **OCWUT** may hold any outstanding payments for prior completed services or expenses and any retainage as security for payment of any costs, expenses, or damages incurred by the **OCWUT** by reason of **SERVICE PROVIDER'S** breach or other cause. Provided, however, upon notice of termination for cause, **SERVICE PROVIDER** shall deliver to the **OCWUT** services, products, solutions, and deliverables including, but limited to, all documents, data, drawings, specifications, reports, calculations, field notes, tracings, plans, models, computer files, estimates, summaries and other information and materials accumulated or created in performing this Agreement, whether complete or incomplete, unless the notice directs otherwise.

(d) The rights and remedies of the **OCWUT** provided in this paragraph are in addition to any other rights and remedies provided by law or under the Agreement. Termination herein shall not terminate or suspend any warranty, indemnification, insurance, or confidentiality required to be provided by **SERVICE PROVIDER** under this Agreement.

(e) Upon notice to **SERVICE PROVIDER**, the **OCWUT** may issue a stop work order suspending any services, performances, work, products, deliverables, or solutions under this Agreement. Any stop work order shall not terminate or suspend any warranty, indemnification, insurance, or confidentiality required to be provided by **SERVICE PROVIDER** under this Agreement. In the event the **OCWUT** issues a stop work order to **SERVICE PROVIDER**, the **OCWUT** will provide a copy of such stop work order to **SERVICE PROVIDER**. Upon receipt of a stop work order issued by the **OCWUT**, **SERVICE PROVIDER** shall suspend all work, services, and activities

except such work, services, and activities expressly directed by the **OCWUT** in the stop work order. Upon notice to **SERVICE PROVIDER**, this Agreement, and any or all work, services, and activities thereunder, may be suspended up to thirty (30) days by the **OCWUT**, without cause or cost to **OCWUT**; provided, however, **SERVICE PROVIDER** shall be entitled to an extension of all subsequent deadlines for a period equal to the suspension periods for those suspended work, services, and activities only. **OCWUT's GENERAL MANAGER** or designee is hereby authorized to issue stop-work orders on behalf of **OCWUT**.

6. **Obligation upon Termination for Convenience**

In the event this Agreement is terminated for convenience hereunder, the **OCWUT** shall pay **SERVICE PROVIDER** for such properly documented invoices, if any, in accordance with the provisions of this Agreement above, through the date of termination for convenience and the period set forth in the notice, and thereafter the **OCWUT** shall have no further liability under this Agreement to **SERVICE PROVIDER** and **SERVICE PROVIDER** shall have no further obligations to the **OCWUT**.

7. **Warranties**

(a) **SERVICE PROVIDER** warrants that all services, products, solutions, and deliverables performed or provided under this Agreement shall be performed consistent with generally prevailing professional standards and expertise. **SERVICE PROVIDER** shall maintain during the course of this Agreement said standard of care, expertise, skill, diligence and professional competency for any and all such services, products, solutions and deliverables. **SERVICE PROVIDER** agrees to require all members of the **SERVICE PROVIDER'S Project Team** to provide any and all services, products, solutions, and deliverables at said same standard of care, expertise, skill, diligence, and professional competence required of **SERVICE PROVIDER**.

(b) During the term of this Agreement, **OCWUT'S** initial remedy for any breach of the above warranty shall be to permit **SERVICE PROVIDER** one additional opportunity to perform the services, or provide the products, solutions, and deliverables without additional cost to **OCWUT**. If **SERVICE PROVIDER** cannot perform the services, or provide the

products, solutions, and deliverables according to the standards and requirements set forth in this Agreement within thirty (30) calendar days of the original performance date, the **OCWUT** shall be entitled to recover, should the **OCWUT** so determine to be in their best interest, any fees paid to **SERVICE PROVIDER** for previous payments, including, but not limited to, services, products, solutions, and deliverables and **SERVICE PROVIDER** shall make reimbursement or repayment within thirty (30) days of a demand by the **OCWUT**. Should **SERVICE PROVIDER** fail to reimburse the **OCWUT** within thirty (30) days of demand, the **OCWUT** shall also be entitled to interest at 1.5% percent per month on all outstanding reimbursement and repayment obligations.

(c) The **SERVICE PROVIDER** also acknowledges and agrees to provide all express and implied, warrants required or provided for by Oklahoma statutory and case law. This warrant is in addition to other warranties provided in or applicable to this Agreement and may not be waived by any other provision, expressed or implied, in this Agreement or in any Attachment hereto.

8. Indemnification

(a) **SERVICE PROVIDER** agrees to release, defend, and indemnify the **OCWUT**, and each of them, and hold the **OCWUT**, and each of them, harmless against any losses, claims, damages, liabilities, expenses (including all reasonable legal fees and expenses), judgments, fines or settlements in connection resulted from the intentional acts or omissions, negligence, and misconduct of **SERVICE PROVIDER** and the **SERVICE PROVIDER'S Security Project Team**. Any such indemnification or reimbursement shall be made by **SERVICE PROVIDER** within thirty (30) days of an appropriate finding of facts, whether by mutual agreement or by a court of law.

(b) The provisions of this paragraph shall survive the expiration of this Agreement. It is understood that these indemnities and hold harmless provisions are not limited or defined by the insurance required under the insurance provisions of this Agreement.

9. Confidentiality

SERVICE PROVIDER acknowledges that in the course of training and providing other support services to **OCWUT**, **OCWUT** may provide **SERVICE PROVIDER** with access to valuable information of a confidential and proprietary nature including but not limited to information relating to **OCWUT'S** administrative team

(**Administrative Team**), customers, marketing strategies, business processes and strategies, security systems, data, and technology. **SERVICE PROVIDER** agrees that during the time period this Agreement is in effect, and thereafter, neither **SERVICE PROVIDER** nor **SERVICE PROVIDER’S Project Team**, without the prior written consent of **OCWUT**, shall disclose to any person, other than another member of **OCWUT’S Administrative Team** or the **SERVICE PROVIDER’S Project Team**, any information obtained by **SERVICE PROVIDER**. **SERVICE PROVIDER** will require and maintain adequate confidentiality agreements with its employees, agents, contractors, and subcontractors.

10. **Miscellaneous**

(a) **Validity.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

(b) **No Waiver.** The failure or neglect of any party hereto to insist, in any one or more instances, upon the strict performance of any of the terms or conditions of this Agreement, or waiver by any party of strict performance of any of the terms or conditions of this Agreement, shall not be construed as a waiver or relinquishment in the future of such term or condition, but such term or condition shall continue in full force and effect.

(c) **No Assignment without Consent.** The parties hereby agree that as this is an agreement for the provision of specialized services, therefore **SERVICE PROVIDER** may not assign this Agreement in whole or in part without the prior written consent of the **OCWUT**.

(d) **Venue and Applicable Law.** The **OCWUT** and **SERVICE PROVIDER** hereby agree that any dispute, legal proceeding or action which may arise between or among them arising out of or in connection with this Agreement shall be adjudicated before a court located in Oklahoma City, Oklahoma, and each hereby submit to the exclusive personal jurisdiction of the courts of the State of Oklahoma located in Oklahoma City, Oklahoma and of the Federal District Court for the Western District of Oklahoma, located in Oklahoma City, with respect to any action or legal proceeding

commenced by any party. The **SERVICE PROVIDER** irrevocably waives any objection they now or hereafter may have respecting the venue of any such action or proceeding brought in such a court or respecting the fact that such court is an inconvenient forum, relating to or arising out of this Agreement, and consents to the service of process in any such action or legal proceeding by means of registered or certified mail, return receipt requested, in care of the address set forth in the notice provision of this paragraph. This Agreement shall be construed and enforced in accordance with the laws of the State of Oklahoma.

(e) **Descriptive Headings.** The descriptive headings herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

(f) **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement.

(g) **Amendments.** This Agreement may not be modified, amended, altered, or supplemented except upon the execution and delivery of a written amendment executed by each of the parties hereto.

(h) **Entire Contract.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

(i) **Time is of Essence.** Both the **OCWUT** and **SERVICE PROVIDER** expressly agree that time is of the essence with respect to this Agreement, and the time for performance of each task shall be made a part of the Agreement and shall be strictly observed and enforced. Any failure on the part of the **OCWUT** to timely object to the time of performance shall not waive any right of the **OCWUT** to object at a later time.

(j) **No Extra Work.** No claims for extra work, product, services, solution, or deliverables of any kind or nature or character shall be recognized or paid by or be binding upon the **OCWUT** unless such services, work, product, solution, or deliverable is first requested and approved in writing by the **OCWUT** through a contract

amendment.

(k) **Notices.** Any notice, request, demand or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if e-mailed, hand delivered, or sent by facsimile transmission (upon confirmation of receipt), or if sent by certified mail (upon the sooner of the expiration of three (3) days after deposit in United States post office facilities properly addressed with first class postage prepaid or acknowledgment of receipt). All notices and payments to a party will be sent to the addresses set forth below or to such other address or person as such party may designate by notice to each other party hereunder:

To SERVICE PROVIDER:

Company Name: ESMA Janitorial Services, LLC
Attention: Liliana Zavala, Owner
Address 1: 1516 NW 32nd Street
City, State Zip Code: Oklahoma City, OK 73118
Telephone: 405-812-2625
E-mail: estradaliliana04@gmail.com

To OCWUT:

Attention: Chris Browning, General Manager
420 W. Main Street, Ste. 500
Oklahoma City, Oklahoma 73102

(l) **Effective.** This Agreement shall become effective upon execution by the last party.

(m) **Term and Renewal Option.** The initial term of the resulting Professional Services Agreement (PSA) shall be effective for one (1) year with the option to extend the contract for one (1) additional one (1) year term upon mutual agreement by both parties. Should the **OCWUT** desire to renew the Agreement, a written preliminary notice will be furnished to the **SERVICE PROVIDER** prior to the expiration date of the Agreement. (Such preliminary notice will not be deemed to commit the **OCWUT** to renew.)

(n) **Holidays.** The **SERVICE PROVIDER** shall not be obligated to provide services on any **CITY/OCWUT** holiday. Additionally, the **SERVICE PROVIDER** shall not

be obligated to provide services on April 18, 2025, or April 3, 2026, otherwise referred to as “Good Friday.”

11. OCWUT’s Responsibilities

(a) The **OCWUT** shall only provide such space, equipment, and personnel to assist **SERVICE PROVIDER** as expressly set forth in **Attachment “A”**.

(b) All financial obligations of the **OCWUT** under this Agreement shall be solely the obligations of **OCWUT** regardless of how stated herein.

12. Insurance

(a) **SERVICE PROVIDER** shall obtain and provide The **CITY** and **OCWUT** with a copy of the certificate of insurance prior to execution of this Agreement and shall maintain such insurance throughout the term(s) of this Agreement as required and, in the form, and in the amount set forth in **Attachment “E”** which is incorporated herein by reference.

(b) **SERVICE PROVIDER** shall be responsible for providing the **OCWUT** actual notice of any change, reduction, suspension, lapse, or cancellation of any insurance provided under this Agreement at least thirty (30) days prior to such change, reduction, suspension, lapse or cancellation.

(1) Should any insurance required by this Agreement be changed, reduced, suspended, or cancelled, or otherwise lapse for any reason during the term of this Agreement, then **OCWUT** may terminate this Agreement for cause and **SERVICE PROVIDER** shall also be liable and responsible for any claim by The **CITY** and **OCWUT** on their own behalf or on behalf of another, for:

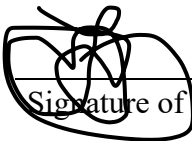
- a. any loss or damages, including direct, indirect, and consequential; and
- b. any cost or expense, including attorney fees, court costs and administrative expenses; and
- c. any other loss, damage cost or expense which would have been covered or assumed by the insurer had the changed, reduced, suspended, terminated, or lapsed policy been in effect without limitation as to the policy amount.

(2) The **OCWUT** reserves the right to withhold payment of any funds otherwise due to the **SERVICE PROVIDER** for payment of any claim, or potential claim, which it reasonably believes would otherwise be payable under the insurance policy but only if there is a lapse or termination of any required insurance coverage, or if there is a change in coverage and such change results in a material reduction in the dollar value of coverage or materially changes the policy's scope of coverage.

WITNESS the hands of the parties hereto:

The undersigned individual states that the **SERVICE PROVIDER** will be bound by the terms and conditions of this Professional Services Agreement.

ESMA Janitorial Services, LLC:

	Owner	01/03/2025
Signature of Individual	Title	Date

Note: If individual signing is not the owner or an officer of the business or corporation a letter of authorization is to be included. For instance, if a salesman or manager signs this form, a letter of authorization is to be attached. Corporate Seal will be accepted in lieu of an authorization letter if affixed to this document.

Liliana Zavala
Printed Name of Individual

ESMA Janitorial Services	1516 N.W. 32nd Street Oklahoma City, OK 73118
Company Name and Address [Please Print]	Zip Code

405-812-2625
Telephone Number

APPROVED by the Trustees and signed by the Chairman of the Oklahoma City Water Utilities Trust this 8TH day of April, 2025.

ATTEST:

OKLAHOMA CITY WATER UTILITIES TRUST

Amy K. Simpson
Secretary



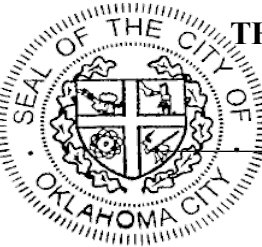
[Signature]
Chairman

CONCURRED by the Council and signed by the Mayor of The City of Oklahoma City of Oklahoma City this 22ND day of APRIL, 2025.

ATTEST:

THE CITY OF OKLAHOMA CITY

Amy K. Simpson
City Clerk



[Signature]
Mayor

Reviewed for form and legality.

[Signature]

Assistant Municipal Counselor