

Region 4 Education Service Center (ESC)

Contract # R210901

for

Janitorial Services

with

Kellermeyer Bergensons Services, LLC

Effective: August 1, 2021

The following documents comprise the executed contract between the Region 4 Education Service Center and Kellermeyer Bergensons Services, LLC, effective August 1, 2021:

- I. Vendor Contract and Signature Form
- II. Supplier's Response to the RFP, incorporated by reference

CONTRACT

This Contract ("Contract") is made as of August 1, 2021 by and between Kellermeyer Bergensons Services, LLC ("Contractor") and Region 4 Education Service Center ("Region 4 ESC") for the purchase of Janitorial Services ("the products and services").

RECITALS

WHEREAS, Region 4 ESC issued Request for Proposals Number R21-09 for Janitorial Services ("RFP"), to which Contractor provided a response ("Proposal"); and

WHEREAS, Region 4 ESC selected Contractor's Proposal and wishes to engage Contractor in providing the services/materials described in the RFP and Proposal;

WHEREAS, both parties agree and understand the following pages will constitute the Contract between the Contractor and Region 4 ESC, having its principal place of business at 7145 West Tidwell Road, Houston, TX 77092.

WHEREAS, Contractor included, in writing, any required exceptions or deviations from these terms, conditions, and specifications; and it is further understood that, if agreed to by Region 4 ESC, said exceptions or deviations are incorporated into the Contract.

WHEREAS, this Contract consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth below shall control.

WHEREAS, the Contract will provide that any state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies") may purchase products and services at prices indicated in the Contract upon the Public Agency's registration with OMNIA Partners.

- 1) Term of agreement. The term of the Contract is for a period of three (3) years unless terminated, canceled or extended as otherwise provided herein. Region 4 ESC shall have the right to renew the Contract for two (2) additional one-year periods or portions thereof. Region 4 ESC shall review the Contract prior to the renewal date and notify the Contractor of Region 4 ESC's intent renew the Contract. Contractor may elect not to renew by providing three hundred sixty-five days' (365) notice to Region 4 ESC. Notwithstanding the expiration of the initial term or any subsequent term or all renewal options, Region 4 ESC and Contractor may mutually agree to extend the term of this Agreement. Contractor acknowledges and understands Region 4 ESC is under no obligation whatsoever to extend the term of this Agreement.
- 2) Scope: Contractor shall perform all duties, responsibilities and obligations, set forth in this agreement, and described in the RFP, incorporated herein by reference as though fully set forth herein.
- 3) Form of Contract. The form of Contract shall be the RFP, the Offeror's proposal and Best and Final Offer(s).

- 4) Order of Precedence. In the event of a conflict in the provisions of the Contract as accepted by Region 4 ESC, the following order of precedence shall prevail:
 - i. This Contract
 - ii. Offeror's Best and Final Offer
 - iii. Offeror's proposal
 - iv. RFP and any addenda
- 5) Commencement of Work. The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives a purchase order for such work or is otherwise directed to do so in writing by Region 4 ESC.
- 6) Entire Agreement (Parol evidence). The Contract, as specified above, represents the final written expression of agreement. All agreements are contained herein and no other agreements or representations that materially alter it are acceptable.
- 7) Assignment of Contract. No assignment of Contract may be made without the prior written approval of Region 4 ESC. Contractor is required to notify Region 4 ESC when any material change in operations is made (i.e. bankruptcy, change of ownership, merger, etc.).
- 8) Novation. If Contractor sells or transfers all assets or the entire portion of the assets used to perform this Contract, a successor in interest must guarantee to perform all obligations under this Contract. Region 4 ESC reserves the right to accept or reject any new party. A change of name agreement will not change the contractual obligations of Contractor.
- 9) Contract Alterations. No alterations to the terms of this Contract shall be valid or binding unless authorized and signed by Region 4 ESC.
- 10) Adding Authorized Distributors/Dealers. Contractor is prohibited from authorizing additional distributors or dealers, other than those identified at the time of submitting their proposal, to sell under the Contract without notification and prior written approval from Region 4 ESC. Contractor must notify Region 4 ESC each time it wishes to add an authorized distributor or dealer. Purchase orders and payment can only be made to the Contractor unless otherwise approved by Region 4 ESC. Pricing provided to members by added distributors or dealers must also be less than or equal to the Contractor's pricing.

11) TERMINATION OF CONTRACT

- a) Cancellation for Non-Performance or Contractor Deficiency. Region 4 ESC may terminate the Contract if purchase volume is determined to be low volume in any 12-month period. Region 4 ESC reserves the right to cancel the whole or any part of this Contract due to failure by Contractor to carry out any obligation, term or condition of the contract. Region 4 ESC may issue a written deficiency notice to Contractor for acting or failing to act in any of the following:
 - i. Providing material that does not meet the specifications of the Contract;
 - ii. Providing work or material was not awarded under the Contract;
 - iii. Failing to adequately perform the services set forth in the scope of work and specifications;
 - iv. Failing to complete required work or furnish required materials within a reasonable amount of time;

- v. Failing to make progress in performance of the Contract or giving Region 4 ESC reason to believe Contractor will not or cannot perform the requirements of the Contract; or
- vi. Performing work or providing services under the Contract prior to receiving an authorized purchase order.

Upon receipt of a written deficiency notice, Contractor shall have ten (10) days to provide a satisfactory response to Region 4 ESC. Failure to adequately address all issues of concern may result in Contract cancellation. Upon cancellation under this paragraph, all goods, materials, work, documents, data and reports prepared by Contractor under the Contract shall immediately become the property of Region 4 ESC.

- b) Termination for Cause. If, for any reason, Contractor fails to fulfill its obligation in a timely manner, or Contractor violates any of the covenants, agreements, or stipulations of this Contract Region 4 ESC reserves the right to terminate the Contract immediately and pursue all other applicable remedies afforded by law. Such termination shall be effective by delivery of notice, to the Contractor, specifying the effective date of termination. In such event, all documents, data, studies, surveys, drawings, maps, models and reports prepared by Contractor will become the property of the Region 4 ESC. If such event does occur, Contractor will be entitled to receive just and equitable compensation for the satisfactory work completed on such documents.
- c) Delivery/Service Failures. Failure to deliver goods or services within the time specified, or within a reasonable time period as interpreted by the purchasing agent or failure to make replacements or corrections of rejected articles/services when so requested shall constitute grounds for the Contract to be terminated. In the event Region 4 ESC must purchase in an open market, Contractor agrees to reimburse Region 4 ESC, within a reasonable time period, for all expenses incurred.
- d) Force Majeure. If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority; insurrections; riots; epidemics; landslides; lighting; earthquake; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

- e) Standard Cancellation. Region 4 ESC may cancel this Contract in whole or in part by providing written notice. The cancellation will take effect 30 business days after the other party receives the notice of cancellation. After the 30th business day all work will cease following completion of final purchase order.

- 12) Licenses. Contractor shall maintain in current status all federal, state and local licenses, bonds and permits required for the operation of the business conducted by Contractor. Contractor

CONTRACT

shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of services under the Contract. Region 4 ESC reserves the right to stop work and/or cancel the Contract if Contractor's license(s) expire, lapse, are suspended or terminated.

- 13) Survival Clause. All applicable software license agreements, warranties or service agreements that are entered into between Contractor and Region 4 ESC under the terms and conditions of the Contract shall survive the expiration or termination of the Contract. All Purchase Orders issued and accepted by Contractor shall survive expiration or termination of the Contract.
- 14) Delivery. Conforming product shall be shipped within 7 days of receipt of Purchase Order. If delivery is not or cannot be made within this time period, the Contractor must receive authorization for the delayed delivery. The order may be canceled if the estimated shipping time is not acceptable. All deliveries shall be freight prepaid, F.O.B. Destination and shall be included in all pricing offered unless otherwise clearly stated in writing.
- 15) Inspection & Acceptance. If defective or incorrect material is delivered, Region 4 ESC may make the determination to return the material to the Contractor at no cost to Region 4 ESC. The Contractor agrees to pay all shipping costs for the return shipment. Contractor shall be responsible for arranging the return of the defective or incorrect material.
- 16) Payments. Payment shall be made after satisfactory performance, in accordance with all provisions thereof, and upon receipt of a properly completed invoice.
- 17) Price Adjustments. Should it become necessary or proper during the term of this Contract to make any change in design or any alterations that will increase price, Region 4 ESC must be notified immediately. Price increases must be approved by Region 4 ESC and no payment for additional materials or services, beyond the amount stipulated in the Contract shall be paid without prior approval. All price increases must be supported by manufacturer documentation, or a formal cost justification letter. Contractor must honor previous prices for thirty (30) days after approval and written notification from Region 4 ESC. It is the Contractor's responsibility to keep all pricing up to date and on file with Region 4 ESC. All price changes must be provided to Region 4 ESC, using the same format as was provided and accepted in the Contractor's proposal.

Price reductions may be offered at any time during Contract. Special, time-limited reductions are permissible under the following conditions: 1) reduction is available to all users equally; 2) reduction is for a specific period, normally not less than thirty (30) days; and 3) original price is not exceeded after the time-limit. Contractor shall offer Region 4 ESC any published price reduction during the Contract term.

- 18) Audit Rights. Contractor shall, at its sole expense, maintain appropriate due diligence of all purchases made by Region 4 ESC and any entity that utilizes this Contract. Region 4 ESC reserves the right to audit the accounting for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. Region 4 ESC shall have the authority to conduct random audits of Contractor's pricing at Region 4 ESC's sole cost and expense. Notwithstanding the foregoing, in the event that Region 4 ESC is made aware of any pricing being offered that is materially inconsistent with the pricing under this agreement, Region 4 ESC shall have the ability to conduct an extensive audit of Contractor's pricing at Contractor's

sole cost and expense. Region 4 ESC may conduct the audit internally or may engage a third-party auditing firm. In the event of an audit, the requested materials shall be provided in the format and at the location designated by Region 4 ESC.

- 19) Discontinued Products. If a product or model is discontinued by the manufacturer, Contractor may substitute a new product or model if the replacement product meets or exceeds the specifications and performance of the discontinued model and if the discount is the same or greater than the discontinued model.
- 20) New Products/Services. New products and/or services that meet the scope of work may be added to the Contract. Pricing shall be equivalent to the percentage discount for other products. Contractor may replace or add product lines if the line is replacing or supplementing products, is equal or superior to the original products, is discounted similarly or greater than the original discount, and if the products meet the requirements of the Contract. No products and/or services may be added to avoid competitive procurement requirements. Region 4 ESC may require additions to be submitted with documentation from Members demonstrating an interest in, or a potential requirement for, the new product or service. Region 4 ESC may reject any additions without cause.
- 21) Options. Optional equipment for products under Contract may be added to the Contract at the time they become available under the following conditions: 1) the option is priced at a discount similar to other options; 2) the option is an enhancement to the unit that improves performance or reliability.
- 22) Warranty Conditions. All supplies, equipment and services shall include manufacturer's minimum standard warranty and one (1) year labor warranty unless otherwise agreed to in writing.
- 23) Site Cleanup. Contractor shall clean up and remove all debris and rubbish resulting from their work as required or directed. Upon completion of the work, the premises shall be left in good repair and an orderly, neat, clean, safe and unobstructed condition.
- 24) Site Preparation. Contractor shall not begin a project for which the site has not been prepared, unless Contractor does the preparation work at no cost, or until Region 4 ESC includes the cost of site preparation in a purchase order. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.
- 25) Registered Sex Offender Restrictions. For work to be performed at schools, Contractor agrees no employee or employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are or are reasonably expected to be present. Contractor agrees a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at Region 4 ESC's discretion. Contractor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.
- 26) Safety measures. Contractor shall take all reasonable precautions for the safety of employees on the worksite and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Contractor shall post warning signs against all hazards created by its operation and work in progress. Proper precautions shall be taken pursuant to state law

and standard practices to protect workers, general public and existing structures from injury or damage.

- 27) Smoking. Persons working under the Contract shall adhere to local smoking policies. Smoking will only be permitted in posted areas or off premises.
- 28) Stored materials. Upon prior written agreement between the Contractor and Region 4 ESC, payment may be made for materials not incorporated in the work but delivered and suitably stored at the site or some other location, for installation at a later date. An inventory of the stored materials must be provided to Region 4 ESC prior to payment. Such materials must be stored and protected in a secure location and be insured for their full value by the Contractor against loss and damage. Contractor agrees to provide proof of coverage and additionally insured upon request. Additionally, if stored offsite, the materials must also be clearly identified as property of Region 4 ESC and be separated from other materials. Region 4 ESC must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary. Until final acceptance by Region 4 ESC, it shall be the Contractor's responsibility to protect all materials and equipment. Contractor warrants and guarantees that title for all work, materials and equipment shall pass to Region 4 ESC upon final acceptance.
- 29) Funding Out Clause. A Contract for the acquisition, including lease, of real or personal property is a commitment of Region 4 ESC's current revenue only. Region 4 ESC retains the right to terminate the Contract at the expiration of each budget period during the term of the Contract and is conditioned on a best effort attempt by Region 4 ESC to obtain appropriate funds for payment of the contract.
- 30) Indemnity. Contractor shall protect, indemnify, and hold harmless both Region 4 ESC and its administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from the actions of the Contractor, Contractor employees or subcontractors in the preparation of the solicitation and the later execution of the Contract. Any litigation involving either Region 4 ESC, its administrators and employees and agents will be in Harris County, Texas.
- 31) Marketing. Contractor agrees to allow Region 4 ESC to use their name and logo within website, marketing materials and advertisement. Any use of Region 4 ESC name and logo or any form of publicity, inclusive of press releases, regarding this Contract by Contractor must have prior approval from Region 4 ESC.
- 32) Certificates of Insurance. Certificates of insurance shall be delivered to the Region 4 ESC prior to commencement of work. The Contractor shall give Region 4 ESC a minimum of ten (10) days' notice prior to any modifications or cancellation of policies. The Contractor shall require all subcontractors performing any work to maintain coverage as specified.
- 33) Legal Obligations. It is Contractor's responsibility to be aware of and comply with all local, state, and federal laws governing the sale of products/services and shall comply with all laws while fulfilling the Contract. Applicable laws and regulation must be followed even if not specifically identified herein.



3605 Ocean Ranch Boulevard
Suite 200
Oceanside, CA 92056
P 800-537-1375
kbs-services.com



Stay Ahead of the Curve™

Janitorial Services for Region 4 ESC

April 27, 2021



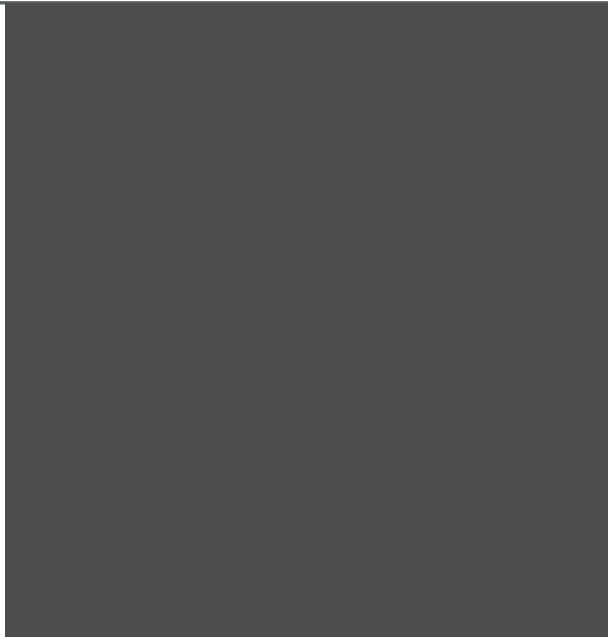
Crystal Wallace
Business Operations Specialist
7145 West Tidwell Road
Houston, TX 77092



Debbie Montgomery
National Sales Director
3605 Ocean Ranch Blvd., Suite 200
Oceanside, CA 92056



**Essential Facility Services to
Stay Ahead of the Curve™**



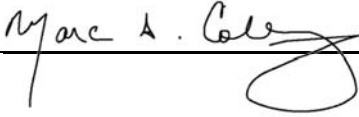
Tab 1

**Draft Contract and
Offer and Contract
Signature Form
(Appendix A)**



OFFER AND CONTRACT SIGNATURE FORM

The undersigned hereby offers and, if awarded, agrees to furnish goods and/or services in strict compliance with the terms, specifications and conditions at the prices proposed within response unless noted in writing.

Company Name Kellermeyer Bergenson Services LLC
Address 3605 Ocean Ranch Blvd Suite 200
City/State/Zip Oceanside, CA, 92056
Telephone No. 1 800-537-1375
Email Address mcollings@kbs-services.com
Printed Name Marc Collings
Title Sr. VP Sales
Authorized signature 

Accepted by Region 4 ESC:

Contract No. R210901

Initial Contract Term 08/1/2021 to 7/31/2024

 6/29/2021
Region 4 ESC Authorized Board Member Date

Margaret S. Bass
Print Name

 6/29/2021
Region 4 ESC Authorized Board Member Date

Linda Tinnerman
Print Name

APPENDIX A

DRAFT CONTRACT

This Contract (“Contract”) is made as of _____, 202X by and between _____ (“Contractor”) and Region 4 Education Service Center (“Region 4 ESC”) for the purchase of _____ (“the products and services”).

RECITALS

WHEREAS, Region 4 ESC issued Request for Proposals Number R _____ for _____ (“RFP”), to which Contractor provided a response (“Proposal”); and

WHEREAS, Region 4 ESC selected Contractor’s Proposal and wishes to engage Contractor in providing the services/materials described in the RFP and Proposal;

WHEREAS, both parties agree and understand the following pages will constitute the Contract between the Contractor and Region 4 ESC, having its principal place of business at 7145 West Tidwell Road, Houston, TX 77092.

WHEREAS, Contractor included, in writing, any required exceptions or deviations from these terms, conditions, and specifications; and it is further understood that, if agreed to by Region 4 ESC, said exceptions or deviations are incorporated into the Contract.

WHEREAS, this Contract consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth below shall control.

WHEREAS, the Contract will provide that any state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit (“Public Agencies”) may purchase products and services at prices indicated in the Contract upon the Public Agency’s registration with OMNIA Partners.

- 1) Term of agreement. The term of the Contract is for a period of three (3) years unless terminated, canceled or extended as otherwise provided herein. Region 4 ESC shall have the right to renew the Contract for two (2) additional one-year periods or portions thereof. Region 4 ESC shall review the Contract prior to the renewal date and notify the Contractor of Region 4 ESC’s intent renew the Contract. Contractor may elect not to renew by providing three hundred sixty-five days’ (365) notice to Region 4 ESC. Notwithstanding the expiration of the initial term or any subsequent term or all renewal options, Region 4 ESC and Contractor may mutually agree to extend the term of this Agreement. Contractor acknowledges and understands Region 4 ESC is under no obligation whatsoever to extend the term of this Agreement.
- 2) Scope: Contractor shall perform all duties, responsibilities and obligations, set forth in this agreement, and described in the RFP, incorporated herein by reference as though fully set forth herein.
- 3) Form of Contract. The form of Contract shall be the RFP, the Offeror’s proposal and Best and

Final Offer(s).

- 4) Order of Precedence. In the event of a conflict in the provisions of the Contract as accepted by Region 4 ESC, the following order of precedence shall prevail:
 - i. This Contract
 - ii. Offeror's Best and Final Offer
 - iii. Offeror's proposal
 - iv. RFP and any addenda
- 5) Commencement of Work. The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives a purchase order for such work or is otherwise directed to do so in writing by Region 4 ESC.
- 6) Entire Agreement (Parol evidence). The Contract, as specified above, represents the final written expression of agreement. All agreements are contained herein and no other agreements or representations that materially alter it are acceptable.
- 7) Assignment of Contract. No assignment of Contract may be made without the prior written approval of Region 4 ESC. Contractor is required to notify Region 4 ESC when any material change in operations is made (i.e. bankruptcy, change of ownership, merger, etc.).
- 8) Novation. If Contractor sells or transfers all assets or the entire portion of the assets used to perform this Contract, a successor in interest must guarantee to perform all obligations under this Contract. Region 4 ESC reserves the right to accept or reject any new party. A change of name agreement will not change the contractual obligations of Contractor.
- 9) Contract Alterations. No alterations to the terms of this Contract shall be valid or binding unless authorized and signed by Region 4 ESC.
- 10) Adding Authorized Distributors/Dealers. Contractor is prohibited from authorizing additional distributors or dealers, other than those identified at the time of submitting their proposal, to sell under the Contract without notification and prior written approval from Region 4 ESC. Contractor must notify Region 4 ESC each time it wishes to add an authorized distributor or dealer. Purchase orders and payment can only be made to the Contractor unless otherwise approved by Region 4 ESC. Pricing provided to members by added distributors or dealers must also be less than or equal to the Contractor's pricing.
- 11) TERMINATION OF CONTRACT
 - a) Cancellation for Non-Performance or Contractor Deficiency. Region 4 ESC may terminate the Contract if purchase volume is determined to be low volume in any 12-month period. Region 4 ESC reserves the right to cancel the whole or any part of this Contract due to failure by Contractor to carry out any obligation, term or condition of the contract. Region 4 ESC may issue a written deficiency notice to Contractor for acting or failing to act in any of the following:
 - i. Providing material that does not meet the specifications of the Contract;
 - ii. Providing work or material was not awarded under the Contract;
 - iii. Failing to adequately perform the services set forth in the scope of work and specifications;
 - iv. Failing to complete required work or furnish required materials within a reasonable amount of time;

- v. Failing to make progress in performance of the Contract or giving Region 4 ESC reason to believe Contractor will not or cannot perform the requirements of the Contract; or
- vi. Performing work or providing services under the Contract prior to receiving an authorized purchase order.

Upon receipt of a written deficiency notice, Contractor shall have ten (10) days to provide a satisfactory response to Region 4 ESC. Failure to adequately address all issues of concern may result in Contract cancellation. Upon cancellation under this paragraph, all goods, materials, work, documents, data and reports prepared by Contractor under the Contract shall immediately become the property of Region 4 ESC.

- b) Termination for Cause. If, for any reason, Contractor fails to fulfill its obligation in a timely manner, or Contractor violates any of the covenants, agreements, or stipulations of this Contract Region 4 ESC reserves the right to terminate the Contract immediately and pursue all other applicable remedies afforded by law. Such termination shall be effective by delivery of notice, to the Contractor, specifying the effective date of termination. In such event, all documents, data, studies, surveys, drawings, maps, models and reports prepared by Contractor will become the property of the Region 4 ESC. If such event does occur, Contractor will be entitled to receive just and equitable compensation for the satisfactory work completed on such documents.
- c) Termination for convenience. Contractor may terminate this Agreement, without cause, upon sixty (60) days prior written notice to Region 4 ESC.
- d) Delivery/Service Failures. Failure to deliver goods or services within the time specified, or within a reasonable time period as interpreted by the purchasing agent or failure to make replacements or corrections of rejected articles/services when so requested shall constitute grounds for the Contract to be terminated. In the event Region 4 ESC must purchase in an open market, Contractor agrees to reimburse Region 4 ESC, within a reasonable time period, for all expenses incurred.
- e) Force Majeure. If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority; insurrections; riots; epidemics; landslides; lighting; earthquake; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

- f) Standard Cancellation. Region 4 ESC may cancel this Contract in whole or in part by providing written notice. The cancellation will take effect 30 business days after the other party receives the notice of cancellation. After the 30th business day all work will cease following completion of final purchase order.

12) Licenses. Contractor shall maintain in current status all federal, state and local licenses, bonds and permits required for the operation of the business conducted by Contractor. Contractor

shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of services under the Contract. Region 4 ESC reserves the right to stop work and/or cancel the Contract if Contractor's license(s) expire, lapse, are suspended or terminated.

- 13) Survival Clause. All applicable software license agreements, warranties or service agreements that are entered into between Contractor and Region 4 ESC under the terms and conditions of the Contract shall survive the expiration or termination of the Contract. All Purchase Orders issued and accepted by Contractor shall survive expiration or termination of the Contract.
- 14) Delivery. Conforming product shall be shipped within 7 days of receipt of Purchase Order. If delivery is not or cannot be made within this time period, the Contractor must receive authorization for the delayed delivery. The order may be canceled if the estimated shipping time is not acceptable. All deliveries shall be freight prepaid, F.O.B. Destination and shall be included in all pricing offered unless otherwise clearly stated in writing.
- 15) Inspection & Acceptance. If defective or incorrect material is delivered, Region 4 ESC may make the determination to return the material to the Contractor at no cost to Region 4 ESC. The Contractor agrees to pay all shipping costs for the return shipment. Contractor shall be responsible for arranging the return of the defective or incorrect material.
- 16) Payments. Payment shall be made after satisfactory performance, in accordance with all provisions thereof, and upon receipt of a properly completed invoice.
- 17) Price Adjustments. Should it become necessary or proper during the term of this Contract to make any change in design or any alterations that will increase price, Region 4 ESC must be notified immediately. Price increases must be approved by Region 4 ESC and no payment for additional materials or services, beyond the amount stipulated in the Contract shall be paid without prior approval. All price increases must be supported by manufacturer documentation, or a formal cost justification letter. Contractor must honor previous prices for thirty (30) days after approval and written notification from Region 4 ESC. It is the Contractor's responsibility to keep all pricing up to date and on file with Region 4 ESC. All price changes must be provided to Region 4 ESC, using the same format as was provided and accepted in the Contractor's proposal.

Price reductions may be offered at any time during Contract. Special, time-limited reductions are permissible under the following conditions: 1) reduction is available to all users equally; 2) reduction is for a specific period, normally not less than thirty (30) days; and 3) original price is not exceeded after the time-limit. Contractor shall offer Region 4 ESC any published price reduction during the Contract term.

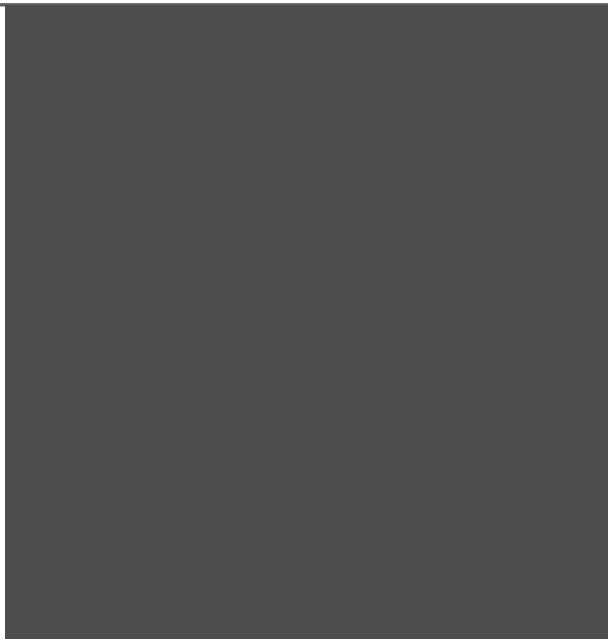
- 18) Audit Rights. Contractor shall, at its sole expense, maintain appropriate due diligence of all purchases made by Region 4 ESC and any entity that utilizes this Contract. Region 4 ESC reserves the right to audit the accounting for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. Region 4 ESC shall have the authority to conduct random audits of Contractor's pricing at Region 4 ESC's sole cost and expense. Notwithstanding the foregoing, in the event that Region 4 ESC is made aware of any pricing being offered that is materially inconsistent with the pricing under this agreement, Region 4 ESC shall have the ability to conduct an extensive audit of Contractor's pricing at Contractor's

sole cost and expense. Region 4 ESC may conduct the audit internally or may engage a third-party auditing firm. In the event of an audit, the requested materials shall be provided in the format and at the location designated by Region 4 ESC.

- 19) Discontinued Products. If a product or model is discontinued by the manufacturer, Contractor may substitute a new product or model if the replacement product meets or exceeds the specifications and performance of the discontinued model and if the discount is the same or greater than the discontinued model.
- 20) New Products/Services. New products and/or services that meet the scope of work may be added to the Contract. Pricing shall be equivalent to the percentage discount for other products. Contractor may replace or add product lines if the line is replacing or supplementing products, is equal or superior to the original products, is discounted similarly or greater than the original discount, and if the products meet the requirements of the Contract. No products and/or services may be added to avoid competitive procurement requirements. Region 4 ESC may require additions to be submitted with documentation from Members demonstrating an interest in, or a potential requirement for, the new product or service. Region 4 ESC may reject any additions without cause.
- 21) Options. Optional equipment for products under Contract may be added to the Contract at the time they become available under the following conditions: 1) the option is priced at a discount similar to other options; 2) the option is an enhancement to the unit that improves performance or reliability.
- 22) Warranty Conditions. All supplies, equipment and services shall include manufacturer's minimum standard warranty and one (1) year labor warranty unless otherwise agreed to in writing.
- 23) Site Cleanup. Contractor shall clean up and remove all debris and rubbish resulting from their work as required or directed. Upon completion of the work, the premises shall be left in good repair and an orderly, neat, clean, safe and unobstructed condition.
- 24) Site Preparation. Contractor shall not begin a project for which the site has not been prepared, unless Contractor does the preparation work at no cost, or until Region 4 ESC includes the cost of site preparation in a purchase order. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.
- 25) Registered Sex Offender Restrictions. For work to be performed at schools, Contractor agrees no employee or employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are or are reasonably expected to be present. Contractor agrees a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at Region 4 ESC's discretion. Contractor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.
- 26) Safety measures. Contractor shall take all reasonable precautions for the safety of employees on the worksite and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Contractor shall post warning signs against all hazards created by its operation and work in progress. Proper precautions shall be taken pursuant to state law

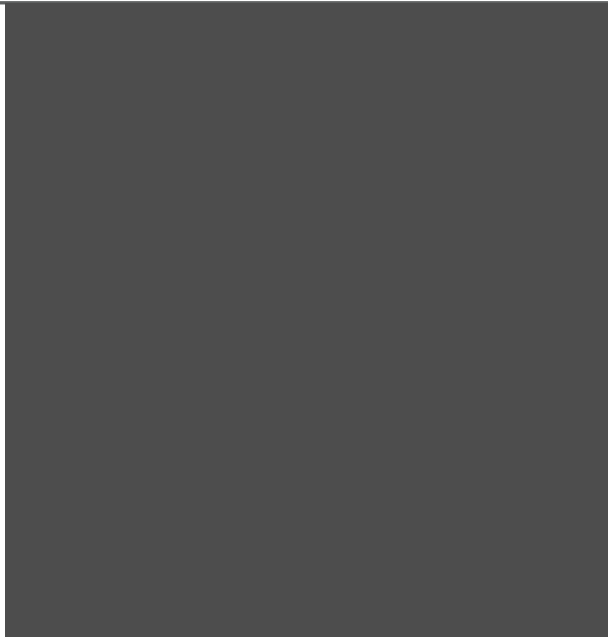
and standard practices to protect workers, general public and existing structures from injury or damage.

- 27) Smoking. Persons working under the Contract shall adhere to local smoking policies. Smoking will only be permitted in posted areas or off premises.
- 28) Stored materials. Upon prior written agreement between the Contractor and Region 4 ESC, payment may be made for materials not incorporated in the work but delivered and suitably stored at the site or some other location, for installation at a later date. An inventory of the stored materials must be provided to Region 4 ESC prior to payment. Such materials must be stored and protected in a secure location and be insured for their full value by the Contractor against loss and damage. Contractor agrees to provide proof of coverage and additionally insured upon request. Additionally, if stored offsite, the materials must also be clearly identified as property of Region 4 ESC and be separated from other materials. Region 4 ESC must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary. Until final acceptance by Region 4 ESC, it shall be the Contractor's responsibility to protect all materials and equipment. Contractor warrants and guarantees that title for all work, materials and equipment shall pass to Region 4 ESC upon final acceptance.
- 29) Funding Out Clause. A Contract for the acquisition, including lease, of real or personal property is a commitment of Region 4 ESC's current revenue only. Region 4 ESC retains the right to terminate the Contract at the expiration of each budget period during the term of the Contract and is conditioned on a best effort attempt by Region 4 ESC to obtain appropriate funds for payment of the contract.
- 30) Indemnity. Contractor shall protect, indemnify, and hold harmless both Region 4 ESC and its administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from the actions of the Contractor, Contractor employees or subcontractors in the preparation of the solicitation and the later execution of the Contract. Any litigation involving either Region 4 ESC, its administrators and employees and agents will be in Harris County, Texas.
- 31) Marketing. Contractor agrees to allow Region 4 ESC to use their name and logo within website, marketing materials and advertisement. Any use of Region 4 ESC name and logo or any form of publicity, inclusive of press releases, regarding this Contract by Contractor must have prior approval from Region 4 ESC.
- 32) Certificates of Insurance. Certificates of insurance shall be delivered to the Region 4 ESC prior to commencement of work. The Contractor shall give Region 4 ESC a minimum of ten (10) days' notice prior to any modifications or cancellation of policies. The Contractor shall require all subcontractors performing any work to maintain coverage as specified.
- 33) Legal Obligations. It is Contractor's responsibility to be aware of and comply with all local, state, and federal laws governing the sale of products/services and shall comply with all laws while fulfilling the Contract. Applicable laws and regulation must be followed even if not specifically identified herein.



**Terms and Conditions
Acceptance Form
(Appendix B)**





Tab 2

Products/Pricing



Offerors shall provide pricing based on a discount or fixed price, or a combination of both with indefinite quantities. Prices listed will be used to establish the extent of services, products, warranties, etc. that are available from Offeror. Multiple percentage discounts are acceptable if, where different percentage discounts apply, they different percentages are specified. Additional pricing and/or discounts may be included. Services and products proposed are to be priced separately with all ineligible items identified. Offerors may elect to limit their proposals to any category or categories.

The discount proposed shall remain the same throughout the term of the contract and at all renewal options. At a minimum, the Awarded Offeror must hold the proposed price list firm for the first twelve (12) months after the contract award.

Noted.

The intent of the below examples is to provide a better understanding for how an Offeror may price a project. Offerors may provide any assumptions being used during this pricing exercise.

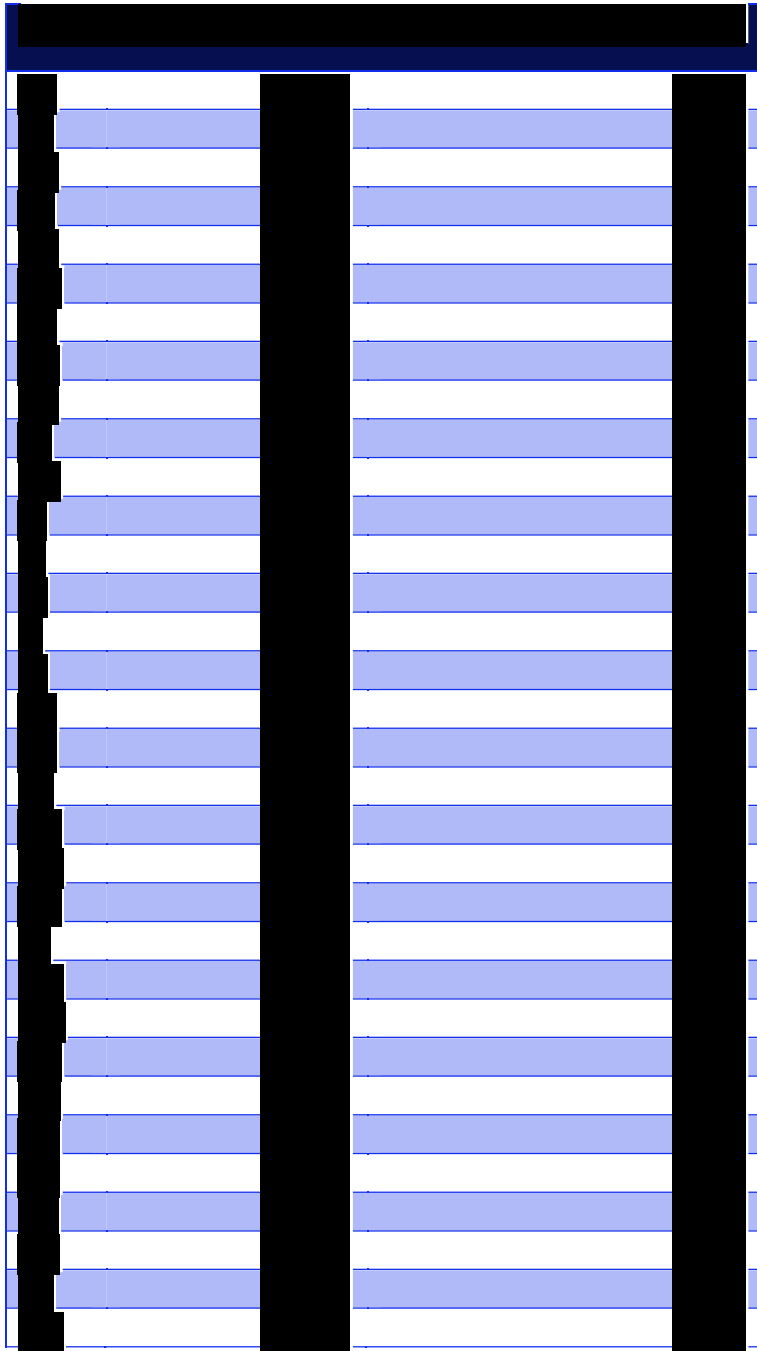
Offerors shall provide pricing for the below examples and explain how pricing is determined (per day, per square foot, type of space, etc.) and how any discounts (as described above) are determined.

For these examples, KBS has provided both pricing per day and per square foot per month. We have broken these rates down by state to provide further detail. We tier our pricing based on potential contract value and calculate bill rates depending on labor market rates within each state. Finally, we also adjust pricing based on the number of square feet to be cleaned. For example, the greater number of square feet that must be cleaned, then we can deploy technology and process to help our teams be more efficient, ultimately lowering the hourly rate assumed for finalized pricing.

100,000 square feet of floor space to be maintained five days a week on a weekly basis (Monday through Friday). Services: emptying trash receptacles, sweeping and mopping floors, and responding to emergency clean ups.

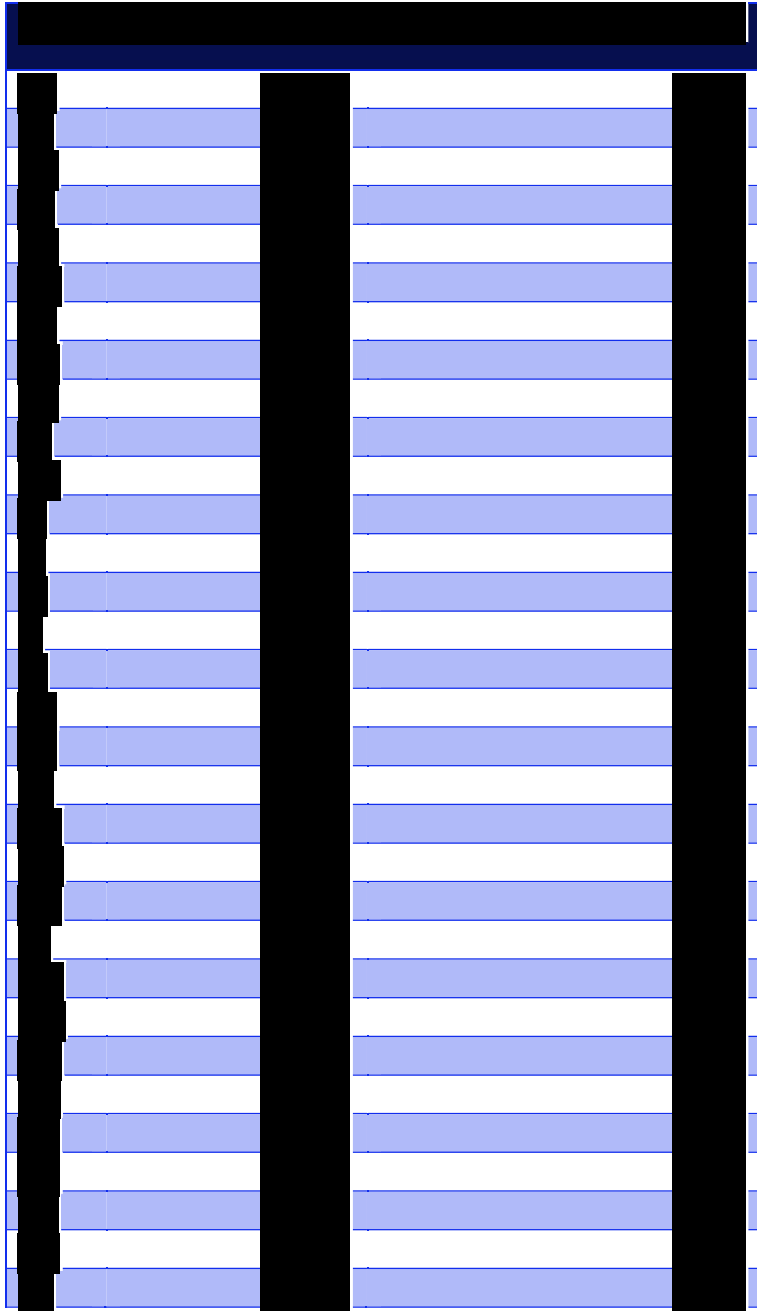
The table is mostly obscured by black redaction bars. It features a blue header row and approximately 20 rows of data below. The redaction covers the majority of the text within the table cells.

2,000 square feet of floor space to be maintained five days a week on a weekly basis (Monday through Friday). Services: emptying trash receptacles; cleaning and sanitizing toilet seats; cleaning and sanitizing sinks and faucets; cleaning and filling soap, paper towel, and toilet tissue dispensers; sweep and damp mop floors; damp wipe restroom walls, partitions, and doors; respond to emergency clean ups.



[Redacted Header]		
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]

1,000 square feet of floor space of a lunchroom to be maintained five days a week on a weekly basis (Monday through Friday). Services: empty trash receptacles, clean tables and dust chairs, damp wipe exterior of microwave ovens, fill paper towel dispensers, sweep and damp mop or vacuum floors, damp wipe walls around receptacles, clean countertops and sinks, remove and replace lighting, remove and replace hand sanitizers, dust blinds, clean interior of refrigerator(s) once per month.



For other items being provided by Offer outside of Janitorial Services, include an electronic copy of the catalog from which discount, or fixed price, is calculated. When applicable, electronic price lists must contain the following:

- Manufacturer part #
- Offeror's Part # (if different from manufacturer part #)
- Description
- Manufacturers Suggested List Price and Net Price
- Net price to Region 4 ESC (including freight)

Media submitted for price list must include the Offerors' company name, name of the solicitation, and date on a Flash Drive (i.e. Pin or Jump Drives).

This is not applicable.

Is pricing available for all services and, if applicable, products?

Yes, we have provided pricing for all relevant services.

Describe any shipping charges.

This is not applicable.

Describe in detail and provide pricing for any warranties on all services and, if applicable, products.

This is not applicable.

If applicable to products being provided by Offeror as part of their balance of line, describe any return and restocking fees.

This is not applicable.

Describe any additional discounts or rebates available. Additional discounts or rebates may be offered for large quantity orders, single ship to location, growth, annual spend, guaranteed quantity, etc.

KBS will provide discounts for large volume clients. Volume discount breaks are demonstrated in our pricing examples.

Describe how customers verify they are receiving Contract pricing.

As part of this proposal KBS is providing standard book pricing, against which Region 4 ESC can verify proposed pricing on the contract level.

Describe payment methods offered.

We accept payment via Electronic Funds Transfer.

Propose the frequency of updates to the Offeror's pricing structure. Describe any proposed indices to guide price adjustments. If offering a catalog contract with discounts by category, while changes in individual pricing may change, the category discounts should not change over the term of the Contract.

Our pricing differs based on the services offered, which we tailor depending on the client's scope of work.

For any products that may be included by Offeror as their balance of line, describe how future product introductions will be priced and align with Contract pricing proposed.

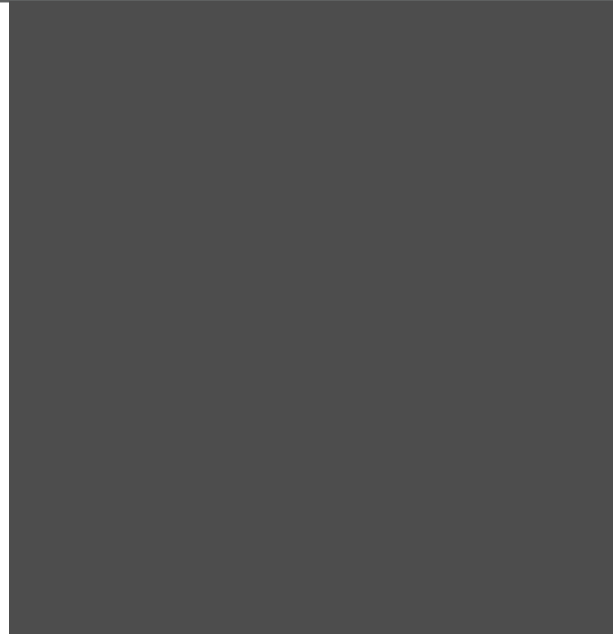
This is not applicable to KBS, as we provide janitorial services, not products.

Provide any additional information relevant to this section.

This is not applicable.

Not to Exceed Pricing. Region 4 ESC requests pricing be submitted as not to exceed pricing. Unlike fixed pricing, the Contractor can adjust submitted pricing lower if needed but, cannot exceed original pricing submitted. Contractor must allow for lower pricing to be available for similar service and product purchases. Cost plus pricing as a primary pricing structure is not acceptable.





Tab 3

Performance Capability



Include a detailed response to Appendix D, Exhibit A, OMNIA Partners Response for National Cooperative Contract. Responses should highlight experience, demonstrate a strong national or regional presence, describe how Offeror will educate its sales force about the Contract, describe how services and products will be distributed nationwide or regionally, include a plan for marketing the services and products nationwide or across several states, and describe how volume will be tracked and reported to OMNIA Partners.

Please refer to our response to Exhibit A. Note that for some responses KBS will provide further information upon award of business.

The successful Offeror will be required to sign Appendix D, Exhibit B, OMNIA Partners Administration Agreement prior to Contract award. Offerors should have any reviews required to sign the document prior to submitting a response. Offeror's response should include any proposed exceptions to OMNIA Partners Administration Agreement on Appendix B, Terms and Conditions Acceptance Form.

Confirmed. Please refer to the completed version of Appendix B submitted with this proposal response.

Include completed Appendix D, Exhibits F. Federal Funds Certifications and G. New Jersey Business Compliance.

Confirmed.

Describe Offeror's standard operating procedures when working with Participating Public Agencies.

Maintaining Healthy Operations for Government Facilities

Institutional and government facilities need to maintain the highest standards in cleaning and facilities services. These essential operations simply cannot afford for any part of their facility to operate below standards. At the same time, facility operators are challenged with maintaining a healthy environment across multiple locations while also building efficiency. KBS teams design and implement specific programs to meet our clients' complex challenges on a national scale for a wide range of government facilities.

- » Staffing for supplement cleaning staff and other essential workers
- » Effective equipment and chemical management across multiple sites
- » COVID response tactics proven across over 250,000 locations
- » Enhanced touchpoint cleaning and disinfecting
- » Communicating cleaning protocols to the public
- » Using advanced technology to verify and adjust cleaning and disinfecting protocols

A Trusted Partner for Government Facilities

KBS works with government institutions nationwide, applying industry best practices to create efficiency and drive results.

- » Cities
- » Counties
- » Special Business Districts

Tailored Programs for Efficient Results

We tailor programs to meet the needs of today's government buildings and facilities. Our comprehensive cleaning and disinfecting solutions maximize results while driving efficiency and consistency. Implementation plans are designed around proven models and leverage existing talent and equipment to maximize efficiency and effectiveness.

Implementation leverages existing talent and equipment to enable smooth transitions to fully or partially outsourced models.

Our Services Include:

- » Contract Cleaning & Janitorial
- » Supplemental Staffing
- » General Maintenance
- » Trade Services
- » Exterior Services
- » COVID-19 Response
- » Fully Integrated Programs

Success Driven by a Tech-enabled Team of Experts

KBS works with clients to develop, measure, and report on Key Performance Indicators (KPIs). Through our proprietary KBSForce™ technology, we track KPIs, record audits, and offer real-time insights on a web-enabled mobile platform.

Delivering Results For Government Facilities Clients

Our services focus on meeting client challenges and delivering results. We deliver:

- » Consistently clean and healthy operations that communicate brand integrity
- » Greater efficiency for equipment, chemicals, and processes
- » Full range of services to meet challenges at scale

Supplemental Janitorial Staff

As cleaning and disinfecting has become more heightened, many janitorial staffs need extra help in their cleaning protocols. KBS provides supplemental janitorial staff nationwide. Using a

network of recruiting throughout North America, KBS recruits from its pool of workers, many of whom have extensive experience in hospitality, to supplement the janitorial staff of government facilities nationwide.

Communicating Government Cleaning Services and Protocols

KBS works with clients to communicate with employees and visitors regarding the chemicals, devices, and methods being used to clean and disinfect facilities. This simple communication assures everyone entering a facility that cleaning and disinfecting has been thoughtfully planned and professionally applied.

ATP Testing to Verify Cleaning

KBS works with clients to verify cleaning through Adenosine Triphosphate (ATP) meter testing. These programs measure bacteria loads on surfaces before and after cleaning and can be used to verify cleaning methods or modify protocols to focus on high touch point areas. KBS is working with clients to implement these programs nationwide to partner in creating healthy, safe environment for employees and visitors.

Describe how Offeror responds to emergency orders or requests.

We work with government facilities nationwide to plan for COVID-19 responses that may happen in the future. These services are deployed to effectively clean and create a safe environment within a matter of hours. KBS has performed over 250,000 of these operations nationwide.

We offer a detailed training regimen to our staff, provided by their supervisors, focused exclusively on combating COVID-19 on behalf of our clients. This training covers the following topics:

- CDC guidelines
- The basics of bloodborne pathogens
- Required tools and supplies
 - Electrostatic sprayers
 - Broadcast fogging
 - Directional spraying
 - UVD technology
- Self-protection protocols
- Required chemicals
 - OXIVIR Tb
 - OXIVIR 1
 - VIREX II/256
- Required PPE

- Level 1 & 2
 - Safety glasses
 - Vinyl gloves
- Level 3 & 4
 - Tyvek suit
 - Vinyl gloves
 - Safety glasses
 - Mask/face shield
- How to clean
- Avoiding cross-contamination
- Cleaning workflow
 - Dry to wet
 - Clockwise
 - Top to bottom
- COVID-19 tactical service levels (1-4)
- The COVID-19 cleaning checklist

If applicable to products being provided by Offeror as part of their balance of line, what is Offeror's average Fill Rate?

This is not applicable.

If applicable to products being provided by Offeror as part of their balance of line, what is Offeror's average on time delivery rate? Describe Offeror's history of meeting the shipping and delivery timelines.

This is not applicable.

If applicable to products being provided by Offeror as part of their balance of line, describe Offeror's return and restocking policy.

This is not applicable.

Describe Offeror's ability to meet service and warranty needs.

KBS guarantees reliable service that is performed per the schedule we establish with Region 4 ESC using the right staffing for the job. KBS works with clients to develop, measure, and report on Key Performance Indicators (KPIs). Through our proprietary KBSForce™ technology, we track KPIs, record audits, and offer real-time insights on a web-enabled mobile platform.

We draw on market resources and select employees based on qualifications and requirements. We require that employees be a minimum of 18 years of age, pass E-Verify, is a US citizen or authorized working immigrant, and passes a background check.

We also provide absentee floater personnel, part-time employees whom we give additional hours to cover any absent employees. If an employee is a no-show, KBSForce™ sends a notice and the supervisor can address the situation accordingly. Supervisors have the best attendance record and can fill in for absent staff. KBS cleaning specialists are cross trained to substitute for each other in times of need. We train all KBS employees using our JanOPS® training program. This allows them to fill in where needed without additional training. In addition, KBS is the only Janitorial company with a temporary staffing division. KBS acquired HSS Staffing to assure the quickest hiring cycles in the industry.

Describe Offeror's customer service/problem resolution process. Include hours of operation, number of services, etc.

KBS' solution is designed to maximize responsiveness to Region 4 ESC facility managers. We first provide easy, convenient communication channels through a single 800 number and a single email. The single phone number and email connect the facility-level manager to our 24/7 customer support team, which gives the Region 4 ESC manager a team behind her request.

Each call or email will result in a work order that will be tracked, escalated, and closed by our customer service team. Each call or email will be assigned a priority level. Requests needing immediate attention will be assigned either as Priority 1 or Priority 2. All other requests will begin at the lowest priority level. Priority 1 and Priority 2 Work Orders should be phoned into the call center using our 1-800 number.

A work order is closed only when the Work Order is closed. KBS's reputation for closing Work Orders is a key success factor for delivering **reliability** and **responsiveness**.

KBSForce™ tracks the resolution of any work order over time to look for trends. Field management, customer service, and operations work directly to find and correct any escalations.

Describe Offeror's invoicing process. Include payment terms and acceptable methods of payments. Offerors shall describe any associated fees pertaining to credit cards/p-cards.

Our solution includes a customer service team for Region 4 ESC to reconcile invoicing errors, underperformance credits, and pricing changes.

We can accept EFT payments for invoices and can also integrate with Region 4 ESC's procure-to-pay processes.

Describe Offeror's contract implementation/customer transition plan.

As part of its transition plan, KBS has nine operational imperatives that are critical, non-negotiable must-dos both pre- and post-transition.

1. Name administrative team
2. Select employee crews
3. Confirm employee/crew disposition
4. Hold client/KBS management meetings
5. Confirm equipment
6. Inspect pre-transition conditions
7. Establish start and transition dates
8. Perform first quality assurance survey
9. Consolidate team and perform post-transition opportunity review

We plan our implementation matrix around a four-week notification schedule that we can condense according to Region 4 ESC's needs. This schedule allows the necessary time to plan and execute a professional and efficient transition, ensuring we meet all timelines successfully. We will have daily interaction with Region 4 ESC, with frequent group conference calls with field management and the project manager, who will be dedicated to the implementation and ongoing daily management of the account. We also discuss scheduled tasks at the executive level to evaluate timeliness and maximize task completion prior to the targeted date.

Describe the financial condition of Offeror.

In 2019, KBS was acquired by Cerberus Capital Management and we are very excited to grow with them. Cerberus was founded in 1992 and is a global leader in alternative investing with approximately \$60 billion in assets across complimentary credit, private equity, and real estate platforms. This affords us the financial backing necessary to provide top-quality operations that are nationally strong and locally great.

Provide a website link in order to review website ease of use, availability, and capabilities related to ordering, returns and reporting. Describe the website's capabilities and functionality.

Our website is kbs-services.com. However, clients can access audit data via the Client Portal as part of our KBSForce™ technology. The KBS team uses this information to find trends, pinpoint and correct deficiencies, set up benchmarks, and drive improvement.

KBSForce™ technology maximizes efficiency, transparency, and cleaning validation by using real-time, on-site data to deliver results.

- » Client Portal: Performance dashboard and service delivery information for clients
- » Audit & Inspections: Powerful and flexible audit module to capture onsite statistics
- » Attendance Tracking: Fully customized time tracking system for KBS employees and subcontractors
- » Performance KPIs: Targeted KPIs help field managed track daily service delivery
- » Project Tracking: Plan, execute, and track on demand and contracted project work

- » Mobile Hiring: Paperless hiring module, fully integrated with Background Check, I-9, and E-Verify services

Describe the Offeror's safety record.

Today, KBS is working with clients to help create environments that make employees feel safe as more offices, retail stores, and distribution centers reopen. To do that, operators can look to KBS to deliver a broad range of solutions that answer those needs. This includes:

- Creating and executing strategies for touch point cleaning
- Verifying cleaning and disinfecting using advanced technologies
- Planning when cleaning will take place to maximize visibility and effectiveness
- Communicating cleaning protocols to employees and visitors
- Planning for deep cleaning and COVID responses in the future

KBS also has a robust safety program called SafetyOPS™ that includes monthly training and safety mailing, onboarding safety certification, a safety accident reporting hotline, and investigation process. The program addresses the following:

- OSHA compliance
- Training and Implementation
- JanOPS® New-hire training
- SafetyOPS training
- Monthly safety training
- Site-specific training for safety
- Equipment and tool safety
- Vehicle safety
- Employee conduct
- Closet supplies and chemicals
- Personal Protection Equipment (PPE)
- Accident investigation and reporting
- Post-accident and alcohol screening
- Chemical safety and diluting

In addition to our standard training protocols we would work with Region 4 ESC to customize our programs based on your requirements and needs.

Provide any additional information relevant to this section.

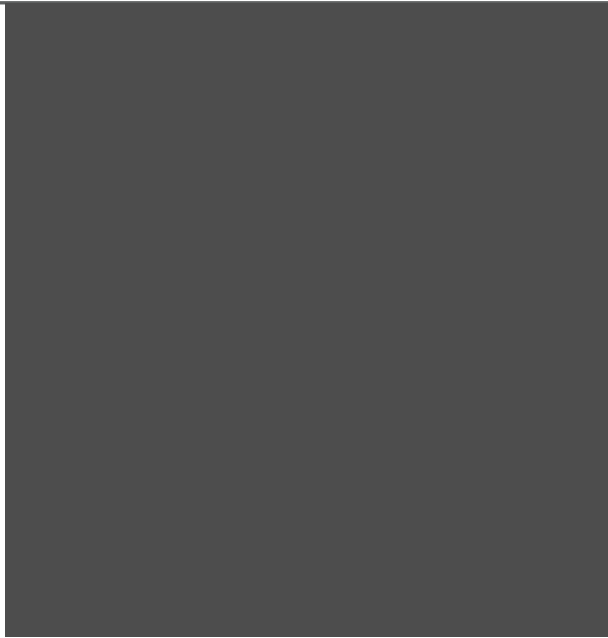
KBS prides itself on its three primary competitive advantages: we are a trusted partner to industry leaders, we tailor solutions at scale, and we are a technology and efficiency innovator.

As a trusted partner, we have experience working with clients with the highest standards of performance and compliance across 75,000 locations throughout North America. With decades of experience in facility hygiene, including being on the front lines throughout the COVID-19 crisis, KBS is committed to partnering with clients to Stay Ahead of the Curve™ with the latest advances for maintaining healthy operations.

We provide essential facility services that deliver healthy operations to businesses through scalable solutions customized to meet client-specific requirements. Throughout the COVID-19 pandemic, KBS has delivered essential services for acute needs to keep businesses operational. We have successfully deployed over 250,000 response teams to logistics and distribution, essential retail, pharmacy, grocery stores, senior living facilities, data centers and others. When supply chains broke down, KBS resources delivered not only labor but also PPE, mission critical chemicals, and supplies at a national scale.

Finally, our expertise and technology enable our teams to anticipate issues, ensure quality, and maximize efficiency. Our proprietary KBSForce™ technology maximizes efficiency, transparency, and cleaning validation, keeping standards up while tamping costs down. With decades of experience in facility hygiene, including being on the front lines throughout the COVID-19 crisis, KBS is committed to partnering with clients to Stay Ahead of the Curve™ with the latest advances for maintaining healthy operations. Proprietary KBSForce™ technology maximizes efficiency, transparency, and cleaning validation.





**OMNIA Partners
documents**



SUPPLIER RESPONSE TO EXHIBIT A

Company

A. Brief history and description of Supplier to include experience providing similar products and services.

History: Innovation and Evolution

Early Years as Two Companies

In 1967, Kellermeyer Building Services began business primarily as a provider of cleaning services to department stores. In the 1970's, the department store landscape became more competitive and Kellermeyer grew by providing cost savings through an outsourced model of cleaning. In 1984, Bergensons Property Services began as a family business that quickly started to gain regional traction in several states, focused primarily on pharmacy and supermarket chains along with Class A and B office buildings.

[REDACTED]

[REDACTED]

Growth and Merger

By 2010, Bergensons had tripled in size organically and in 2011, the company was acquired by private equity firm Kohlberg, which also owned Kellermeyer. Bergensons and Kellermeyer were subsequently merged, forming KBS. Mark Minasian, a co-founder of Bergensons became CEO of the new company. KBS became the largest provider of facilities services in North America through an integrated delivery model.

[REDACTED]

[REDACTED]

Acquisitions and Diversity

In 2014, KBS was acquired by GI Partners, opening a new chapter of growth for the company. In 2017, KBS rapidly expanded by acquiring companies including Varsity Facility Services,

Empire, Image, Pristine, Capital Contracts and Hospitality Staffing Solutions. In November of 2019, KBS was acquired by Cerberus Capital Management. By 2020, KBS had grown its footprint maintaining healthy operations for clients across Retail, Logistics Support, Business and Industry, and Hospitality, servicing over 75,000 locations daily across North America.

Responding To COVID-19 and the Challenges Ahead

This diversity and scale allowed KBS to respond rapidly to clients' needs at the peak of the COVID-19 crisis. With a wide base of customers, broad geographic reach, innovative technology, and an empowered team, KBS responded rapidly to the crisis performing over 250,000 COVID-19 response services nationwide. KBS continues to expand by diversifying its customer base and services, and through innovation that help clients across a wide range of industries Stay Ahead of the Curve™.

B. Total number and location of sales persons employed by Supplier.

[REDACTED]

C. Number and location of support centers (if applicable) and location of corporate office.

KBS's headquarters is located at 3605 Ocean Ranch Blvd, Suite 200, Oceanside, CA 92056.

D. Annual sales for the three previous fiscal years.

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
------------	------------	------------	------------

a. Submit FEIN and Dunn & Bradstreet report.

Our FEIN is 36-4431179. Please refer to our attached D&B report.

E. Describe any green or environmental initiatives or policies.

KBS recognizes opportunities to do more for our customers and our planet with solutions that minimize waste, maximize operational efficiency, and protect human health. This has made us an industry leader in green cleaning and sustainability.

KBS's long-term commitment to the environment, health, and sustainable practices is built into our KBS cleaning system, which we developed as part of our approach to minimize waste and reduce costs. Our Business Model for responsiveness and reliability, combined with our KBSForce™ technology, ensures that we incorporate green initiatives into our daily routines.

Below are some of our sustainable, green cleaning accomplishments:

- » Support a zero-waste environment

- » Achieve LEED certification
- » Zero-waste building initiatives and objectives accomplished
- » Quantified sustainability improvements through KBSForce™
- » One of only 12 organizations in industry to be CIMSGB-certified
- » Member of U.S. Green Building Council (USGBC)
- » Converted 18,000 facilities to green at no additional cost to the customer
- » Helped customers achieve points toward LEED-EB certification
- » Built 80,000 ft² LEED Platinum Museum of Clean
- » Our equipment meets GS-42 requirements
- » Vacuums with four-stage HEPA filtration and < 69 dBA sound levels
- » Received the Ashkin Group Green Cleaning Champion Award

All our products are Green Guard and Green Seal certified. To support use of these products, we developed the KBS cleaning system as part of our approach to minimize waste and reduce costs. KBS standards follow the EPA's Comprehensive Procurement Guidelines and Green Seal's standards for toilet paper and paper towels regarding recycled content. KBS standards require right-sizing liners and standardizing most liners to high-density, lower micron bags. This means KBS standards reduce the number of trees and other non-renewable resources being used to make paper towels, toilet paper and trash liners.

We also maintain nine green system standards, as described below:

- » Green chemicals
 - ✓ Standardized cleaners and floor care products are ecologically certified and low pH
- » Green paper/liners
 - ✓ Purchased in bulk based on their packaging and shipping waste minimization
- » Green equipment
 - ✓ Limits exposure to potentially hazardous contaminants while ensuring effective infection prevention and control processes.
- » Closet standards
 - ✓ Helps to measure the performance level being achieved within the facility
- » Behavior support system
 - ✓ KBS cleaning specialists are efficient safety, health and environmental professionals who reinforce Green Cleaning policies.
- » Green focus areas
 - ✓ We focus on certain areas that are breeding grounds for germs, such as surfaces that people touch frequently.
- » LEED-EB points
 - ✓ Follows the LEED Policy Model for achieving best-in-class building strategies and practices.
- » Recycling system

- ✓ KBS promotes and manages an aggressive recycling program to divert waste from landfills and shares cost savings from recycling with customers.
- » Green cleaning system
 - ✓ KBS training standards reflect the value put on the specialist's contribution to society.

F. Describe any diversity programs or partners supplier does business with and how Participating Agencies may use diverse partners through the Master Agreement. Indicate how, if at all, pricing changes when using the diversity program. If there are any diversity programs, provide a list of diversity alliances and a copy of their certifications.

KBS seeks diversity in all of its business. Some of our efforts to be a diverse and inclusive company include:

- » Meet or exceed all applicable laws, regulations, and other requirements for a diverse workforce
 - ✓ KBS has a very diverse workforce and is an equal opportunity employer.
- » We have a culture of inclusion; that respects differences and gives a voice to people who are often underrepresented.
- » Tier 2 Spend: KBS actively seeks diverse-certified vendors as part of our process of recruiting qualified vendor partners.
 - ✓ We support and utilize minority businesses whenever possible.
 - ✓ KBS is a 49% owner of a certified minority owned company, System 1, that we could potentially partner with to help our customers meet their Tier 2 spend.
 - ✓ Our website encourages vendors to identify their diverse-certified status when applying to become a KBS vendor.
 - ✓ We gather and maintain vendor certification information from the time of hire as well as on an annual basis.
 - ✓ We track diverse spend for our clients to help them meet their Tier 2 goals.
 - ✓ We provide quarterly reports with their diverse spend to our clients (we have been providing this information to one of our clients for over 10 years).

G. Indicate if supplier holds any of the below certifications in any classified areas and include proof of such certification in the response:

a. Minority Women Business Enterprise Yes No

If yes, list certifying agency:

b. Small Business Enterprise (SBE) or Disadvantaged Business Enterprise (DBE)

Yes No

If yes, list certifying agency:

c. Historically Underutilized Business (HUB) Yes No

If yes, list certifying agency:

d. Historically Underutilized Business Zone Enterprise (HUBZone) Yes No

If yes, list certifying agency:

e. Other recognized diversity certificate holder Yes No

If yes, list certifying agency:

These designations do not apply to KBS.

H. List any relationships with subcontractors or affiliates intended to be used when providing services and identify if subcontractors meet minority-owned standards. If any, list which certifications subcontractors hold and certifying agency.

[REDACTED]

I. Describe how supplier differentiates itself from its competitors.

KBS prides itself on its three primary competitive advantages: we are a trusted partner to industry leaders, we tailor solutions at scale, and we are a technology and efficiency innovator.

As a trusted partner, we have experience working with clients with the highest standards of performance and compliance across 75,000 locations throughout North America. With decades of experience in facility hygiene, including being on the front lines throughout the COVID-19 crisis, KBS is committed to partnering with clients to Stay Ahead of the Curve™ with the latest advances for maintaining healthy operations. We partner with clients to achieve superior client outcomes. From the start of the contract, we establish clear KPI performance baselines and use our continuous improvement process to drive improved outcomes. This level of partnership moves us beyond delivery of the base facility service and makes KBS a key contributor to improving the client's business, school or government organization.

We provide essential facility services that deliver healthy operations to businesses through scalable solutions customized to meet client-specific requirements. Throughout the COVID-19 pandemic, KBS has delivered essential services for acute needs to keep businesses operational. We have successfully deployed over 250,000 response teams to logistics and distribution, essential retail, pharmacy, grocery stores, senior living facilities, data centers and others. When supply chains broke down, KBS resources delivered not only labor but also PPE, mission critical chemicals, and supplies at a national scale.

Finally, our expertise and technology enable our teams to anticipate issues, ensure quality, and maximize efficiency. Our proprietary KBSForce™ technology maximizes efficiency, transparency, and cleaning validation, keeping standards up while tamping costs down. With decades of experience in facility hygiene, including being on the front lines throughout the COVID-19 crisis, KBS is committed to partnering with clients to Stay Ahead of the Curve™ with the latest advances for maintaining healthy operations. Proprietary KBSForce™ technology maximizes efficiency, transparency, and cleaning validation.

Our KBS Innovation Center (IC) Team also looks to deploy new technologies and innovative ideas to increase productivity and lower costs. For example, in multiple locations the IC Team is currently performing tests with robotic scrubbers and other machines that can bring these benefits to our customers. The IC Team is also testing with sensors incorporated into flooring to achieve the efficiency of just-in-time cleaning.

J. Describe any present or past litigation, bankruptcy or reorganization involving supplier.

To the best of our knowledge, this has not occurred.

K. Felony Conviction Notice: Indicate if the supplier

- a. is a publicly held corporation and this reporting requirement is not applicable;
- b. is not owned or operated by anyone who has been convicted of a felony; or
- c. is owned or operated by and individual(s) who has been convicted of a felony and provide the names and convictions.

This is not applicable.

L. Describe any debarment or suspension actions taken against supplier

This is not applicable.

Distribution, Logistics

A. Each offeror awarded an item under this solicitation may offer their complete product and service offering/a balance of line. Describe the full line of products and services offered by supplier.

KBS offers facilities services to maintain healthy operations so that customers and employees stay safe. We work as a trusted partner to our clients, tailoring solutions on a national scale. We design and implement cleaning, disinfecting, and maintenance strategies for healthy operations across multiple industry sectors.

KBS facility services management encompass a wide range of services including:

- Professional Commercial Cleaning Services

- Cleaning Staff
- Exterior Services
 - Landscaping
 - Snow removal
 - Parking lot maintenance
- Specialty & Trade Services
- Covid-19 Response

B. Describe how supplier proposes to distribute the products/service nationwide. Include any states where products and services will not be offered under the Master Agreement, including U.S. Territories and Outlying Areas.



C. Describe how Participating Agencies are ensured they will receive the Master Agreement pricing; include all distribution channels such as direct ordering, retail or in-store locations, through distributors, etc. Describe how Participating Agencies verify and audit pricing to ensure its compliance with the Master Agreement.

As part of this proposal KBS is providing standard book pricing, against which OMNIA Partners can verify proposed pricing on the Master Agreement level.

D. Identify all other companies that will be involved in processing, handling or shipping the products/service to the end user.

This is not applicable.

E. Provide the number, size and location of Supplier's distribution facilities, warehouses and retail network as applicable.

This is not applicable.

Marketing and Sales

A. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to immediately implement the Master Agreement as supplier's primary go to market strategy for Public Agencies to supplier's teams nationwide, to include, but not limited to:

- i. Executive leadership endorsement and sponsorship of the award as the public sector go-to-market strategy within first 10 days
- ii. Training and education of Supplier's national sales force with participation from the Supplier's executive leadership, along with the OMNIA Partners team within first 90 days

KBS will provide this information upon award.

B. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to market the Master Agreement to current Participating Public Agencies, existing Public Agency customers of Supplier, as well as to prospective Public Agencies nationwide immediately upon award, to include, but not limited to:

- i. Creation and distribution of a co-branded press release to trade publications
- ii. Announcement, Master Agreement details and contact information published on the Supplier's website within first 90 days
- iii. Design, publication and distribution of co-branded marketing materials within first 90 days
- iv. Commitment to attendance and participation with OMNIA Partners at national (i.e. NIGP Annual Forum, NPI Conference, etc.), regional (i.e. Regional NIGP Chapter Meetings, Regional Cooperative Summits, etc.) and supplier-specific trade shows, conferences and meetings throughout the term of the Master Agreement
- v. Commitment to attend, exhibit and participate at the NIGP Annual Forum in an area reserved by OMNIA Partners for partner suppliers. Booth space will be purchased and staffed by Supplier. In addition, Supplier commits to provide reasonable assistance to the overall promotion and marketing efforts for the NIGP Annual Forum, as directed by OMNIA Partners.
- vi. Design and publication of national and regional advertising in trade publications throughout the term of the Master Agreement
- vii. Ongoing marketing and promotion of the Master Agreement throughout its term (case studies, collateral pieces, presentations, promotions, etc.)
- viii. Dedicated OMNIA Partners internet web-based homepage on Supplier's website with:

- OMNIA Partners standard logo;
- Copy of original Request for Proposal;
- Copy of Master Agreement and amendments between Principal Procurement Agency and Supplier;
- Summary of Products and pricing;
- Marketing Materials
- Electronic link to OMNIA Partners' website including the online registration page;

- A dedicated toll-free number and email address for OMNIA Partners

KBS will provide this information upon award.

C. Describe how Supplier will transition any existing Public Agency customers' accounts to the Master Agreement available nationally through OMNIA Partners. Include a list of current cooperative contracts (regional and national) Supplier holds and describe how the Master Agreement will be positioned among the other cooperative agreements.

KBS does not have any current cooperative contracts to transition to the Master Agreement.

D. Acknowledge Supplier agrees to provide its logo(s) to OMNIA Partners and agrees to provide permission for reproduction of such logo in marketing communications and promotions. Acknowledge that use of OMNIA Partners logo will require permission for reproduction, as well.

Confirmed.

E. Confirm Supplier will be proactive in direct sales of Supplier's goods and services to Public Agencies nationwide and the timely follow up to leads established by OMNIA Partners. All sales materials are to use the OMNIA Partners logo. At a minimum, the Supplier's sales initiatives should communicate:

- i. Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency
- ii. Best government pricing
- iii. No cost to participate
- iv. Non-exclusive

Confirmed.

F. Confirm Supplier will train its national sales force on the Master Agreement. At a minimum, sales training should include:

- i. Key features of Master Agreement
- ii. Working knowledge of the solicitation process
- iii. Awareness of the range of Public Agencies that can utilize the Master Agreement through OMNIA Partners
- iv. Knowledge of benefits of the use of cooperative contracts

Confirmed.

G. Provide the name, title, email and phone number for the person(s), who will be responsible for:

- i. Executive Support
- ii. Marketing
- iii. Sales
- iv. Sales Support
- v. Financial Reporting
- vi. Accounts Payable
- vii. Contracts

[REDACTED]

[REDACTED] in detail how Supplier's national sales force is structured, including contact information for the highest-level executive in charge of the sales team.

KBS divides its sales team into Western and Eastern United States regions, headed respectively by Marc Collings and Aaron Bailey, both Senior Vice Presidents of Sales. Within those regions sales teams are divided into Regional and National Sales.

I. Explain in detail how the sales teams will work with the OMNIA Partners team to implement, grow and service the national program.

KBS is already partnering and working with OMNIA Partner sales representatives. We plan to continue to pair our sale executives with OMNIA's sales executives on a geographic basis.

J. Explain in detail how Supplier will manage the overall national program throughout the term of the Master Agreement, including ongoing coordination of marketing and sales efforts, timely new Participating Public Agency account set- up, timely contract administration, etc.

KBS will manage the national program through our two Senior Vice Presidents of Sales, Marc Collings for all business West of the Mississippi and Aaron Bailey for all business East of the Mississippi. As the program grows more than \$3M, KBS will add strategic Account managers to work directly with the end clients, identify and develop client-specific programs, and then communicate those programs to our field operators. All business below \$3M will be managed by our field operator leadership, which cover all regions of the U.S.

K. State the amount of Supplier's Public Agency sales for the previous fiscal year. Provide a list of Supplier's top 10 Public Agency customers, the total purchases for each for the previous fiscal year along with a key contact for each.

KBS does not track this information at this level of detail. Please refer to our revenue figures above for financial information.

L. Describe Supplier's information systems capabilities and limitations regarding order management through receipt of payment, including description of multiple platforms that may be used for any of these functions.

KBS will work with OMNIA Partners to process invoicing via your preferred method and information systems.

M. Provide the Contract Sales (as defined in Section 10 of the OMNIA Partners Administration Agreement) that Supplier will guarantee each year under the Master Agreement for the initial three years of the Master Agreement ("Guaranteed Contract Sales").

\$.00 in year one

\$.00 in year two

\$.00 in year three

To the extent Supplier guarantees minimum Contract Sales, the administration fee shall be calculated based on the greater of the actual Contract Sales and the Guaranteed Contract Sales.

Guaranteed contract sales projections are difficult to project as KBS lacks prior OMNIA history.

N. Even though it is anticipated many Public Agencies will be able to utilize the Master Agreement without further formal solicitation, there may be circumstances where Public Agencies will issue their own solicitations. The following options are available when responding to a solicitation for Products covered under the Master Agreement.

- i. Respond with Master Agreement pricing (Contract Sales reported to OMNIA Partners).
- ii. If competitive conditions require pricing lower than the standard Master Agreement not-to-exceed pricing, Supplier may respond with lower pricing through the Master Agreement. If Supplier is awarded the contract, the sales are reported as Contract Sales to OMNIA Partners under the Master Agreement.
- iii. Respond with pricing higher than Master Agreement only in the unlikely event that the Public Agency refuses to utilize Master Agreement (Contract Sales are not reported to OMNIA Partners).

iv. If alternative or multiple proposals are permitted, respond with pricing higher than Master Agreement, and include Master Agreement as the alternate or additional proposal.

Detail Supplier's strategies under these options when responding to a solicitation.

KBS will provide this information upon award.

Update your information with D-U-N-S® Manager

Report as of: 04-21-2021

Kellermeyer Bergensons Services, LLC

ACTIVE HEADQUARTERS

Address: 3605 Ocean Ranch Blvd Ste 200, Oceanside, CA, 92056, United States

Partner offer

Manage your business with ClientBook from 1-800Accounting. Your first two months are free.

Start for Free

1-800ACCOUNTING

Dun & Bradstreet offer

Transform your information into a more powerful sales tool.

D&B Em

Sign up to receive free contacts every month.

Sign up now

[REDACTED]			
[REDACTED] ⓘ	[REDACTED] ⓘ	[REDACTED] ⓘ	[REDACTED] ⓘ
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] RISK

Monitor in Real-time
to Gain Valuable Insights into Your Business Credit

Get alerts when changes occur and have 24/7 access to the information in your Dun & Bradstreet business credit file.

\$39/mo ADD TO CART

CreditMonitor™

Call us at 1-844-840-8170 to discuss which product is right for you.

Monitor & Take Action
to Help Build Your Business Credit File

Potentially build your D&B credit file by submitting Trade References, subject to verification and acceptance,* to Dun & Bradstreet and get alerts when changes are made to your file.

\$149/mo ADD TO CART

PLUS
CreditBuilder

Call us at 1-844-840-8170 to discuss which product is right for you.

COMPANY PROFILE ⓘ



D-U-N-S 05-160-4455	Mailing Address United States	Annual Sales [REDACTED]
Business Form Limited Liability Company	Telephone (760) 631-5111	[REDACTED] ⓘ [REDACTED]
State of Incorporation DE	Website www.kbs-services.com	[REDACTED] (Year Started) 20 (2001)
Ownership Not publicly traded		Named Principal Mark Minasian, Chief Executive Officer
		Line of Business Mfg service industry machinery



[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

OWNERSHIP ⓘ

This company is a **Global Ultimate, Domestic Ultimate, Parent/Headquarters.**

Kellermeyer Bergensons Services, LLC
United States
D-U-N-S Number 05-160-4455

Total Members in Family Tree - 56

Subsidiaries	Branches
9	46

FINANCIAL OVERVIEW ⓘ

This company has not provided financial statements to D&B.

INQUIRIES ⓘ

12 Month Summary

Total number of Inquiries	Unique Customers
215 ⓘ	97

*Trade References will be added subject to Dun & Bradstreet verification and acceptance. Dun & Bradstreet cannot guarantee that trade references will be accepted or that accepted trade references will impact your business credit file. Please see <https://www.dandb.com/glossary/trade-references/> for eligibility, process and other information regarding Trade References.

EXHIBIT F
FEDERAL FUNDS CERTIFICATIONS

FEDERAL CERTIFICATIONS
ADDENDUM FOR AGREEMENT FUNDED BY U.S. FEDERAL GRANT

TO WHOM IT MAY CONCERN:

Participating Agencies may elect to use federal funds to purchase under the Master Agreement. This form should be completed and returned.

DEFINITIONS

Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward

Contractor means an entity that receives a contract as defined in Contract.

Cooperative agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302-6305:

- (a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal government or pass-through entity's direct benefit or use;
- (b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.
- (c) The term does not include:
 - (1) A cooperative research and development agreement as defined in 15 U.S.C. 3710a; or
 - (2) An agreement that provides only:
 - (i) Direct United States Government cash assistance to an individual;
 - (ii) A subsidy;
 - (iii) A loan;
 - (iv) A loan guarantee; or
 - (v) Insurance.

Federal awarding agency means the Federal agency that provides a Federal award directly to a non-Federal entity

Federal award has the meaning, depending on the context, in either paragraph (a) or (b) of this section:

- (a)(1) The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability; or
- (2) The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability.
- (b) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (b) of § 200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.
- (c) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal government owned, contractor operated facilities (GOCOs).
- (d) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

Nonprofit organization means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

- (a) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- (b) Is not organized primarily for profit; and

(c) Uses net proceeds to maintain, improve, or expand the operations of the organization.

Obligations means, when used in connection with a non-Federal entity's utilization of funds under a Federal award, orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.

Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Recipient means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.

Simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$250,000, but this threshold is periodically adjusted for inflation. (Also see definition of § 200.67 Micro-purchase.)

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

Termination means the ending of a Federal award, in whole or in part at any time prior to the planned end of period of performance.

The following certifications and provisions may be required and apply when Participating Agency expends federal funds for any purchase resulting from this procurement process. Pursuant to 2 C.F.R. § 200.326, all contracts, including small purchases, awarded by the Participating Agency and the Participating Agency's subcontractors shall contain the procurement provisions of Appendix II to Part 200, as applicable.

APPENDIX II TO 2 CFR PART 200

(A) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Rule (A) above, when a Participating Agency expends federal funds, the Participating Agency reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does offeror agree? YES MC Initials of Authorized Representative of offeror

(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to Federal Rule (B) above, when a Participating Agency expends federal funds, the Participating Agency reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Offeror as detailed in the terms of the contract.

Does offeror agree? YES MC Initials of Authorized Representative of offeror

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 CFR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to Federal Rule (C) above, when a Participating Agency expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

Does offeror agree to abide by the above? YES MC Initials of Authorized Representative of offeror

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when a Participating Agency expends federal funds during the term of an award for all contracts and subgrants for construction or repair, offeror will be in compliance with all applicable Davis-Bacon Act provisions.

Does offeror agree? YES MC Initials of Authorized Representative of offeror

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when a Participating Agency expends federal funds, offeror certifies that offeror will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by Participating Agency resulting from this procurement process.

Does offeror agree? YES MC Initials of Authorized Representative of offeror

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does offeror agree? YES MC Initials of Authorized Representative of offeror

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended— Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA)

Pursuant to Federal Rule (G) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency member resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

Does offeror agree? YES MC Initials of Authorized Representative of offeror

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the Executive Office of the President Office of Management and Budget (OMB) guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency. If at any time during the term of an award the offeror or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency, the offeror will notify the Participating Agency.

Does offeror agree? YES MC Initials of Authorized Representative of offeror

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to Federal Rule (I) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term and after the awarded term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

- (1) No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Does offeror agree? YES MC Initials of Authorized Representative of offeror

RECORD RETENTION REQUIREMENTS FOR CONTRACTS INVOLVING FEDERAL FUNDS

When federal funds are expended by Participating Agency for any contract resulting from this procurement process, offeror certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The offeror further certifies that offeror will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does offeror agree? YES MC Initials of Authorized Representative of offeror

CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT

When Participating Agency expends federal funds for any contract resulting from this procurement process, offeror certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

Does offeror agree? YES MC _____ Initials of Authorized Representative of offeror

CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS

To the extent purchases are made with Federal Highway Administration, Federal Railroad Administration, or Federal Transit Administration funds, offeror certifies that its products comply with all applicable provisions of the Buy America Act and agrees to provide such certification or applicable waiver with respect to specific products to any Participating Agency upon request. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

Does offeror agree? YES MC _____ Initials of Authorized Representative of offeror

CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.336

Offeror agrees that the Inspector General of the Agency or any of their duly authorized representatives shall have access to any documents, papers, or other records of offeror that are pertinent to offeror's discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to offeror's personnel for the purpose of interview and discussion relating to such documents.

Does offeror agree? YES MC _____ Initials of Authorized Representative of offeror

CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS

Offeror agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

Does offeror agree? YES MC _____ Initials of Authorized Representative of offeror

Offeror agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that offeror certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.

Offeror's Name: Kellermeyer Bergensons Services _____

Address, City, State, and Zip Code: 3605 Ocean Ranch Blvd, Suite 200, Oceanside, CA 92056 _____

Phone Number: (760) 631-5111 _____ Fax Number: (267) 350-9314 _____

FEMA SPECIAL CONDITIONS

Awarded Supplier(s) may need to respond to events and losses where products and services are needed for the immediate and initial response to emergency situations such as, but not limited to, water damage, fire damage, vandalism cleanup, biohazard cleanup, sewage decontamination, deodorization, and/or wind damage during a disaster or emergency situation. By submitting a proposal, the Supplier is accepted these FEMA Special Conditions required by the Federal Emergency Management Agency (FEMA).

“Contract” in the below pages under FEMA SPECIAL CONDITIONS is also referred to and defined as the “Master Agreement”.

“Contractor” in the below pages under FEMA SPECIAL CONDITIONS is also referred to and defined as “Supplier” or “Awarded Supplier”.

Conflicts of Interest

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a FEMA award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for award. 2 C.F.R. § 200.318(c)(1); See also Standard Form 424D, ¶ 7; Standard Form 424B, ¶ 3. i. FEMA considers a “financial interest” to be the potential for gain or loss to the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties as a result of the particular procurement. The prohibited financial interest may arise from ownership of certain financial instruments or investments such as stock, bonds, or real estate, or from a salary, indebtedness, job offer, or similar interest that might be affected by the particular procurement. ii. FEMA considers an “apparent” conflict of interest to exist where an actual conflict does not exist, but where a reasonable person with knowledge of the relevant facts would question the impartiality of the employee, officer, or agent participating in the procurement. c. Gifts. The officers, employees, and agents of the Participating Public Agency nor the Participating Public Agency (“NFE”) must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, NFE’s may set standards for situations in which the financial interest is de minimus, not substantial, or the gift is an unsolicited item of nominal value. 2 C.F.R. § 200.318(c)(1). d. Violations. The NFE’s written standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the NFE. 2 C.F.R. § 200.318(c)(1). For example, the penalty for a NFE’s employee may be dismissal, and the penalty for a contractor might be the termination of the contract.

Contractor Integrity

A contractor must have a satisfactory record of integrity and business ethics. Contractors that are debarred or suspended as described in Chapter III, ¶ 6.d must be rejected and cannot receive contract awards at any level.

Public Policy

A contractor must comply with the public policies of the Federal Government and state, local government, or tribal government. This includes, among other things, past and current compliance with the:

- a. Equal opportunity and nondiscrimination laws
- b. Five affirmative steps described at 2 C.F.R. § 200.321(b) for all subcontracting under contracts supported by FEMA financial assistance; and FEMA Procurement Guidance June 21, 2016 Page IV- 7
- c. Applicable prevailing wage laws, regulations, and executive orders

Affirmative Steps

For any subcontracting opportunities, Contractor must take the following Affirmative steps:

1. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises; and

5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Prevailing Wage Requirements

When applicable, the awarded Contractor (s) and any and all subcontractor(s) agree to comply with all laws regarding prevailing wage rates including the Davis-Bacon Act, applicable to this solicitation and/or Participating Public Agencies. The Participating Public Agency shall notify the Contractor of the applicable pricing/prevailing wage rates and must apply any local wage rates requested. The Contractor and any subcontractor(s) shall comply with the prevailing wage rates set by the Participating Public Agency.

Federal Requirements

If products and services are issued in response to an emergency or disaster recovery the items below, located in this FEMA Special Conditions section of the Federal Funds Certifications, are activated and required when federal funding may be utilized.

2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses

1. Termination for Convenience:

The right to terminate this Contract for the convenience of the Participating Public Agency is retained by the Participating Public Agency. In the event of a termination for convenience by the Participating Public Agency, the Participating Public Agency shall, at least ten (10) calendar days in advance, deliver written notice of the termination for convenience to Contractor. Upon Contractor's receipt of such written notice, Contractor immediately shall cease the performance of the Work and shall take reasonable and appropriate action to secure and protect the Work then in place. Contractor shall then be paid by the Participating Public Agency, in accordance with the terms and provisions of the Contract Documents, an amount not to exceed the actual labor costs incurred, the actual cost of all materials installed and the actual cost of all materials stored at the project site or away from the project site, as approved in writing by the Participating Public Agency but not yet paid for and which cannot be returned, and actual, reasonable and documented demobilization costs, if any, paid by Contractor and approved by the Participating Public Agency in connection with the Scope of Work in place which is completed as of the date of termination by the Participating Public Agency and that is in conformance with the Contract Documents, less all amounts previously paid for the Work. No amount ever shall be owed or paid to Contractor for lost or anticipated profits on any part of the Scope of Work not performed or for consequential damages of any kind.

2. Equal Employment Opportunity:

The Participating Public Agency highly encourages Contractors to implement Affirmative Action practices in their employment programs. This means Contractor should not discriminate against any employee or applicant for employment because of race, color, religion, sex, pregnancy, sexual orientation, political belief or affiliation, age, disability or genetic information.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the

compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided*, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

3. "During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States."

4. Davis Bacon Act and Copeland Anti-Kickback Act.

- a. Applicability of Davis-Bacon Act. The Davis-Bacon Act only applies to the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. **It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.**
- b. All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D.
- c. In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- d. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- e. In contracts subject to the Davis-Bacon Act, the contracts must also include a provision

for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti- Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.

- f. The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the previous subsection, the Davis-Bacon Act does not apply to Public Assistance recipients and subrecipients. **In situations where the Davis-Bacon Act does not apply, neither does the Copeland “Anti-Kickback Act.”** However, for purposes of grant programs where both clauses do apply, FEMA requires the following contract clause:

“Compliance with the Copeland “Anti-Kickback” Act.

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses
- (3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

5. Contract Work Hours and Safety Standards Act.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the workweek.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

“Compliance with the Contract Work Hours and Safety Standards Act.

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

6. Rights to Inventions Made Under a Contract or Agreement.

- a. Stafford Act Disaster Grants. This requirement **does not apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as**

FEMA awards under these programs do not meet the definition of “funding agreement.”

- b. If the FEMA award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II, ¶ F.
- c. The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract,

grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

7. Clean Air Act and the Federal Water Pollution Control Act. Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.

- a. The following provides a sample contract clause concerning compliance for contracts of amounts in excess of \$150,000:

“Clean Air Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.”

8. Debarment and Suspension.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Non-federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security’s regulations at 2 C.F.R. Part 3000 (Non procurement Debarment and Suspension).
- c. These regulations restrict awards, subawards, and contracts with certain parties that are

debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II, ¶ H; and *Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules): Supplement to the Public Assistance Procurement Disaster Assistance Team (PDAT) Field Manual* Chapter IV, ¶ 6.d, and Appendix C, ¶ 2 [hereinafter *PDAT Supplement*]. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530; *PDAT Supplement*, Chapter IV, ¶ 6.d and Appendix C, ¶ 2.

- d. In general, an “excluded” party cannot receive a Federal grant award or a contract within the meaning of a “covered transaction,” to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a “covered transaction,” which is any non-procurement transaction (unless excepted) at either a “primary” or “secondary” tier. Although “covered transactions” do not include contracts awarded by the Federal Government for purposes of the non-procurement common rule and DHS’s implementing regulations, it does include some contracts awarded by recipients and subrecipient.
- e. Specifically, a covered transaction includes the following contracts for goods or services:
 - (1) The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
 - (2) The contract requires the approval of FEMA, regardless of amount.
 - (3) The contract is for federally required audit services.
 - (4) A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.
- d. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified:

“Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by (insert name of subrecipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered

transactions.”

9. Byrd Anti-Lobbying Amendment.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶ 1; 44 C.F.R. Part 18; *PDAT Supplement*, Chapter IV, 6.c; Appendix C, ¶ 4.
- c. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. See *PDAT Supplement*, Chapter IV, ¶ 6.c and Appendix C, ¶ 4.
- d. The following provides a Byrd Anti-Lobbying contract clause:

“Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.”

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, Kellermeyer Bergensons Services, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Marc Collings, Senior Vice President, Sales

Name and Title of Contractor's Authorized Official

3/23/2021

Date"

10. Procurement of Recovered Materials.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, ¶ J; 2 C.F.R. § 200.322; PDAT Supplement, Chapter V, ¶ 7.
- c. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- d. The following provides the clause that a state agency or agency of a political subdivision of a state and its contractors can include in contracts meeting the above contract thresholds:

"(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—

(i) Competitively within a timeframe providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA- designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>."

11. Additional FEMA Requirements.

a. The Uniform Rules authorize FEMA to require additional provisions for non- Federal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:

b. Changes.

To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

c. Access to Records.

All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, ¶ XXVI (2013).

d. The following provides a contract clause regarding access to records:

"Access to Records. The following access to records requirements apply to this contract:

(1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract."

12. DHS Seal, Logo, and Flags.

a. All non-Federal entities must place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. See DHS Standard Terms and Conditions, v

3.0, ¶ XXV (2013).

- b. The following provides a contract clause regarding DHS Seal, Logo, and Flags: “The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval.”

13. Compliance with Federal Law, Regulations, and Executive Orders.

- a. All non-Federal entities must place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.
- b. The following provides a contract clause regarding Compliance with Federal Law, Regulations, and Executive Orders: “This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.”

14. No Obligation by Federal Government.

- a. The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- b. The following provides a contract clause regarding no obligation by the Federal Government: “The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.”

15. Program Fraud and False or Fraudulent Statements or Related Acts.

- a. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- b. The following provides a contract clause regarding Fraud and False or Fraudulent or Related Acts: “The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this contract.”

Additional contract clauses per 2 C.F.R. § 200.325

For applicable construction/reconstruction/renovation and related services: A payment and performance bond are both required for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided in the contract.

Offeror agrees to comply with all terms and conditions outlined in the FEMA Special Conditions section of this solicitation.

Offeror's Name:

Kellermeyer Bergensons Services

Address, City, State, and Zip Code:

3605 Ocean Ranch Blvd, Suite 200, Oceanside, CA 92056

Phone Number: (760) 631-5111

Fax Number:

(267) 350-9314

Printed Name and Title of Authorized

Representative: Marc Collings, Senior Vice President, Sales

Email Address:

mcollings@kbs-services.com

Signature of Authorized Representative:

3/23/2021

1.1, 1.2

Date:

| O

STATEMENT OF OWNERSHIP DISCLOSURE

N.J.S.A. 52:25-24.2 (P.L. 1977, c.33, as amended by P.L. 2016, c.43)

This statement shall be completed, certified to, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

Name of Organization: Kellermeyer Bergensons Services

Organization Address: 3605 Ocean Ranch Blvd, Suite 200, Oceanside, CA 92056

Part I Check the box that represents the type of business organization:

- Sole Proprietorship (skip Parts II and III, execute certification in Part IV)
- Non-Profit Corporation (skip Parts II and III, execute certification in Part IV)
- For-Profit Corporation (any type) Limited Liability Company (LLC)
- Partnership Limited Partnership Limited Liability Partnership (LLP)
- Other (be specific): _____

Part II

The list below contains the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. **(COMPLETE THE LIST BELOW IN THIS SECTION)**

OR

No one stockholder in the corporation owns 10 percent or more of its stock, of any class, or no individual partner in the partnership owns a 10 percent or greater interest therein, or no member in the limited liability company owns a 10 percent or greater interest therein, as the case may be. **(SKIP TO PART IV)**

(Please attach additional sheets if more space is needed):

Name of Individual or Business Entity	Home Address (for Individuals) or Business Address

Part III DISCLOSURE OF 10% OR GREATER OWNERSHIP IN THE STOCKHOLDERS, PARTNERS OR LLC MEMBERS LISTED IN PART II

If a bidder has a direct or indirect parent entity which is publicly traded, and any person holds a 10 percent or greater beneficial interest in the publicly traded parent entity as of the last annual federal Security and Exchange Commission (SEC) or foreign equivalent filing, ownership disclosure can be met by providing links to the website(s) containing the last annual filing(s) with the federal Securities and Exchange Commission (or foreign equivalent) that contain the name and address of each person holding a 10% or greater beneficial interest in the publicly traded parent entity, along with the relevant page numbers of the filing(s) that contain the information on each such person. **Attach additional sheets if more space is needed.**


Website (URL) containing the last annual SEC (or foreign equivalent) filing	Page #'s

Please list the names and addresses of each stockholder, partner or member owning a 10 percent or greater interest in any corresponding corporation, partnership and/or limited liability company (LLC) listed in Part II **other than for any publicly traded parent entities referenced above.** The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member exceeding the 10 percent ownership criteria established pursuant to N.J.S.A. 52:25-24.2 has been listed. **Attach additional sheets if more space is needed.**

Stockholder/Partner/Member and Corresponding Entity Listed in Part II	Home Address (for Individuals) or Business Address

Part IV Certification

I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge: that I am authorized to execute this certification on behalf of the bidder/proposer; that the **<name of contracting unit>** is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the completion of any contracts with **<type of contracting unit>** to notify the **<type of contracting unit>** in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the, permitting the **<type of contracting unit>** to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print):	Marc Collings	Title:	Senior Vice President, Sales
Signature:		Date:	3/23/2021

DOC #2

NON-COLLUSION AFFIDAVIT

STANDARD BID DOCUMENT REFERENCE	
	Reference: VII-H
Name of Form:	NON-COLLUSION AFFIDAVIT
Statutory Reference:	No specific statutory reference State Statutory Reference N.J.S.A. 52:34-15
Instructions Reference:	Statutory and Other Requirements VII-H
Description:	The Owner's use of this form is optional. It is used to ensure that the bidder has not participated in any collusion with any other bidder or Owner representative or otherwise taken any action in restraint of free and competitive bidding.

NON-COLLUSION AFFIDAVIT

State of New Jersey
County of _____

ss:

I, _____ residing in _____
(name of affiant) (name of municipality)
in the County of _____ and State of _____ of full
age, being duly sworn according to law on my oath depose and say that:

I am _____ of the firm of _____
(title or position) (name of firm)

_____ the bidder making this Proposal for the bid

entitled _____, and that I executed the said proposal with
(title of bid proposal)
full authority to do so that said bidder has not, directly or indirectly entered into any agreement,
participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in
connection with the above named project; and that all statements contained in said proposal and in this
affidavit are true and correct, and made with full knowledge that the _____
_____ relies upon the truth of the statements contained in said Proposal
(name of contracting unit)
and in the statements contained in this affidavit in awarding the contract for the said project.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such
contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent
fee, except bona fide employees or bona fide established commercial or selling agencies maintained by
_____.

Subscribed and sworn to

before me this day

Signature

_____, 2 _____

(Type or print name of affiant under signature)

Notary public of

My Commission expires _____

(Seal)

**AFFIRMATIVE ACTION AFFIDAVIT
(P.L. 1975, C.127)**

Company Name: Kellermeyer Bergensons Services

Street: 3605 Ocean Ranch Blvd, Suite 200

City, State, Zip Code: Oceanside, CA 92056

Proposal Certification:

Indicate below company's compliance with New Jersey Affirmative Action regulations. Company's proposal will be accepted even if company is not in compliance at this time. No contract and/or purchase order may be issued, however, until all Affirmative Action requirements are met.

Required Affirmative Action Evidence:

Procurement, Professional & Service Contracts (Exhibit A)

Vendors must submit with proposal:

1. A photo copy of their Federal Letter of Affirmative Action Plan Approval

OR

2. A photo copy of their Certificate of Employee Information Report

OR

3. A complete Affirmative Action Employee Information Report (AA302) _____

Public Work – Over \$50,000 Total Project Cost:

A. No approved Federal or New Jersey Affirmative Action Plan. We will complete Report Form AA201-A upon receipt from the

B. Approved Federal or New Jersey Plan – certificate enclosed

I further certify that the statements and information contained herein, are complete and correct to the best of my knowledge and belief.

3/23/2021

Date

Authorized Signature and Title

Senior Vice President, Sales

P.L. 1995, c. 127 (N.J.A.C. 17:27)
MANDATORY AFFIRMATIVE ACTION LANGUAGE

PROCUREMENT, PROFESSIONAL AND SERVICE
CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non-discrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisement for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation.

The contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers trade consistent with the applicable county employment goal prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C.127, as amended and supplemented from time to time.

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of it testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the state of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and lay-off to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17:27).

Signature of Procurement Agent

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM

Public Agency Instructions

This page provides guidance to public agencies entering into contracts with business entities that are required to file Political Contribution Disclosure forms with the agency. **It is not intended to be provided to contractors.** What follows are instructions on the use of form local units can provide to contractors that are required to disclose political contributions pursuant to N.J.S.A. 19:44A-20.26 (P.L. 2005, c. 271, s.2). Additional information on the process is available in Local Finance Notice 2006-1 (http://www.nj.gov/dca/divisions/dlgs/resources/lfns_2006.html). Please refer back to these instructions for the appropriate links, as the Local Finance Notices include links that are no longer operational.

1. The disclosure is required for all contracts in excess of \$17,500 that are **not awarded** pursuant to a “fair and open” process (N.J.S.A. 19:44A-20.7).
2. Due to the potential length of some contractor submissions, the public agency should consider allowing data to be submitted in electronic form (i.e., spreadsheet, pdf file, etc.). Submissions must be kept with the contract documents or in an appropriate computer file and be available for public access. **The form is worded to accept this alternate submission.** The text should be amended if electronic submission will not be allowed.
3. The submission must be **received from the contractor and** on file at least 10 days prior to award of the contract. Resolutions of award should reflect that the disclosure has been received and is on file.
4. The contractor must disclose contributions made to candidate and party committees covering a wide range of public agencies, including all public agencies that have elected officials in the county of the public agency, state legislative positions, and various state entities. The Division of Local Government Services recommends that contractors be provided a list of the affected agencies. This will assist contractors in determining the campaign and political committees of the officials and candidates affected by the disclosure.
 - a. The Division has prepared model disclosure forms for each county. They can be downloaded from the “County PCD Forms” link on the Pay-to-Play web site at <http://www.nj.gov/dca/divisions/dlgs/programs/lpcl.html#12>. They will be updated from time-to-time as necessary.
 - b. A public agency using these forms **should edit them to properly reflect the correct legislative district(s)**. As the forms are county-based, **they list all legislative districts** in each county. **Districts that do not represent the public agency should be removed from the lists.**
 - c. Some contractors may find it easier to provide a single list that covers all contributions, regardless of the county. These submissions are appropriate and should be accepted.
 - d. The form may be used “as-is”, subject to edits as described herein.
 - e. The “Contractor Instructions” sheet is intended to be provided with the form. It is recommended that the Instructions and the form be printed on the same piece of paper. The form notes that the Instructions are printed on the back of the form; where that is not the case, the text should be edited accordingly.
 - f. The form is a Word document and can be edited to meet local needs, and posted for download on web sites, used as an e-mail attachment, or provided as a printed document.
5. It is recommended that the contractor also complete a “Stockholder Disclosure Certification.” This will assist the local unit in its obligation to ensure that contractor did not make any prohibited contributions to the committees listed on the Business Entity Disclosure Certification in the 12 months prior to the contract (See Local Finance Notice 2006-7 for additional information on this obligation at http://www.nj.gov/dca/divisions/dlgs/resources/lfns_2006.html). A sample Certification form is part of this package and the instruction to complete it is included in the Contractor Instructions. NOTE: This section is not applicable to Boards of Education.

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM

Contractor Instructions

Business entities (contractors) receiving contracts from a public agency that are NOT awarded pursuant to a “fair and open” process (defined at N.J.S.A. 19:44A-20.7) are subject to the provisions of P.L. 2005, c. 271, s.2 (N.J.S.A. 19:44A-20.26). This law provides that 10 days prior to the award of such a contract, the contractor shall disclose contributions to:

- any State, county, or municipal committee of a political party
- any legislative leadership committee*
- any continuing political committee (a.k.a., political action committee)
- any candidate committee of a candidate for, or holder of, an elective office:
 - of the public entity awarding the contract
 - of that county in which that public entity is located
 - of another public entity within that county
 - or of a legislative district in which that public entity is located or, when the public entity is a county, of any legislative district which includes all or part of the county

The disclosure must list reportable contributions to any of the committees that exceed \$300 per election cycle that were made during the 12 months prior to award of the contract. See N.J.S.A. 19:44A-8 and 19:44A-16 for more details on reportable contributions.

N.J.S.A. 19:44A-20.26 itemizes the parties from whom contributions must be disclosed when a business entity is not a natural person. This includes the following:

- individuals with an “interest” ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit
- all principals, partners, officers, or directors of the business entity or their spouses
- any subsidiaries directly or indirectly controlled by the business entity
- IRS Code Section 527 New Jersey based organizations, directly or indirectly controlled by the business entity and filing as continuing political committees, (PACs).

When the business entity is a natural person, “a contribution by that person’s spouse or child, residing therewith, shall be deemed to be a contribution by the business entity.” [N.J.S.A. 19:44A-20.26(b)] The contributor must be listed on the disclosure.

Any business entity that fails to comply with the disclosure provisions shall be subject to a fine imposed by ELEC in an amount to be determined by the Commission which may be based upon the amount that the business entity failed to report.

The enclosed list of agencies is provided to assist the contractor in identifying those public agencies whose elected official and/or candidate campaign committees are affected by the disclosure requirement. It is the contractor’s responsibility to identify the specific committees to which contributions may have been made and need to be disclosed. The disclosed information may exceed the minimum requirement.

The enclosed form, a content-consistent facsimile, or an electronic data file containing the required details (along with a signed cover sheet) may be used as the contractor’s submission and is disclosable to the public under the Open Public Records Act.

The contractor must also complete the attached Stockholder Disclosure Certification. This will assist the agency in meeting its obligations under the law. **NOTE: This section does not apply to Board of Education contracts.**

* N.J.S.A. 19:44A-3(s): “The term “legislative leadership committee” means a committee established, authorized to be established, or designated by the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly or the Minority Leader of the General Assembly pursuant to section 16 of P.L.1993, c.65 (C.19:44A-10.1) for the purpose of receiving contributions and making expenditures.”

List of Agencies with Elected Officials Required for Political Contribution Disclosure
N.J.S.A. 19:44A-20.26

County Name:

State: Governor, and Legislative Leadership Committees

Legislative District #s:

State Senator and two members of the General Assembly per district.

County:

Freeholders

{County Executive}

County Clerk

Surrogate

Sheriff

Municipalities (Mayor and members of governing body, regardless of title):

**USERS SHOULD CREATE THEIR OWN FORM, OR DOWNLOAD
FROM THE PAY TO PLAY SECTION OF THE DLGS WEBSITE A
COUNTY-BASED, CUSTOMIZABLE FORM.**

STOCKHOLDER DISCLOSURE CERTIFICATION

Name of Business:

I certify that the list below contains the names and home addresses of all stockholders holding 10% or more of the issued and outstanding stock of the undersigned.

OR

I certify that no one stockholder owns 10% or more of the issued and outstanding stock of the undersigned.

Check the box that represents the type of business organization:

Partnership

Corporation

Sole Proprietorship

Limited Partnership

Limited Liability Corporation

Limited Liability Partnership

Subchapter S Corporation

Sign and notarize the form below, and, if necessary, complete the stockholder list below.

Stockholders:

Name:	Name:
Home Address:	Home Address:
Name:	Name:
Home Address:	Home Address:
Name:	Name:
Home Address:	Home Address:

Subscribed and sworn before me this ____ day of _____, 2__.	_____
(Notary Public)	(Affiant)
My Commission expires:	_____
	(Print name & title of affiant)
	(Corporate Seal)

**STATE OF NEW JERSEY -- DIVISION OF PURCHASE AND PROPERTY
DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN**

Quote Number: _____ Bidder/Offeror: _____

**PART 1: CERTIFICATION
BIDDERS MUST COMPLETE PART 1 BY CHECKING EITHER BOX.
FAILURE TO CHECK ONE OF THE BOXES WILL RENDER THE PROPOSAL NON-RESPONSIVE.**

Pursuant to Public Law 2012, c. 25, any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must complete the certification below to attest, under penalty of perjury, that neither the person or entity, nor any of its parents, subsidiaries, or affiliates, is identified on the Department of Treasury's Chapter 25 list as a person or entity engaging in investment activities in Iran. The Chapter 25 list is found on the Division's website at <http://www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf>. Bidders must review this list prior to completing the below certification. **Failure to complete the certification will render a bidder's proposal non-responsive.** If the Director finds a person or entity to be in violation of law, s/he shall take action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party

PLEASE CHECK THE APPROPRIATE BOX:

I certify, pursuant to Public Law 2012, c. 25, that neither the bidder listed above nor any of the bidder's parents, subsidiaries, or affiliates is listed on the N.J. Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 List"). I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. **I will skip Part 2 and sign and complete the Certification below.**

OR

I am unable to certify as above because the bidder and/or one or more of its parents, subsidiaries, or affiliates is listed on the Department's Chapter 25 list. I will provide a detailed, accurate and precise description of the activities in Part 2 below and sign and complete the Certification below. Failure to provide such will result in the proposal being rendered as non-responsive and appropriate penalties, fines and/or sanctions will be assessed as provided by law.

PART 2: PLEASE PROVIDE FURTHER INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN

You must provide a detailed, accurate and precise description of the activities of the bidding person/entity, or one of its parents, subsidiaries or affiliates, engaging in the investment activities in Iran outlined above by completing the boxes below.

EACH BOX WILL PROMPT YOU TO PROVIDE INFORMATION RELATIVE TO THE ABOVE QUESTIONS. PLEASE PROVIDE THOROUGH ANSWERS TO EACH QUESTION. IF YOU NEED TO MAKE ADDITIONAL ENTRIES, CLICK THE "ADD AN ADDITIONAL ACTIVITIES ENTRY" BUTTON.

Name _____	Relationship to Bidder/Offeror _____
Description of Activities _____ _____	
Duration of Engagement _____	Anticipated Cessation Date _____
Bidder/Offeror Contact Name _____	Contact Phone Number _____

ADD AN ADDITIONAL ACTIVITIES ENTRY

Certification: I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I attest that I am authorized to execute this certification on behalf of the above-referenced person or entity. I acknowledge that the State of New Jersey is relying on the information contained herein and thereby acknowledge that I am under a continuing obligation from the date of this certification through the completion of any contracts with the State to notify the State in writing of any changes to the answers of information contained herein. I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with the State of New Jersey and that the State at its option may declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print): _____ Signature: _____
 Title: _____ Date: _____



STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE

Taxpayer Name: KELLERMEYER BUILDING SERVICES LLC

Trade Name:

Address: 1575 HENTHORNE DR
MAUMEE, OH 43537-1372

Certificate Number: 0845921

Effective Date: August 01, 2001

Date of Issuance: November 13, 2019

For Office Use Only:

20191113093017451

EEOAA EVIDENCE

Equal Employment Opportunity/Affirmative Action
Goods, Professional Services & General Service Projects

EEO/AA Evidence

Vendors are required to submit evidence of compliance with N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 in order to be considered a responsible vendor.

One of the following must be included with submission:

- Copy of Letter of Federal Approval
- Certificate of Employee Information Report
- Fully Executed Form AA302
- Fully Executed EEO-1 Report

See the guidelines at: http://www.state.nj.us/treasury/contract_compliance/pdf/pa.pdf for further information.

I certify that my bid package includes the required evidence per the above list and State website.

Name: Marc Collings Title: Senior Vice President, Sales

Signature:  Date: 3/23/2021

CO= J428516
 U= J428516

EQUAL EMPLOYMENT OPPORTUNITY
 2018 EMPLOYER INFORMATION REPORT
 CONSOLIDATED REPORT - TYPE 2

SECTION B - COMPANY IDENTIFICATION

1. KELLERMAYER BERGENSONS SERVICES LL
 3605 OCEAN RANCH BOULEVARD
 OCEANSIDE, CA 92056

2.a. KELLERMAYER BERGENSONS SERVICES LL 1-Y 2-N 3-N DUNS NO.: EIN :364431179
 3605 OCEAN RANCH BOULEVARD

OCEANSIDE, CA 92056
 SAN DIEGO COUNTY

c. Y

SECTION C - TEST FOR FILING REQUIREMENT

SECTION E - ESTABLISHMENT INFORMATION

NAICS: 561720 Janitorial Services

SECTION D - EMPLOYMENT DATA

JOB CATEGORIES	HISPANIC OR LATINO		NOT-HISPANIC OR LATINO											OVERALL TOTALS		
	***** MALE *****											***** FEMALE *****				
	MALE	FEMALE	WHITE	BLACK OR AFRICAN AMERICAN	NATIVE HAWAIIAN OR PACIFIC ISLANDER	ASIAN	AMERICAN INDIAN OR ALASKAN NATIVE	TWO OR MORE RACES	WHITE	BLACK OR AFRICAN AMERICAN	NATIVE HAWAIIAN OR PACIFIC ISLANDER	ASIAN	AMERICAN INDIAN OR ALASKAN NATIVE		TWO OR MORE RACES	
EXECUTIVE/SR OFFICIALS & MGRS	3	1	20	1	0	1	0	0	6	0	0	0	0	0	32	
FIRST/MID OFFICIALS & MGRS	159	45	73	25	1	0	1	0	28	12	0	1	0	1	346	
PROFESSIONALS	10	16	33	0	0	4	2	0	40	5	0	4	0	1	115	
TECHNICIANS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
SALES WORKERS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
ADMINISTRATIVE SUPPORT	13	41	7	3	1	1	0	0	63	10	0	6	0	5	150	
CRAFT WORKERS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
OPERATIVES	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
LABORERS & HELPERS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
SERVICE WORKERS	2118	3603	865	710	35	24	5	22	539	580	22	15	7	33	8578	
TOTAL	2303	3706	998	739	37	30	8	22	676	607	22	26	7	40	9221	
PREVIOUS REPORT TOTAL	2296	3549	1008	479	24	51	9	24	647	363	18	25	2	28	8523	

SECTION F - REMARKS

DATES OF PAYROLL PERIOD: 10/01/2018 THRU 10/15/2018

SECTION G - CERTIFICATION

CERTIFYING OFFICIAL: JUDY SOBOTA
 EEO-1 REPORT CONTACT PERSON: JUDY SOBOTA
 EMAIL: JSOBOTA@KBS-SERVICES.COM

TITLE: GENERAL LIABILITY ADMININSTRATOR
 TITLE: GENERAL LIABILITY ADMIN.
 TELEPHONE NO: 4198674300

CERTIFIED DATE[EST]: 06/09/2019 12:55 PM

DOC #9
MCBRIDE-PRINCIPLES



STATE OF NEW JERSEY DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY

33 WEST STATE STREET, P.O. BOX 230
TRENTON, NEW JERSEY 08625-0230

MACBRIDE PRINCIPALS FORM

BID SOLICITATION #: 21-09

VENDOR/BIDDER: Kellermeyer Bergensons Services

**VENDOR'S/BIDDER'S REQUIREMENT
TO PROVIDE A CERTIFICATION IN COMPLIANCE WITH THE MACBRIDE PRINCIPALS
AND NORTHERN IRELAND ACT OF 1989**

Pursuant to Public Law 1995, c. 134, a responsible Vendor/Bidder selected, after public bidding, by the Director of the Division of Purchase and Property, pursuant to N.J.S.A. 52:34-12, must complete the certification below by checking one of the two options listed below and signing where indicated. If a Vendor/Bidder that would otherwise be awarded a purchase, contract or agreement does not complete the certification, then the Director may determine, in accordance with applicable law and rules, that it is in the best interest of the State to award the purchase, contract or agreement to another Vendor/Bidder that has completed the certification and has submitted a bid within five (5) percent of the most advantageous bid. If the Director finds contractors to be in violation of the principals that are the subject of this law, he/she shall take such action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

I, the undersigned, on behalf the Vendor/Bidder, certify pursuant to N.J.S.A. 52:34-12.2 that:



CHECK THE APPROPRIATE BOX

The Vendor/Bidder has no business operations in Northern Ireland; or



OR

The Vendor/Bidder will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principals of nondiscrimination in employment as set forth in section 2 of P.L. 1987, c. 177 (N.J.S.A. 52:18A-89.5) and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of its compliance with those principals.

CERTIFICATION

I, the undersigned, certify that I am authorized to execute this certification on behalf of the Vendor/Bidder, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein, and that the Vendor/Bidder is under a continuing obligation from the date of this certification through the completion of any contract(s) with the State to notify the State in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I will be subject to criminal prosecution under the law, and it will constitute a material breach of **my** agreement(s) with the State, permitting the State to declare any contract(s) resulting from this certification to be void and unenforceable.

M. Collings

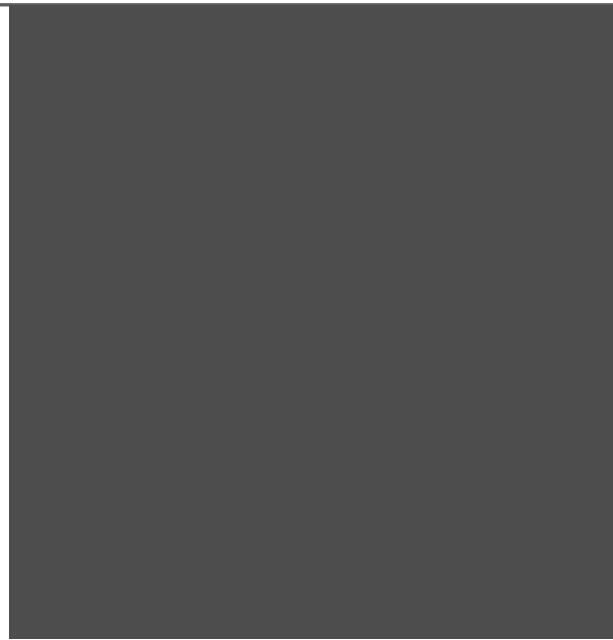
3/23/2021

Signature

Date

Marc Collings, Senior Vice President, Sales

Print Name and Title



Tab 4

Qualification and Experience



Provide a brief history of the Offeror, including year it was established and corporate office location.

Kellermeyer Bergensons Services was established in 1967. Our corporate headquarters are located in Oceanside, CA. Below is a brief timeline of our history.

- » 1967: Kellermeyer founded, serving national department store chains
- » 1970's: Kellermeyer grows as department stores seek to become more efficient
- » 1984: Bergensons Building Services founded
- » 1990's: Bergensons sees rapid growth with regional clients
- » 2000's: Bergensons grows to serve clients in 28 states
- » 2011: Bergensons triples in size merging with Kellermeyer, forming KBS
- » 2014: KBS acquired by GI Partners
- » 2015-2019: KBS grows through acquisition and organic growth
- » 2019: KBS acquired by Cerberus Capital Management
- » 2020 – Present: Company transforms supply model to help fight the COVID-19 crisis, deploying over 250,000 COVID-19 responses

Describe Offeror's reputation in the marketplace.

KBS partners with leading facility managers across North America to provide essential services that keep businesses operating healthy. A leader in retail, logistics, business & industry, and hospitality, we are the largest privately-held provider of facility services in North America.

With decades of deep cleaning experience, including being on the front lines during the entire COVID-19 crisis, we are committed to partnering with our clients to Stay Ahead of the Curve using the latest processes and technologies for healthy operations.

Describe Offeror's reputation of services and, if applicable, products in the marketplace.

KBS Has Deep Expertise in Maintaining Healthy Operations

We have deep expertise in maintaining healthy operations for clients with the highest standards of performance and compliance. Drawing on decades of experience, including over 250,000 COVID-19 responses, we deliver results that keep businesses operating healthy.

We Draw on Decades of Experience

Our fifty years of experience includes extensive expertise in industry sectors of retail, shipping and logistics, business and industry and hospitality.

Partners with Industry Leaders

- Amazon
- Target

- Publix
- Nestle
- Nissan
- Marriott
- FedEx
- Legoland
- Chase
- CBRE

Dedicated to the Success of Our Clients and the Well-being of Our Workforce

KBS's culture is built on respect, doing things the right way, and the inherent dignity of work. We believe that all work is honorable and acknowledge the dignity of those who do it. We prioritize safety and compliance, adhering to rigorous hiring practices and ongoing training.

Our culture informs our behavior, and our behavior drives our success.

Describe the experience and qualification of key employees.

Our Team Has Deep Expertise

Our teams have deep expertise in each of our service markets. They anticipate issues and are empowered to deploy solutions to fit client needs.

- 22,000+ direct employees
- 700+ field support managers
- 8,000+ vendor managed associates

National Coverage and Local Management Deliver Results

Our thousands of team members and extensive network of managed resources provide national coverage to deliver results at scale. Whether self-performed, or vendor managed, we work with our clients to deploy the right resources to maximize efficiency.

On the Ground Experts Deploy Rapid Solutions

Field managers are strategically placed at site level to ensure the highest standards for performance and compliance. With on the ground experts present at every client location, the KBS team solves problems upstream, anticipates issues, and deploys rapid solutions.

Describe Offeror's experience working with the government sector.

KBS has been a leader in essential facility services for government and municipality facilities for over 50 years. With a full range of facility hygiene and operational support services, KBS

delivers solutions that raise standards and lower costs for government and municipality environments nationwide. We have experience serving high-traffic, public buildings, including city buildings, mixed-use facilities such as museums, courtrooms, libraries, auditoriums, conference rooms, and police stations, and city, county, state, and national government facilities.

We deliver a complete range of facility hygiene and support services tailored to the specific needs of clients in these sectors. Our expertise and technology enable us to anticipate issues, ensure quality, and maximize efficiency. With decades of experience in facility hygiene, including our front-line work throughout the COVID-19 crisis, KBS is committed to partnering with clients to Stay Ahead of the Curve™ with the latest advances for maintaining healthy operations.

Describe past litigation, bankruptcy, reorganization, state investigations of entity or current officers and directors.

We have had none of the above issues occur to the best of our knowledge.

Provide a minimum of 5 customer references relating to the services, and if applicable, products within this RFP. Include entity name, contact name and title, contact phone and email, city, state, years serviced, description of services and annual volume.

Please refer to the References tab.

Provide any additional information relevant to this section.

KBS also has deep expertise working with education clients. Schools, colleges, and universities need to assure students, faculty, and parents that their facilities are safe. To meet this challenge, KBS partners with educational institutions nationwide to deliver facility services programs so that schools can concentrate on education and students on learning.

As institutions are asked to do more with less, our facility hygiene and operational support services raise standards and lower costs for schools, colleges, and universities nationwide.

With decades of experience, including our front-line work throughout the COVID-19 crisis, KBS is committed to partnering with education clients to Stay Ahead of the Curve™ with the latest processes and technology for maintaining healthy operations.

Deep Expertise in Education

- » 250k+ Covid-19 Response Cleaning Nationwide
- » Best practices from hospitality, healthcare, retail, and logistics shared with education clients
- » Official blueprint for safely reopening schools

- » 200+ Educational sites serviced nationally
- » Full range of services from deep cleaning to temporary janitors

A Trusted Partner for Educational Institutions Nationwide

KBS works with schools, colleges, and universities nationwide, applying industry best practices to create efficiency and drive results.

- » K-12 Schools
- » Colleges
- » Universities
- » Specialty Schools

Tailored Programs for Efficient Results

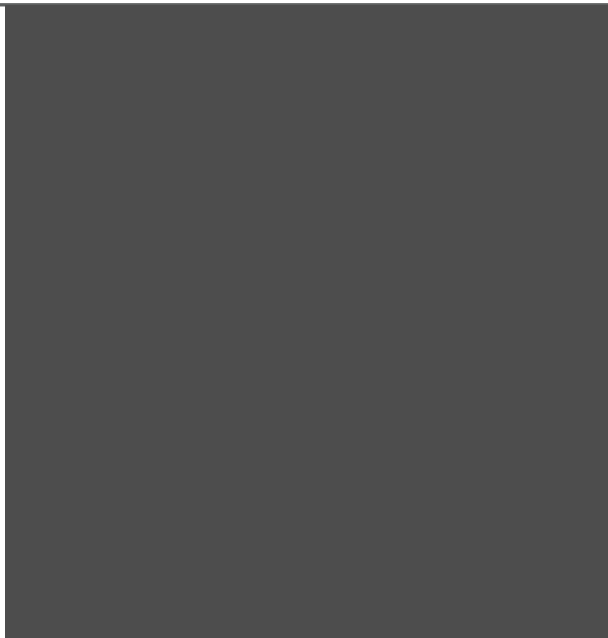
Our comprehensive cleaning and disinfecting solutions maximize results while driving efficiency and consistency. Implementation plans are designed around proven models and leverage existing talent and equipment to maximize efficiency and effectiveness.

Areas we service:

- » Classrooms, offices, and libraries
- » Lobbies, entrances, hallways, and other high-traffic areas
- » Restrooms and locker rooms
- » Cafeterias, eating areas, and kitchens
- » Gym floors
- » Minor maintenance
- » Snow removal, landscaping, and parking lot maintenance

Our educational services include:

- » Deep Cleaning
- » Supplemental Staffing
- » General Maintenance
- » Trade Services
- » Exterior Services
- » COVID-19 Response



References



Entity name	University of Texas at Austin
Contact name and title	David Stevens, Manager, Day Operations and Contracts
Phone	(512) 475-7943
Email	Dave.stevens@austin.utexas.edu
City, State	Austin, TX
Years serviced	1992 to present
Description of services	This account comprises twenty-four (24) facilities of 1,000,000 square feet. These multiple buildings include libraries, admin space, all types of flooring, multiple mixed use public buildings, auditoriums, and conference rooms. Public university with multi-use facilities, special flooring and special maintenance needs. This client requires specialized public safety training for event-driven venues.
Annual volume	Approximately \$1 million

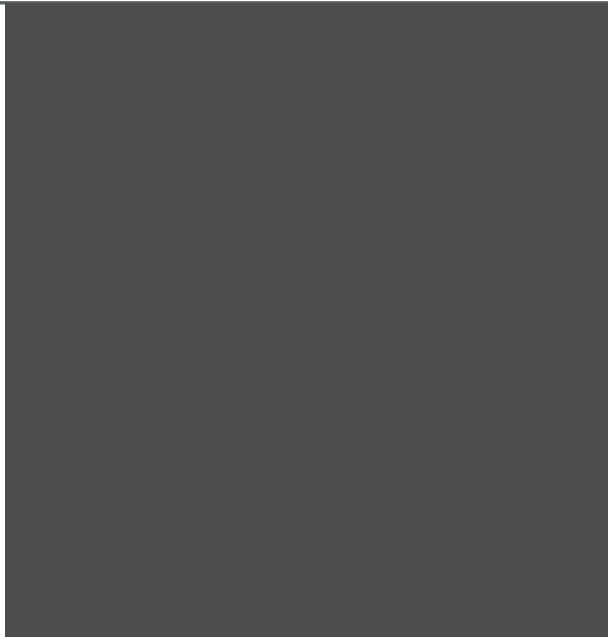
Entity name	Maricopa County
Contact name and title	Simon P. Alvarez, Procurement Officer
Phone	(602) 506-8714
Email	Simon.alvarez@maricopa.gov
City, State	Phoenix, AZ
Years serviced	2008 to present
Description of services	We provide janitorial services for all the Maricopa County sites which include: various high traffic public buildings of varying ages, library facilities, similar municipality facilities, similar square footage requirements, also service the courthouse with high security and historic preservation requirements. We provide services for 115 buildings comprising approximately 4 million sq. ft.
Annual volume	Approximately \$6 million

Entity name	City of Salt Lake City
Contact name and title	Jim Cleland, Facility Program Director
Phone	(801) 535-6631
Email	Jim.Cleland@slcgov.com
City, State	Salt Lake City, UT
Years serviced	August 2012 to present
Description of services	Municipal buildings (286,000 square feet) + (180,000 Public Safety) 450,000 square feet

	of various high traffic public buildings of varying ages, including the Historic City Hall with specialized restoration and preservation needs, event driven facilities and exhibits
Annual volume	Approximately \$1 million

Entity name	Carroll County Schools
Contact name and title	Terry Jones
Phone	(770) 832-3568
Email	Terry.jones@carrollcountyschools.com
City, State	Carrollton, GA
Years serviced	6/1/2018 to present
Description of services	Custodial services
Annual volume	\$2,850,000

Entity name	City of New Orleans
Contact name and title	Cynthia Sylvain-Lear, Sanitation Director
Phone	(504) 658-3820
Email	cslear@nola.gov
City, State	New Orleans, LA
Years serviced	2015 to present
Description of services	Sanitation of the French Quarter in New Orleans
Annual volume	



Tab 5

Value Add



Provide any additional information related to services, and if applicable products Offeror proposes to enhance and add value to the Contract.

KBS is a Technology Innovator

KBS' solutions drive a road map that includes both emerging and ready-for-market technology along the following path:

1. Mobile field management tech: KBSForce™ app designed to improve account management
2. Service validation technology: KBSPresence app: Designed to confirm crews are onsite
3. Cleaner tech enablement: KBSTrackit app: Designed to put a client's scope to a route and schedule for cleaners to validate stops on the route through QR scanning.
4. Sensors technology: Emerging technology KBS is testing deploying at beta test level
5. AI and Robotics: Emerging tech KBS is partnering with leading robotics and machine learning experts in our field like Braincorp and Avidbots.

Our innovation and technology drive efficiency, enabling us to solve problems upstream, anticipate issues, and deploy rapid solutions. Technology enables management teams with strong, responsive mobile operations, and enables cleaners so they can contribute to service validation and scope compliance.

Our proprietary KBSForce™ app streamlines reporting and delivers decision-ready data to every echelon in real time, driving our facilities services programs. KBSForce™ maximizes efficiency, transparency, and cleaning validation by leveraging real-time, onsite data to deliver results. KBSForce™ contains a client portal with a performance dashboard and service delivery information for our customers, with a fully customized time-tracking system for KBS employees and subcontractors. The technology also enables managers to plan, execute, and track on-demand and contracted project work, powered by targeted KPIs that help the field manage daily service delivery. Finally, KBSForce™ has a powerful and flexible audit module to capture onsite statistics and a paperless hiring module, which is fully integrated with background check, I-9, and E-Verify services.

Sustainable, Environmentally Friendly Methods and Products

KBS recognizes opportunities to do more for our customers and our planet with solutions that minimize waste, maximize operational efficiency, and protect human health. This has made us an industry leader in green cleaning and sustainability.

KBS's long-term commitment to the environment, health, and sustainable practices is built into our KBS cleaning system, which we developed as part of our approach to minimize waste and reduce costs. Our Business Model for responsiveness and reliability, combined with our KBSForce™ technology, ensures that we incorporate green initiatives into our daily routines.

Below are some of our sustainable, green cleaning accomplishments:

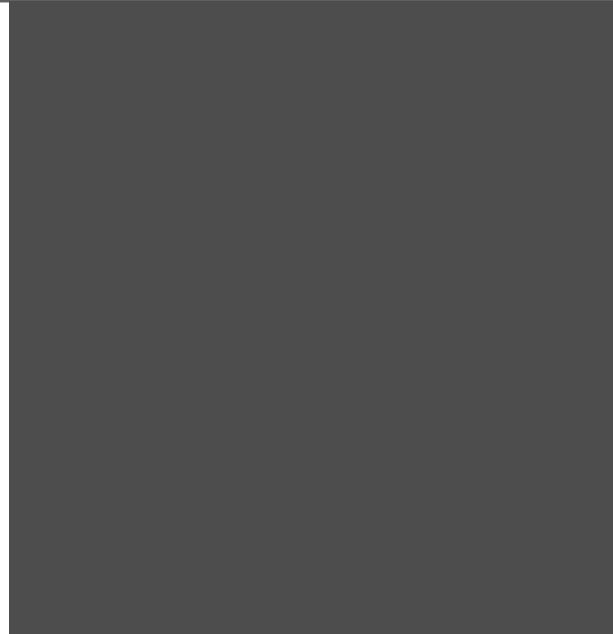
- » Support a zero-waste environment
- » Achieve LEED certification
- » Zero-waste building initiatives and objectives accomplished
- » Quantified sustainability improvements through KBSForce™
- » One of only 12 organizations in industry to be CIMSGB-certified
- » Member of U.S. Green Building Council (USGBC)
- » Converted 18,000 facilities to green at no additional cost to the customer
- » Helped customers achieve points toward LEED-EB certification
- » Built 80,000 ft² LEED Platinum Museum of Clean
- » Our equipment meets GS-42 requirements
- » Vacuums with four-stage HEPA filtration and < 69 dBA sound levels
- » Received the Ashkin Group Green Cleaning Champion Award

All our products are Green Guard and Green Seal certified. To support use of these products, we developed the KBS cleaning system as part of our approach to minimize waste and reduce costs. KBS standards follow the EPA's Comprehensive Procurement Guidelines and Green Seal's standards for toilet paper and paper towels regarding recycled content. KBS standards require right-sizing liners and standardizing most liners to high-density, lower micron bags. This means KBS standards reduce the number of trees and other non-renewable resources being used to make paper towels, toilet paper and trash liners.

We also maintain nine green system standards, as described below:

- » Green chemicals
 - ✓ Standardized cleaners and floor care products are ecologically certified and low pH
- » Green paper/liners
 - ✓ Purchased in bulk based on their packaging and shipping waste minimization
- » Green equipment
 - ✓ Limits exposure to potentially hazardous contaminants while ensuring effective infection prevention and control processes.
- » Closet standards
 - ✓ Helps to measure the performance level being achieved within the facility
- » Behavior support system
 - ✓ KBS cleaning specialists are efficient safety, health and environmental professionals who reinforce Green Cleaning policies.
- » Green focus areas
 - ✓ We focus on certain areas that are breeding grounds for germs, such as surfaces that people touch frequently.
- » LEED-EB points


- ✓ Follows the LEED Policy Model for achieving best-in-class building strategies and practices.
- » Recycling system
 - ✓ KBS promotes and manages an aggressive recycling program to divert waste from landfills and shares cost savings from recycling with customers.
- » Green cleaning system
 - ✓ KBS training standards reflect the value put on the specialist's contribution to society.



Tab 6

**Additional Required
Documents (Appendix
C)**





**Acknowledgment and
Acceptance of Region
4 ESC's Open Records
Policy (Appendix C,
Doc #1)**

ACKNOWLEDGMENT AND ACCEPTANCE
OF REGION 4 ESC's OPEN RECORDS POLICY

OPEN RECORDS POLICY

All proposals, information and documents submitted are subject to the Public Information Act requirements governed by the State of Texas once a Contract(s) is executed. If an Offeror believes its response, or parts of its response, may be exempted from disclosure, the Offeror must specify page-by-page and line-by-line the parts of the response, which it believes, are exempt and include detailed reasons to substantiate the exemption. Price is not confidential and will not be withheld. Any unmarked information will be considered public information and released, if requested under the Public Information Act.

The determination of whether information is confidential and not subject to disclosure is the duty of the Office of Attorney General (OAG). Region 4 ESC must provide the OAG sufficient information to render an opinion and therefore, vague and general claims to confidentiality by the Offeror are not acceptable. Region 4 ESC must comply with the opinions of the OAG. Region 4 ESC assumes no responsibility for asserting legal arguments on behalf of any Offeror. Offeror is advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

Signature below certifies complete acceptance of Region 4 ESC's Open Records Policy, except as noted below (additional pages may be attached, if necessary).

Check one of the following responses to the Acknowledgment and Acceptance of Region 4 ESC's Open Records Policy below:

- We acknowledge Region 4 ESC's Open Records Policy and declare that no information submitted with this proposal, or any part of our proposal, is exempt from disclosure under the Public Information Act.
- We declare the following information to be a trade secret or proprietary and exempt from disclosure under the Public Information Act.


(Note: Offeror must specify page-by-page and line-by-line the parts of the response, which it believes, are exempt. In addition, Offeror must include detailed reasons to substantiate the exemption(s). Price is not confidential and will not be withheld. All information believed to be a trade secret or proprietary must be listed. It is further understood that failure to identify such information, in strict accordance with the instructions, will result in that information being considered public information and released, if requested under the Public Information Act.)

3/23/2021

Date

Authorized Signature & Title

Senior Vice President, Sales



**Antitrust Certification
Statement (Tex.
Government Code §
2155.005) (Appendix C,
Doc #2)**

ANTITRUST CERTIFICATION STATEMENTS
(Tex. Government Code § 2155.005)
Attorney General Form

I affirm under penalty of perjury of the laws of the State of Texas that:

1. I am duly authorized to execute this Contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;
2. In connection with this proposal, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
3. In connection with this proposal, neither I nor any representative of the Company has violated any federal antitrust law; and
4. Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this proposal to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

Company

Kellermeyer Bergensons Services

Contact

Marc Collings

Signature

Marc Collings

Printed Name

Senior Vice President, Sales

Position with Company

Address

3605 Ocean Ranch Blvd, Suite 200

Oceanside, CA 92056

**Official
Authorizing
Proposal**

Signature

Printed Name

Position with Company

Phone

(760) 631-5111

Fax

(267) 350-9314



**Implementation of
House Bill 1295
Certificate of
Interested Parties
(Form 1295) (Appendix
C, Doc #3)**

KBS to Region 4 ESC
April 27, 2021

KBS has completed the online form for Implementation of House Bill 1295.





**Texas Government
Code 2270 Verification
Form (Appendix C, Doc
#4)**

Texas Government Code 2270 Verification Form

House Bill 89 (85R Legislative Session), which adds Chapter 2270 to the Texas Government Code, provides that a governmental entity may not enter into a contract with a company without verification that the contracting vendor does not and will not boycott Israel during the term of the contract.

Furthermore, Senate Bill 252 (85R Legislative Session), which amends Chapter 2252 of the Texas Government Code to add Subchapter F, prohibits contracting with a company engaged in business with Iran, Sudan or a foreign terrorist organization identified on a list prepared by the Texas Comptroller.

I, Marc Collings, as an authorized representative of

Kellermeyer Bergensons Services, a contractor engaged by

Insert Name of Company

Region 4 Education Service Center, 7145 West Tidwell Road, Houston, TX 77092, verify by this writing that the above-named company affirms that it (1) does not boycott Israel; and (2) will not boycott Israel during the term of this contract, or any contract with the above-named Texas governmental entity in the future.

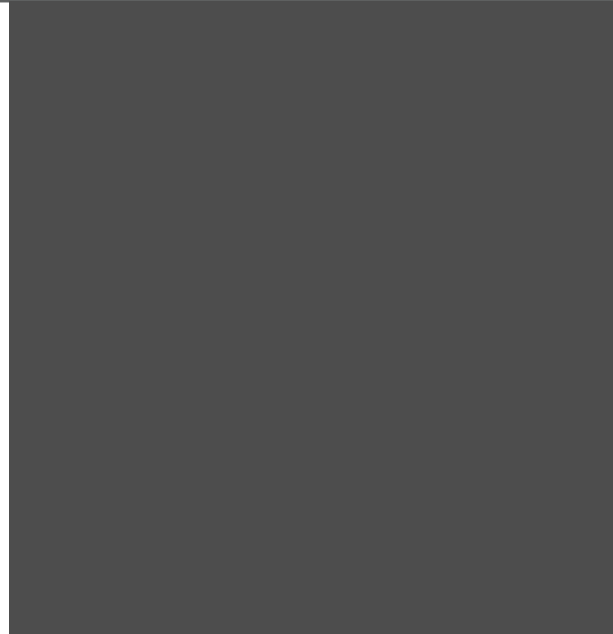
Also, our company is not listed on and we do not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>.

I further affirm that if our company's position on this issue is reversed and this affirmation is no longer valid, that the above-named Texas governmental entity will be notified in writing within one (1) business day and we understand that our company's failure to affirm and comply with the requirements of Texas Government Code 2270 et seq. shall be grounds for immediate contract termination without penalty to the above-named Texas governmental entity.

I swear and affirm that the above is true and correct.

Marc Collings
Signature of Named Authorized Company Representative

3/23/2021
Date



**Felony Conviction
Notification (Appendix
C, Doc #5)**



FELONY CONVICTION NOTIFICATION

Section 44.034, Texas Education Code, Notification of Criminal History, Subsection (a), states “A person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.”

Subsection (b) states “A school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.”

This Notice is Not Required of a Publicly-Held Corporation

CRIMINAL HISTORY REVIEW OF CONTRACTOR EMPLOYEES

Offeror shall review §22.0834, Texas Education Code and 19 Texas Administrative Code §§153.1101 and 153.1117 regarding criminal history checks of school contractor employees. The rules define continuing duties related to contracted services, direct contact with students, covered contract employee and other relevant terms within the statute.

Except as otherwise provided herein, Offeror will obtain and certify in writing, before work begins, that the Offeror has received all criminal history record information that relates to an employee, applicant, agent or Subcontractor of the Offeror/Contractor or Subcontractor, if the person has or will have continuing duties related to the contracted services, and the duties are or will be performed on Region 4 ESC's, or Participating Public Agency as applicable to the Texas Education Code, property where students are regularly present or at another location where students are regularly present. Awarded Offer(s) shall assume all expenses associated with the background checks and shall immediately remove any employee or agency who was convicted of, receive probation for, or received deferred adjudication for any felony as outlined below or any misdemeanor involving moral turpitude, from Region 4 ESC's property or other location where students are regularly present.

Offeror/Contractor or sub-contractors may not work on Region 4 ESC's, or Participating Public Agency where the Texas Education Code may be applicable, property where students are present when they have been convicted, received probation, or deferred adjudication for the following felony offenses:

1. Any offense against a person who was, at the time the offense occurred, under 18 years of age or enrolled at a public school;
2. Any sex offense;
3. Any crimes against persons involving:

- a. Controlled substances; or
 - b. Property; or
4. Any other offense Region 4 ESC, or Participating Public Agency where the Texas Education Code may be applicable, believes might compromise the safety of students, employees or property.

I, Marc Collings, as an authorized representative of

Kellermeyer Bergensons Services, the Offeror verify that:

A. My company **is not** owned nor operated by anyone who has been convicted of a felony.

Signature of Company Official: Marc A. Collings Date: 4/21/2021

B. My company **is owned** or operated by the following individual(s) who has/have been convicted of a felony:

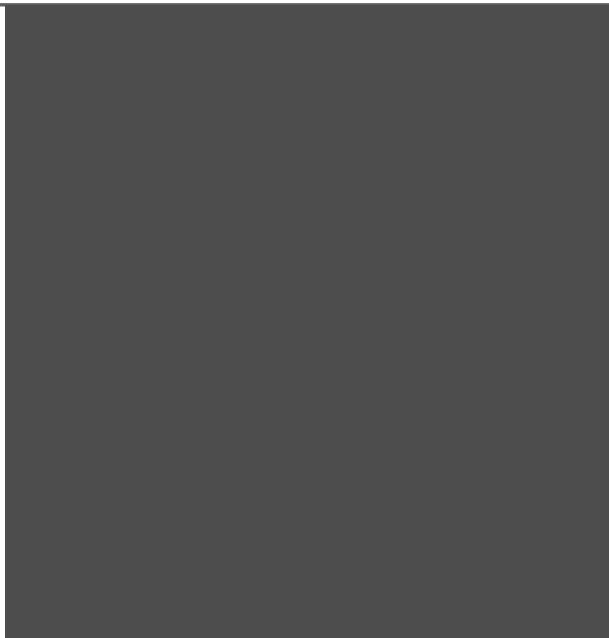
Name of Felon(s): _____

Details of Conviction(s) : _____

Date: _____

C. My company is a **publicly held** corporate, therefore, this reporting requirement is not applicable.

Signature of Company Official: _____ Date: _____



Additional Agreements





7145 West Tidwell Road ~ Houston, Texas 77092
(713)-462-7708
www.esc4.net

NOTICE TO OFFEROR

ADDENDUM NO. 1

Solicitation Number 21-09

Request for Proposal (“RFP”)
by Region 4 Education Service Center (“ESC”)
for Janitorial Services

This Addendum No. 1 amends the Request for Proposals (RFP) for Janitorial Services 21-09 (“Addendum”). To the extent of any discrepancy between the original RFP and this Addendum, this Addendum shall prevail.

Region 4 Education Service Center (“Region 4 ESC”) requests proposals from qualified suppliers with the intent to enter into a Contract for Janitorial Services. Addendum No. 1 is hereby issued as follows:

CHANGES TO THE RFP TO UPDATE THE SUBMITTAL DEADLINE

1. Page 1, Paragraph 1
Remove the 1st sentence from paragraph 1 and replace with the following:

*Questions regarding this RFP must be submitted in writing to Crystal Wallace, Business Operations Specialist, at questions@esc4.net no later than **April 2, 2021**.*

All other lines in paragraph 1 shall remain.

2. Page 1, Paragraph 3
Remove the 3rd paragraph and replace with the following:
VIRTUAL ONLY NON-MANDATORY PRE-PROPOSAL CONFERENCE
*Offerors are strongly encouraged, but not required to participate in a pre-proposal conference with Business Operations Specialist, which will be held virtually on **April 1, 2021 at 10:00 am**. To attend the conference, potential Offeror must notify Crystal Wallace, Business Operations Specialist, at cwallace@esc4.net, by*

March 31, 2021. The purpose of this conference is to clarify the contents of this RFP in order to prevent any misunderstanding of Region 4 ESC's position. Any doubt as to the requirements of this RFP or any apparent omission or discrepancy should be presented to Region 4 ESC at this conference. Region 4 ESC will then determine the appropriate action necessary, if any, and may issue a written addendum to the RFP. Oral statements or instructions will not constitute an addendum to this RFP.

All other items on Page 1 shall remain.

3. Page 10, Section II. Calendar of Events
Remove the Calendar of Events and replace with the following:

II. CALENDAR OF EVENTS (ALL DATES ARE TENTATIVE AND SUBJECT TO CHANGE):

<u>Event</u>	<u>Date</u>
Issue RFP	March 4, 2021
Pre-Proposal Conference	April 1, 2021
Deadline for receipt of questions via email	April 2, 2021
Issue Addenda (if required)	April 12, 2021
Proposal Due Date:	April 27, 2021
Approval from Region 4 ESC	June 29, 2021
Contract Effective Date	August 1, 2021

4. Page 10, Section III. INSTRUCTIONS TO OFFERORS, item 2.
Remove the first sentence of item 2 and replace with the following:

2. Inquiries and Discrepancies: Questions regarding this solicitation must be submitted in writing to Crystal Wallace, Business Operations Specialist, at questions@esc4.net no later than April 2, 2021.

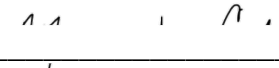
All other items in item 2 shall remain.

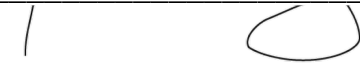
RECEIPT OF ADDENDUM NO. 1 ACKNOWLEDGEMENT

Offeror shall acknowledge this addendum by signing below and include in their proposal response.

Company Name Kellermeyer Bergensons Services

Contact Person Marc Collings

Signature 

Date 3/24/2021 

Crystal Wallace
Region 4 Education Service Center
Business Operations Specialist

JOINDER AGREEMENT

This Master Services Agreement (the "Agreement") is entered into on this _____ day of April, 2020, (the "Effective Date") by and between Kellermeyer Bergensons Services, LLC, a Delaware Limited Liability Company ("KBS" or "Contractor") having an address of 1575 Henthorne Drive, Maumee, OH 43537 and _____ ("Customer") a School District located at _____.

RECITALS

WHEREAS, Contractor desires to provide and perform certain janitorial services for Customer as more particularly described herein; and

WHEREAS, Customer desires to retain Contractor as an independent contractor to provide and perform housekeeping and janitorial services for it under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Customer and Contractor agree as follows:

1. **Services.** Contractor agrees to perform those housekeeping and janitorial services more particularly described in **Exhibit A** (the "Services" or "Statement of Work") for those specified types of work and locations within the Customer's Facility listed in **Exhibit B** and at the rates set forth in **Exhibit B** (the "Locations and Rates"). **Exhibits A** and **B** are attached hereto and incorporated herein by reference.

2. **Term and Termination.** Unless terminated earlier in accordance with this Agreement, this Agreement shall have a three (3) year term commencing on the Effective Date set forth above. Thereafter, the Agreement shall automatically renew for additional, successive one (1) year terms, unless earlier terminated as provided for herein. If either party commits a material breach of this Agreement, the non-breaching party may terminate this Agreement upon thirty (30) days advance written notice which identifies the breach; provided that the breaching party has failed to cure the breach within the above-mentioned thirty (30) day cure period. Contractor may terminate this Agreement, without cause, upon sixty (60) days prior written notice to Customer. Contractor also may terminate this Agreement immediately, for cause, if Customer ceases to function as a going concern; a receiver for Customer is applied for or appointed; a petition under the United States Bankruptcy Code or any state receivership law is filed by or against Customer; or Customer makes an assignment for the benefit of creditors. Customer may terminate the Services at any locations set forth in Exhibit B at any time if the premises are destroyed or upon thirty (30) days written notice if Customer vacates the premises. In the event of any termination of the Agreement, Customer agrees to pay Contractor for such Services as have been performed up

to the date of termination. In addition, if Customer terminates this Agreement without cause prior to expiration of the three (3) year term, Customer will be liable for and agrees to pay to Contractor thirty (30) days' work pro-rated payment as early termination compensation/ liquidated damages and not as a penalty. Nothing set forth in this Section shall limit any rights or remedies of Contractor against Customer or require an election of remedies.

3. **Payment.**

3.1 Invoices and Payment Terms. Contractor shall submit to Customer one consolidated invoice once per month for the monthly services provided at each of Customer's location(s) covered under this Agreement. Contractor's invoices shall specify the applicable purchase order to which the Services relate. Customer will pay Contractor for the Services performed at the rates set forth in **Exhibit B** (attached hereto and incorporated herein by reference) within forty five (45) days of Contractor's submission of an invoice to Customer.

3.2 Sales and Use Taxes. In addition to the applicable fees and prices, Contractor's invoices to Customer shall specify all sales and use taxes due and payable or to become due and payable in connection with Contractor's provision of the Services. Contractor shall collect such taxes from Customer and be responsible for the remittance of all such sales and use taxes, if any, to the proper taxing authorities. Increases in sales or use taxes during the term of this Agreement will be passed onto and paid by Customer, without markup, provided that Contractor shall remain responsible for identifying, collecting and remitting such taxes to the appropriate governmental agency.

3.3 Compensation. In consideration for Contractor performing the Services in accordance with this Agreement, Customer shall compensate Contractor in accordance with the terms of this Section 3 and Exhibit B, which is incorporated herein by reference. Contractor shall receive increases in compensation as follows:

a. Minimum Wage/ Market Rate Increases. If there is an increase in the federal, state or local minimum wage rates enacted or implemented at any time during the Term of this Agreement or any extension thereof, then the fees payable to Contractor for the Facilities in the affected jurisdictions shall be increased, retroactive to the effective date of the minimum wage increase, to allow for 100% funding of the minimum wage increases in the affected jurisdictions and related market rate increases in that geographic market. The rate increases shall be implemented as follows:

1. For each Facility in the affected jurisdiction(s), Contractor

will receive an increase in the billing amount equal to the minimum wage % increase multiplied by 85%. If for example, the current minimum wage rate in a state is \$7.50 per hour and is increased to \$7.65 or a 2% increase; then the fees payable to Contractor for Facilities in that State will increase by 1.7% (equal to 2% multiplied by 85%). The remaining 15% of the minimum wage/ market rate increase shall be covered by KBS or its independent contractors.

2. Contractor will provide Customer with written notice of minimum wage rate increases and the corresponding increase in fees payable to Contractor as a result.

b. Health Care Benefit Cost Increases.

1. If Contractor incurs increased costs due to the Patient Protection and Affordable Care Act of 2010 (PPACA) and any other federal, state or local legislation that results in an increase in Contractor's cost of providing employee health care benefits ("Health Care Legislation"), and any other legal mandates (such as paid sick leave), then the fees payable to Contractor for the Facilities in the jurisdictions affected by the PPACA or other Health Care Legislation, shall be increased, retroactive to the effective date of the increased costs, in an amount equal to the increased costs.

2. Rate increases under this Section 3.3.b. are intended to cover Contractor's incremental increased costs for personnel Contractor is contractually obligated to have on site at Customer's Facilities or whose presence is operationally necessary to meet the contract specifications, and who work sufficient hours to trigger increased health care benefit costs under the PPACA and any other Health Care Legislation.

3. Contractor will provide Customer with written notice of the increase in employee health care benefits and the corresponding increase in fees payable to Contractor as a result.

c. Consumer Price Index Increases.

The fees payable to Contractor hereunder also shall be increased annually in an amount equal to the yearly percentage increase in the Consumer Price Index (CPI) (but only to the extent the CPI increase is due to factors other than minimum wage rate increases and Health Care

Legislation). The CPI initial baseline will be the CPI in effect as of the Effective Date of this Agreement. The CPI baseline and subsequent movements will be determined by utilizing the following source: The Bureau of Labor Statistics, U.S. Government: Consumer Price Index – Urban Wage Earners and Clerical Workers (CPI-W), All Items, which can be found on the Internet at <http://www.bls.gov/cpi>. Fee increases based on the CPI shall be implemented on an annual basis commencing January 1, 202_.

4. **KBS Contact Person.** Customer shall communicate directly with the KBS representative(s) identified on **Exhibit C** [the “KBS Representative(s)”] concerning the Services provided under this Agreement. The KBS Representative(s) shall serve as Customer’s primary contact with KBS.

5. **Independent Contractor.**

5.1 Nothing contained in this Agreement or in the relationship of Customer and Contractor shall be deemed to constitute a partnership, joint venture or any relationship other than the independent contractor relationship described in this Agreement. By this Agreement, Customer and Contractor intend to create an independent contractor relationship. As such, Contractor shall decide the specific method, manner or means of its performance hereunder. All personnel of Contractor used to perform the Services shall be employees or subcontractors of Contractor and not of Customer. Contractor shall comply with all applicable federal, state and local laws regarding compensation and conditions of employment of its employees. Contractor shall pay all federal, state and local payroll, social security, unemployment and other taxes, contributions and premiums required to be withheld or paid with respect to its employees, and shall file all returns incident to such taxes, contributions and premiums.

5.2 Neither Contractor nor Customer, nor their agents, servants or employees shall have any right to purchase goods or services in the name of the other party, to execute or make contracts in the name of the other party, or to obligate the other party in any way. Neither party is an agent or employee of the other party and they shall not represent themselves as such.

6. **Contractor’s Personnel.**

6.1 Contractor shall have in its employ and provide at all times a sufficient number of capable and competent employees having training and expertise suitable to their assignments and qualified to perform the Services safely, legally and efficiently in accordance with Contractor’s obligations hereunder. Notwithstanding the foregoing, Contractor, in its

sole discretion, may utilize direct employees or subcontractors to perform the Services.

6.2 Contractor represents and warrants: (a) that it has complied with the requirements of the Immigration Reform and Control Act and all related authority, including, but not limited to, required Form I-9 completion, retention and re-verification, and (b) that to the best of its knowledge its employees rendering the Services are authorized to work in the United States.

7. Equipment, Tools and Supplies.

7.1 All of Contractor's equipment, tools and supplies used in rendering the Services shall be provided and maintained in a clean, safe, and fully operable condition by Contractor at its sole cost and expense. Further, Contractor shall, at its sole cost and expense, promptly repair or replace such tools and equipment and replenish consumable supplies, including, but not limited to, dust mops and propane (as fuel for Contractor's equipment) as required to fully comply with this Agreement. Contractor shall be provided with reasonably adequate and secure areas at each of Customer's locations for Contractor to keep its equipment, tools and supplies when not in use.

7.2 In the event of any early termination of this Agreement, at one or more of Customer's locations, Customer shall, at Contractor's option, either: a) immediately surrender to Contractor Contractor's equipment and supplies, or b) purchase said equipment and supplies from Contractor at Contractor's depreciated cost.

8. Compliance with Laws. Contractor shall comply with all federal, state and local government laws, regulations and requirements applicable to Contractor's performance under this Agreement, including applicable federal and state OSHA laws, regulations and guidelines, and applicable regulations governing the use, clean up and disposal of materials used in providing the Services (including requirements relating to the provision of material safety data sheets). Contractor shall procure and maintain, at its sole expense, all necessary permits and licenses for the conduct of its business.

9. Warranties and Guarantees. Contractor warrants that the Services shall be: a) provided in a professional and workmanlike manner; b) performed by adequately trained and competent personnel; and c) performed in accordance with pertinent safety policies and procedures established by Contractor.

10. Defense and Indemnification.

10.1 Each party, to the extent permitted by law, will defend, indemnify and

hold harmless the other party and all of their officers, directors, agents, employees and subcontractors from and against all claims, suits, liabilities, damages, losses and expenses, including reasonable attorney's fees, that arise from and are caused by the negligence, willful misconduct, breach of contract or violation of law by the indemnifying party, its employees, agents or subcontractors. In the event the parties are, or are alleged to be, jointly or concurrently negligent, the parties will be responsible for providing their own defense and they shall be liable for indemnification only to the extent of their own percentage of negligence. The duties and obligations of the parties under this paragraph 10 and each and every subpart thereof shall survive the termination of this Agreement.

10.2 It is agreed that all slip and fall accidents are Customer's responsibility unless: (a) they are caused by the negligence or willful misconduct of Contractor, its employees, agents or subcontractors, or (b) they involve defective products. If Contractor's employees observe an unsafe condition in the Facility, Contractor will report it to Customer in a timely manner, but Contractor is not responsible for making repairs or for the overall safety of the facility.

10.3 It is further agreed that Contractor will not be held responsible or liable for any workers' compensation claims filed by Customer's employees or any workers' compensation subrogation claims or liens asserted or that could be asserted by Customer, its insurers, third-party administrators or other subrogees. Likewise, Customer will not be held liable for any workers' compensation claims filed by Contractor's employees or any workers' compensation subrogation claims or liens asserted or that could be asserted by Contractor, its insurers, third-party administrators or other subrogees. The parties hereby specifically waive all workers' compensation liens and rights to subrogation for amounts paid or to be paid in workers' compensation claims filed by the parties' own employees.

10.4 Each party agrees to notify the other as soon as reasonably possible of any personal injury or property damage occurring at Customer's locations of which either is aware relating to actual or alleged potential liability to either party and the parties further agree to cooperate with one another with respect to any investigation of the incident/accident.

11. Limitation of Liability. In no event shall Contractor be liable to Customer for any lost or prospective profits, or any other special, punitive, exemplary, consequential, incidental, or indirect loss or damage (whether in tort, contract or otherwise) relating to or arising from this Agreement.

12. Insurance.

12.1 Contractor and Customer both shall maintain, at their own expense,

with reputable insurance companies, statutory workers' compensation coverage, employer's liability insurance in the amount of \$500,000 per occurrence, and commercial general liability insurance with combined single limits of at least \$1,000,000 per occurrence for bodily injury and property damage.

12.2 Except where prohibited by law, the parties' insurance policies shall contain provisions stating that the insurance companies waive all rights of recovery and subrogation against the other party, and its officers, directors, agents, servants, employees, invitees, contractors, subcontractors and their insurers.

12.3 The insurance coverages required under this Agreement shall not be terminated or changed without providing at least thirty (30) days written notice to the other party. Upon the request of any party, the other party shall provide certificates of insurance evidencing the insurance required under this Agreement. If, at any time, a party does not have the required insurance, or such insurance is materially modified, cancelled, or not renewed, the other party may immediately terminate this Agreement without liability, fee or penalty.

13. Non-Solicitation of the Other Parties' Employees. Customer and Contractor both acknowledge that they have legitimate, protectable interests in their employee and vendor relations and goodwill. Accordingly, Customer and Contractor agree that during the term of this Agreement, and for a period of twelve (12) months after the termination of this Agreement, they will refrain from hiring or soliciting for employment any employees of the other party or their subcontractors. It is understood and agreed that general, public, non-directed searches do not constitute a breach of this Paragraph. It is further understood and agreed that this Paragraph does not apply to situations in which employees of one party or their subcontractors initiate contact with the other party on their own.

14. Confidentiality.

14.1 The parties acknowledge that as a direct result of this Agreement, they will have access to, learn about and/or become familiar with trade secrets and other confidential and proprietary information relating to and/or belonging to the business of the other party. This information shall be referred to as "Confidential Information" (as hereinafter defined) and the parties agree to hold the Confidential Information in trust and confidence and they shall refrain from using the Confidential Information to the competitive disadvantage of the other party or for any other purpose without the prior written consent of the other party. Contractor and Customer shall not use the Confidential Information to adversely affect or compete with the business of the other party and they shall only use the Confidential

Information for the purpose of carrying out their duties and obligations under this Agreement. Upon the written request of a party, the other party shall return all Confidential Information furnished to it and any copies or extracts thereof. The duties and obligations of the parties under this paragraph shall survive the termination of this Agreement and shall continue to bind the parties until terminated in writing or upon the expiration of one (1) year from the date of expiration or termination of this Agreement, whichever occurs first in time.

14.2 For purposes of this Agreement, the term “Confidential Information” shall mean all confidential and proprietary information and trade secrets of Contractor and Customer, including, but not limited to: (i) all information, know-how and data of a technical or business nature furnished by one party to the other party, in connection with the performance of Services under this Agreement, including, but not limited to, information respecting contracts entered into by the parties (including this contract), information respecting finances, operations, selling methods, costs, purchasing, markets, employees, current and potential customers, business plans and prospects, suppliers, labor relations, training and operating methods, processes, practices and procedures, manuals and software and information systems; and (ii) all information, evaluations, notes, data and other documents or information gathered or prepared by a party or its representatives as a result of any reviews of any Confidential Information, any interviews with officers, directors, stockholders, employees, customers, suppliers or agents of the other party or any on-site inspection of the facilities of either party.

14.3 The term “Confidential Information” does not include (i) information that was rightfully in the possession of the other party prior to disclosure of the information to that party; (ii) information that is obtained from a third party who is not known to be under an obligation of confidentiality to either of the parties hereto; (iii) information that was in the public domain or a matter of public record prior to the disclosure of the information; or (iv) information that is required to be disclosed by any federal or state law, rule or regulation, or by any applicable judgment, order, subpoena or decree of any court or any governmental body or agency having jurisdiction in the premises. Each party shall give prior and prompt written notice to the other party of the required disclosure of any such information pursuant to the foregoing exception (iv) so that the other party may seek a protective order or other appropriate remedy.

15. Security.

15.1 Contractor’s employees shall be subject to reasonable security checks and regulations that may be required by Customer.

15.2 Contractor shall be responsible for losses sustained by

Customer as a result of the negligence or intentional misconduct of Contractor's employees involving property damage and proven thefts of Customer's merchandise. Contractor shall reimburse Customer for all such losses upon Customer's providing to Contractor copies of its investigation file, any signed statements of employees admitting to the damage or theft and any videotapes depicting the damage or theft. All reimbursements will be made by Contractor through its normal accounts payable channels and will not be taken as a reduction from the monthly or special billing invoices. Reimbursements will be made only for the wholesale costs of the merchandise stolen and not recovered and Contractor shall not be responsible for payment of any investigative costs or expenses incurred within the normal scope of expected loss prevention functions.

15.3 It is understood and acknowledged that Contractor's insurance company requires detailed documentation of theft losses and prosecution of suspected employees. Customer agrees to cooperate in allowing Contractor's insurance company to complete its investigation and in filing and pursuing the necessary criminal charges.

16. Governing Law; Interpretation; Venue. This Agreement and performance hereunder shall be governed in all respects by the laws of the State of Ohio, without regard to its choice of law or conflict of laws principles. In all cases, this Agreement shall be construed simply according to its fair meaning. This Agreement has been negotiated and entered into by each party with the independent advice of counsel and shall not be construed against one party or the other based on which party drafted any portion of the Agreement. Contractor, Customer and their agents, servants and employees hereby agree that any legal action or proceeding involving this Agreement shall be brought exclusively in the courts of the State of Ohio or in the United States District Court for the Northern District of Ohio, Western Division, and by execution and delivery of this Agreement, Contractor, Customer and their agents, servants and employees hereby agree to and submit themselves to the jurisdiction of these courts.

17. Remedies. The parties hereto acknowledge that money damages are an inadequate remedy for a breach of this Agreement because of the irreparable harm that may be caused to the non-breaching party and the difficulty of ascertaining the amount of damage that will be suffered by the non-breaching party in the event that this Agreement is breached. Consequently, the breaching party agrees that the non-breaching party may obtain specific performance of this Agreement and/or injunctive relief against any breach or threatened breach of this Agreement in addition to such other remedies as may be available (including monetary damages), without posting bond or other security. All remedies given herein are cumulative and the exercise of any one remedy shall not preclude the exercise of any other remedy provided herein or by law. No waiver by either party of any failure on the part of the other party to observe strictly the terms of

this Agreement shall preclude the strict enforcement of this Agreement with respect to any subsequent default by such other party.

18. Force Majeure Events/ Excused Performance. If Contractor is prevented, delayed or hindered from the performance of the Services by reasons beyond its control including, without limitation, epidemic, fire, floods, riots, terrorism, the elements, work stoppages, strikes or Acts of God, Contractor will be excused from the performance of such Services and Customer from the obligation of payment for such Services to the extent and for the period of time that such performance is prevented, delayed or hindered by such condition or event. It is agreed, however, that Contractor shall be entitled to the portion of the compensation attributable to Contractor continuing to maintain its management structure and equipment during the period of such interruption.

19. Entire Agreement. This Agreement contains the entire agreement of the parties and it supersedes and cancels all prior agreements between the parties for the Services at the locations covered by this Agreement. No statements or representations not included herein shall be binding upon the parties and no modification or amendment of any of the terms hereof shall be valid or binding unless made in writing and signed by duly authorized officers of Contractor and Customer.

20. Assignment. This Agreement may not be assigned by either party without the written consent of the other party. Except as so restricted, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties.

21. No Third Party Beneficiaries. This Agreement shall not be deemed to confer any rights to any other party as a third party beneficiary or otherwise.

22. Notices. All notices, requests, consents, demands, approvals and other communications hereunder shall be sent to the other party postage prepaid by registered or certified mail, return receipt requested, or by express courier service (such as Federal Express or UPS), addressed as set forth below:

Customer:

Contractor:

Kellermeyer Bergensons Services, LLC
1575 Henthorne Dr.
Maumee, OH 43537
Attn.: General Counsel

Any party, upon written notice to the other, may designate a new notice address. Notices shall be effective upon receipt or upon the date that delivery is attempted and refused.

23. Severability. If any provision of this Agreement shall be deemed invalid or unenforceable, this Agreement shall be construed as though such provision does not appear herein and it shall be otherwise fully enforceable.

24. Headings. Headings to the various sections of this Agreement have been included for convenience of reference and shall not affect the meaning of the language included therein.

25. Counterparts/Electronic Signatures. This Agreement may be executed in counterparts, each of which shall be deemed to be an original hereof, all of which, taken together, shall constitute one and the same document. E-mail and facsimile signatures shall have the same force and effect as originals.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date first written above.

Kellermeyer Bergensons Services, LLC (CONTRACTOR):

By: _____
Printed Name: _____
Title: _____
Date: _____

(CUSTOMER):

By: _____
Printed Name: _____
Title: _____
Date: _____

**EXHIBIT A
SPECIFICATIONS**

**EXHIBIT B
LOCATIONS AND RATES**

EXHIBIT C
KBS REPRESENTATIVE