



July 29, 2025

The Yerba Buena Gardens Conservancy ("the Conservancy") is accepting Proposals for its Elevator Maintenance Services. We invite your firm to submit a Proposal to us no later than August 15th, 2025. A description of our organization, the services needed, and other pertinent information is as follows:

Background of the Yerba Buena Gardens Conservancy

The Conservancy is a 501C3 civic nonprofit organization established in July 2019 to operate and manage the Yerba Buena Gardens on behalf of the City and County of San Francisco.

Mission: To provide arts, culture, recreation, and nature in beautiful, accessible, welcoming spaces for everyone through stewardship and collaboration.

Structure and Governance: The Conservancy's Board of Directors is made up of a Cross section of Yerba Buena Gardens' stakeholders, community members, Civic Leaders, and City appointees. A small administrative staff led by Executive Director Seve Ghose contracts for maintenance, operations, programming, and security services to sustain cost efficiencies. Oversight is by the city as landlord, auditor, and technical advisor.

Funding: The Conservancy is a self-financing entity, where surrounding developments and retail lease financially supports the operation and maintenance of its public parks and cultural facilities. New revenue streams enabled by the formation of the non-profit Conservancy allows for private donations, government subsidies, foundation grants, and other sources to fill funding gaps.



Budget: Annual revenues are approximately \$10,000,000 per year. The organization currently employs 11 full-time staff plus the Executive Director. The Conservancy has a June 30th fiscal year end with a requirement to file an audit with the City of San Francisco by November 1 of the year, and to present the audit to the Conservancy Board of Directors at their November meeting.

All proposals will be ranked by the criteria set below, and by a panel of individuals.

The criteria shall include: price (cost), work references, years of operations as a company, minority or woman owned business, local to San Francisco, timelines.

Irrespective of price/cost, the most responsible bidder is to be awarded the contract.

Important Dates to Remember:

- July 18th, 2025: Posting of RFQ
- July 29th, 2025: Job Walk at 750 Howard St.
- August 5th, 2025: Final Job Walk @ 1:00pm meet at 750 Howard St. Management Office
- August 15th, 2025: Proposals Due by End of Day 5:00pm (Proposals not received by this time will not be accepted)
- August 19th, 2025: Response to awarded vendor by 5:00pm
- September 1st, 2025: Contract Starts



Point Scale	
Phase 1 - Written Proposal	35
Phase 2 - Price	25
Phase 3 - Interview	40
Total Possible Points	100

YBGC ELEVATOR MAINTENANCE SERVICES RFQ

PARTICIPANT:	
CANDIDATE:	
DATE:	

MINIMUM QUALIFICATIONS

Item #	Requirement	Items to be Submitted	ITEMS RECEIVED Y/N
MQ1	<p>Elevator Maintenance Services Contractor is licensed to work in the State of California and City of San Francisco.</p> <p>The Contractor's license must not be currently under probation or suspension, and must continuously be in full force and effect at the time proposals are due, prior to the contract award and, if awarded, throughout the duration of the contract.</p> <p>Failure to maintain this requirement shall be grounds for rescission of Notice of Intent to Award, or termination of the contract.</p>	Photocopy of current License issued by California State.	
MQ2	<p>Elevator Maintenance Services Contractor has Five (5) years of experience as a licensed Elevator Operator maintaining Elevators</p> <p>Five (5) years of experience in Elevator Maintenance and Management.</p>	Photocopy of company business entity formation documents showing formation date.	
MQ3	<p>Elevator Maintenance Service Contractor has provided five (5) client references that satisfy the following:</p> <p>1) Must be of five (5) clients to whom the Contractor provided Elevator Maintenance services continuously for at least two (2) years; must be within the last ten (10) years.</p> <p>2) The reference contact person for at least three (3) of the references must be the individual who served as the client's facility or property manager.</p>	Reference Letters	

DID CANDIDATE MEET ALL MINIMUM REQUIREMENTS? (Y/N)	
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PHASE 1 - WRITTEN PROPOSAL

Item #	Written Proposal Criteria	Possible Points	FINAL SCORE
1	Quality, organization, completeness of proposal; including sample reports (compliance with RFP instructions)	5	
2	Proposal demonstrates that the Elevator Maintenance Services Contractor has a commitment and focus within its business practices to minority and women in the Contractor's hiring, training, and ongoing operating processes	5	
3	Proposal demonstrates that the Elevator Maintenance Services Contractor has a high-quality system & practice of supervision & monitoring	5	
4	Proposal demonstrates that the Elevator Maintenance Services Contractor has a high-quality system of recruitment, hiring, development, and retention	5	
5	Proposal demonstrates that the Elevator Maintenance Services Contractor has high-quality training program and processes	5	
6	Proposal demonstrates effective quality assurance policies and procedures in place to evaluate & ensure elevator technician performance, including but not limited to, training, periodic performance evaluations & discipline	5	
7	Elevator Maintenance Services Contractor's past maintenance experience & performance (reference feedback)	5	
	WRITTEN SCORE	35	

Under Phase 1, all written proposals that meet all MQs will be scored.

PHASE 2 - PRICE

Item #	Price Proposal Criteria	Possible Points	FINAL SCORE
1	Is the price proposal the lowest proposed rate?	5	
2	Is the price proposal inclusive of all costs billable to YBGC?	5	
3	Does Candidate provide hourly rate per position(s)?	5	
4	Does price proposal comply with City of SF wage requirements? Prevailing wage, minimum compensation ordinance, Health Care accountability ordinance?	5	
6	Does the Candidate outline all trainings in proposal?	5	
	PRICE SCORE	25	

Under Phase 2, price proposals that meet all MQs will be scored. Then Written and Price Proposal scores will be combined, to total overall qualifying score. The top two (2) scoring firms will proceed to Phase 3, Interviews.

The lowest price proposal will receive the full 25 points automatically. The others will receive a proportionate total based on the price score formula:

Lowest Agg. Price Proposal / Contractor's Agg. Price x maximum points (25)

IE: \$10,000 / \$15,000 x 25 = 17 points

PHASE 3 - INTERVIEW

Item #	Interview Questions	Possible Points	FINAL SCORE
1	Tell us about your experience managing the Elevator Maintenance over the year. Highlight strengths and challenges. Give specific scenarios	10	
2	What is your company's method of providing monthly reports to its clients while also Informing the client of the work done on each piece of equipment.	10	
3	How does <COMPANY> keep educated on current industry knowledge? And what trainings does <COMPANY> provide its staff to comply with changing industry standards?	10	
4	Is <COMPANY> business offices/workplaces in compliance with all OSHA requirements? How does <COMPANY> keep abreast of changing laws?	10	
	INTERVIEW SCORE	40	

FINAL SCORES

	Phases	FINAL SCORES
	Phase 1 - Written Proposal	
	Phase 2 - Price	
	Phase 3 - Interview	
	CANDIDATE FINAL SCORE	

EXHIBIT "A"

SCOPE OF SERVICES

Services to Be Performed: Full Service Agreement

Elevator Service Contractor to provide repair and maintenance services as requested by Yerba Buena Gardens Conservancy. Service scope outlined below:

Hereinafter referred to as "Vendor".

Full Service Agreement

Vendor agrees to maintain client's elevator equipment described below in accordance with this agreement. Vendor to provide a comprehensive maintenance program designed to protect client's investment and maximize the performance, safety, and life span of the elevator equipment to be maintained.

Building Name	Building Location	Manufacturer	Type of Unit	Unit ID	# of Stops
West Elevator To begin 2026	750 Howard St	Dover	Hydraulic	State#102280	3
East Elevator	750 Howard St	U.S.	Hydraulic	State#102276	2
Folsom Elevator	750 Howard St	TKE	Hydraulic	State#111414	4
CDC Elevator	750 Howard St	TKE	Hydraulic	State#111380	3

Full Service Agreement

Preventative Maintenance Program:

Vendor will service equipment described in this agreement on a regularly scheduled basis. These service visits will be performed during normal business working days and hours, which are defined as Monday through Friday, 8:00 AM to 4:30 PM (except scheduled holidays).

Vendor will perform the following services plus additional per their generated agreement:

- Examine your elevator equipment for optimum operation. Our examination, lubrication and adjustment will cover the following components of your elevator system:
 - Control and landing positioning systems
 - Signal fixtures **(to include floor lights and call buttons)**
 - Machines, drives, motors, governors, sheaves, and wire ropes
 - Power units, pumps, valves, and jacks
 - Car and hoistway door operating devices and door protection equipment
 - Load weighers, car frames and platforms, and counterweights
 - Safety mechanisms
- Lubricate equipment for smooth and efficient performance
- Adjust elevator parts and components to maximize performance and safe operation
- **Maintain and clean elevator pit, door and lift tracks, side rails, and thresholds.**
- **5 year load test included**
- **Setup of new phone services for each elevator if needed. (Cellular)**
- **Vendor is to create and submit monthly service reports to client**
- **Vendor is to create and submit a parts material list for client**

Full Coverage Parts Repair and Replacement:

Vendor will provide full coverage parts repair and/or replacement for all components worn due to normal wear, unless specifically excluded in the "Items Not Covered" or "Other Conditions" provisions herein. Vendor should maintain a comprehensive parts inventory to support field operations. All replacement parts used in YB Gardens equipment will be new or refurbished to meet the quality standards. Vendor should re-lamp all signals as required (during regularly scheduled visits).

Maintenance Control Program:

Elevator Vendor should perform services in accordance with A17.1 – 2010 / CSA B44-10. Section 8.6 of the code requires the unit owner to have a Maintenance Control Program (MCP).

Quality Assurance:

To assure that quality standards are being maintained, vendor should be conducting periodic field quality audit surveys. Vendor will provide a constant check in with Gardens Management to provide

an open line of communication to elevator needs containing all aspects of service and modernization. In addition, vendor should provide recommendations for upgrades as well as providing a budget for designs to enhance the appearance, performance and safety of or meet Code requirements for your equipment over time.

Service Requests During Normal Working Days and Hours:

Service requests are defined as any request for dispatch of our technician to the location of the equipment covered in this agreement from one or more of the following: you or your representative, the building or building's representative, emergency personnel, and/or passengers through the elevator's communication device and/or from Vista Remote Monitoring through the elevator's communication line. Service requests include minor adjustments and response to emergency entrapments that can be accomplished in two hours or less (excluding travel time) and do not include regularly scheduled maintenance visits.

We will respond to service requests during normal business working days and hours, as defined above, at no additional charge.

Elevator Service Calls:

Vendor elevator service calls are to be responded to with a tech on site within 2 hours. This is a public space and elevators are in frequent use. ADA is very important and elevators need to be maintained operational.

Overtime Service Requests:

All work that will require OT should be approved by the YB Gardens Management other than that on an emergency basis. OT work should be clearly defined and a budget given.

Vendor Communications Contact Information:

Section 1, Elevator Detail (4 on The Property):

Elevator #:

102280 – West Elevator – 415-615-0801 **(TBD)**

102276 – East Elevator – 415-615-0804 **(TBD)**

111414 – Folsom Elevator – 415-615-0599 **(TBD)**

111380 – CDC Elevator – 415-615-0554 **(TBD)**

Section 2, Purchaser Designated Contacts:

In the event of an emergency, or perceived emergency affecting the equipment covered by this Agreement, the Purchaser designates the following as its decision-making contacts:

Tony Pellegrini, Operations Manager, 415-741-7252

Matthew Chu, Services Manager, 415-613-9474

Section 3, Local Emergency Services Contact Information:

SFPD – 415-553-0123

SFFD – 415-558-3200

Safety

Vendor agrees to instruct or warn passengers in the proper use of the equipment and to keep the equipment under continued surveillance by competent personnel to detect irregularities between elevator examinations. Vendor agrees to immediately report any condition that may indicate the need for correction before the next regular examination. Vendor agrees to immediately shut down the equipment upon manifestation of any irregularities in either the operation or the appearance of the equipment, to immediately notify us, and to keep the equipment shut down until the completion of any repairs. Vendor agrees to give us immediate verbal notice and written notice within ten (10) days after any occurrence or accident in or about the elevator. Vendor agrees to provide our personnel with a safe place to work. Client agrees to provide a suitable machine room, including secured doors, waterproofing, lighting, ventilation, and appropriate air temperature control to maintain that room at a temperature between 50°F and 90°F. Vendor agrees to maintain the elevator pit in a dry condition at all times and free and clear of debris. Should water or other liquids become present, vendor will contract with others for removal and the proper handling of such liquids.

Special Event Mechanic Standby:

- 1.) Upon request vendor will provide a mechanic for *standby during special events. The applicable standard hourly billing rates will apply and work will need to be approved and billed on a time & material basis separately.

*A minimum of 1 week notice will be required for normal hours stand-by. 2 week minimum notice for OT hours standby.

No agent or employee shall have the authority to waive or modify any of the terms of this agreement without the prior written approval of an authorized ThyssenKrupp Elevator manager.

Key Personnel

Following are key contacts for information you may seek in preparing your proposal:

Seve Ghose	Executive Director	sghose@ybgardens.org
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Tony Pellegrini	Operations Manager	tpelleg@ybgardens.org
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EXHIBIT "B"

CONTRACTOR INSURANCE REQUIREMENTS

1. Insurance Coverage.

As used herein, terms such as "necessary," "require," "required," "specify," "acceptable," "satisfactory," "approval," "approved," and words of similar import are deemed to be qualified by the words "reasonable" or "reasonably," as the context may be. As used herein, "commercially reasonably available" means commercially reasonably available at a commercially reasonable cost.

(a) Contractor Insurance Requirements. The contractor shall, at no cost to YBGC, obtain, maintain and cause to be in effect at all times during the Term, including any extensions, the following types and amounts of insurance:

(i) Commercial General Liability Insurance. Contractor shall maintain "Commercial General Liability" insurance policies with coverage at least as broad as ISO form CG 00 01 04 13, insuring against liability for bodily injury (including death), property damage, personal and advertising liability, and the products-completed operations hazard, and with "insured contract" coverage as to any obligation for Contractor to indemnify YBGC, with respect to occurrences upon the Premises (including any improvements thereof), and, to the extent commercially reasonably available, operations incidental or necessary thereto, such insurance to afford protection in the following amounts: (A) during construction in an amount not less than Five Million Dollars (\$5,000,000) each occurrence, affording coverage for the risks of independent contractors, explosion, collapse, underground (XCU), with an umbrella policy of Ten Million Dollars (\$10,000,000); (B) from and after completion of construction in an amount not less than One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) general aggregate, with an umbrella policy of Two Million Dollars (\$2,000,000) (the "**Umbrella Policy**"); (C) if Contractor has (or is required under Laws to have) a liquor license and is selling or distributing alcoholic beverages on the premises, or is selling or distributing food products on the Premises, then from and after completion, liquor liability coverage with limits not less than One Million Dollars (\$1,000,000) each occurrence, with excess coverage provided by the Umbrella Policy, and food products liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence, with excess coverage provided by the Umbrella Policy, as applicable.

(ii) Workers' Compensation Insurance. During any period in which Contractor has employees as defined-in the California Labor Code, Contractor shall maintain policies of workers' compensation insurance, including employer's liability coverage with limits not less than the greater of those limits required under applicable Law, and One Million Dollars (\$1,000,000) each accident (except that such insurance in excess of One Million Dollars (\$1,000,000) each accident may be covered by a so-called "umbrella" or "excess coverage" policy, covering all persons employed by Contractor.

(iii) Business Automobile Insurance. Contractor shall maintain policies of business automobile liability insurance covering all owned, non-owned, or hired motor vehicles to be used in connection with Contractor's activities and operations under this Agreement and on the Premises,

affording protection for bodily injury (including death) and property damage with limits of not less than One Million Dollars (\$1,000,000) each accident.

(iv) Environmental Liability Insurance. During the course of any hazardous materials remediation activities, Contractor shall maintain, or require by written contract that its remediation contractor or remediation Contractor shall maintain, environmental pollution liability insurance, on an occurrence form, with limits of not less than Two Million Dollars (\$2,000,000) each occurrence for bodily injury, property damage, and clean-up costs, with the prior written approval of YBGC.]

(v) Professional Liability. Contractor shall require by written contract that professionals it engages maintain professional liability (errors and omissions) insurance, with limits not less than One Million Dollars (\$1,000,000) each claim and Two Million Dollars (\$2,000,000) in the aggregate, with respect to all professional services, including, without limitation, architectural, engineering, geotechnical, and environmental, reasonably necessary or incidental to Contractor's activities under this Agreement, with a deductible or self-insured retention approved by YBGC, with such insurance to be maintained during any period for which such professional services are being performed and for five (5) years following the completion of any such professional services.

(vi) Other Insurance. Contractor shall obtain such other insurance as is reasonably requested by YBGC and memorialized in a mutually agreed amendment to this Agreement.

(b) General Requirements. All insurance required under this Agreement:

(i) As to liability insurance, shall name as additional insureds the following: "THE YERBA BUENA GARDENS CONSERVANCY (YBGC) AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS AND THE CITY AND COUNTY OF SAN FRANCISCO AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS." Contractor shall use commercially reasonable efforts to cause such additional insured endorsements to be issued on Forms CG 2037 04 13 and CG 2010 04 13.

(ii) Shall be carried under a valid and enforceable policy or policies issued by insurers that are rated Best A:-VIII or better (or a comparable successor rating) and legally authorized to issue such insurance within the State of California including, but not limited to, non-admitted insurers.

(iii) Shall be evaluated by YBGC for adequacy at such times as YBGC may determine. Following consultation with Contractor, YBGC may, upon not less than ninety (90) days prior written notice, require Contractor to increase the insurance limits for all or any of its umbrella liability policies if in the reasonable judgment of YBGC it would be commercially reasonable to do so. In any such event, Contractor shall promptly deliver to YBGC a certificate evidencing such new insurance limits and meeting all other requirements under this Agreement with respect thereto.

(iv) As to Commercial General Liability only, shall provide that it constitutes primary insurance to any other insurance available to additional insureds specified hereunder, with respect to claims insured by such policy, and that except with respect to policy limits, the insurance applies separately to each insured against whom suit is brought (separation of insureds);

(v) Shall be subject to the approval of YBGC, which approval shall be limited to whether or not such insurance meets the terms of this Agreement and shall not be unreasonably withheld, conditioned or delayed; and

(vi) Except for professional liability insurance which shall be maintained in accordance with Section 1(a)(v), if any of the insurance required hereunder is provided under a claims-made form of policy, Contractor shall maintain such coverage continuously throughout the Term, and following the expiration or termination of the Term, shall maintain, without lapse for a period of two (2) years beyond the expiration or termination of this Agreement, coverage with respect to occurrences during the Term that give rise to claims made after expiration or termination of this Agreement.

(c) Certificates of Insurance; Right of to Maintain Insurance. Contractor shall furnish YBGC certificates with respect to the policies required under Section 1(a), together with (if YBGC so requests) copies of each such policy prior to the commencement of any work or activities pursuant to this Agreement, and, with respect to renewal policies, at least thirty (30) business days prior to the expiration date of each such policy, to the extent commercially reasonably available. Contractor shall provide YBGC with thirty (30) days' prior written notice of cancellation for any reason or intended non-renewal and shall provide YBGC with notice of reduction in coverage limits within thirty (30) days of Contractor's knowledge of such event. If at any time Contractor fails to maintain the insurance required pursuant to this Section 1, or fails to deliver certificates or policies as required pursuant to this Section, then YBGC, in addition to its other rights and remedies under this Agreement, may obtain and cause to be maintained in effect by taking out policies with companies satisfactory to YBGC. Immediately following demand, Contractor shall reimburse YBGC for all premiums so paid by YBGC, together with all costs and expenses in connection therewith.

(d) Release and Waiver. Contractor hereby waives all rights of recovery and causes of action, and releases YBGC from any liability, losses and damages occasioned to the property of Contractor, which losses and damages are of the type covered under the property policies required by Sections 1(a)(i), (ii) or (v) to the extent that such losses and damages are paid by an insurer.

Sincerely,

Seve Ghose
Executive Director

Tony Pellegrini
Operations Manager

EXHIBIT "C"

CONTRACTOR INDEMNITY

Indemnification.

1.1 Subject to Section 1.4 below, Contractor shall indemnify, defend, and hold harmless ("Indemnify") Yerba Buena Gardens Conservancy, (YBGC) and its directors, officers, employees, representatives, and Agents, (collectively, the "**YBGC Indemnified Parties**") and the City and County of San Francisco ("**City**"), including, but not limited to, all of its boards, commissions, departments, agencies and other subdivisions, including, without limitation, all of the Agents of the City (collectively, the "**City Indemnified Parties**", and with the YBGC Indemnified Parties, together the "**Indemnified Parties**") from and against any and all Losses imposed upon or incurred by or asserted against any such Indemnified Party, the Premises or City's interest therein caused by Contractor in the performance of this Agreement or any of Contractor's operations or activities related thereto, including in connection with Contractor's use of or operations on the Premises, including without limitation, the occurrence or existence of any of the following: (i) any accident, injury to, or death of persons or loss of or damage to property occurring on the Premises or any part thereof; (ii) any accident, injury to, or death of persons or loss of or damage to property occurring immediately adjacent to the Premises which is caused directly or indirectly by Contractor or any of Contractor's Agents; (iii) any use, non-use, possession, occupation, operation, maintenance, management, or condition of the Premises, or any part thereof by Contractor or any of Contractor's Agents; (iv) any use, non-use, possession, occupation, operation, maintenance, management, or condition of property near or around the Premises by Contractor or any of Contractor's Agents; (v) any design, construction or structural defect relating to any improvements constructed by or on behalf of Contractor, and any other matters relating to the condition of the Premises caused by Contractor or any of its Agents; (vi) any failure on the part of Contractor or its Agents, as applicable, to perform or comply with any of the terms of this Agreement or with applicable Laws; (vii) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof by Contractor or any of its Agents; and (viii) any civil rights actions due to Contractor's activities or operations other than in accordance with this Agreement and applicable Law. Notwithstanding the foregoing, however, Contractor shall not be required to Indemnify an Indemnified Party against Losses to the extent, and only to such extent, caused by the gross negligence or willful misconduct of the Indemnified Party being so indemnified, and to the extent not caused by the negligence or willful misconduct of Contractor or any of its Agents. If any action, suit, or proceeding is brought against any Indemnified Party by reason of any occurrence for which Contractor is obliged to Indemnify such Indemnified Party, such Indemnified Party will notify Contractor of such action, suit, or proceeding. Contractor may, and upon the request of such Indemnified Party will, at Contractor's sole expense, resist and defend such action, suit or proceeding, or cause the same to be resisted and defended by counsel designated by Contractor and reasonably approved by such Indemnified Party in writing.

1.2 Immediate Obligation to Defend.

Contractor specifically acknowledges that it has an immediate and independent obligation to defend the Indemnified Parties from any claim which is actually or potentially within the scope of the indemnity provision of Section 1.1, even if such allegation is or may be groundless, fraudulent, or false, and such obligation arises at the time such claim is tendered to Contractor by an Indemnified Party and continues at all times thereafter.

1.3 Defense.

Contractor shall, at its option but subject to the reasonable consent and approval of Indemnified Parties, be entitled to control the defense, compromise, or settlement of any such matter through counsel of Contractor's own choice; provided, however, in all cases Indemnified Parties shall be entitled to participate in such defense, compromise, or settlement. If Contractor shall fail, however, in Indemnified Parties' reasonable judgment, within a reasonable time following notice from Indemnified Parties alleging such failure, to take reasonable and appropriate action to defend, compromise, or settle such suit or claim, YBGC shall have the right to hire outside counsel (and the City shall have the right promptly to use the City Attorney or hire outside counsel), at Contractor's sole expense, to carry out such defense, compromise, or settlement, which expenses, including all costs, fees, and other expenses related to such defense, compromise, or settlement, shall be due and payable to YBGC and/or City twenty (20) business days after receipt by Contractor of an invoice therefor.

1.4 Not Limited by Insurance.

None of the other provisions of this Agreement, including but not limited to those related to insurance, shall limit this Agreement or indemnity obligations under this Agreement.

1.5 Survival.

Contractor's indemnity obligations under this Agreement shall survive the expiration or sooner termination of this Agreement.

1.6 Definitions.

As used herein, the term "**Loss**" or "**Losses**" means any and all claims, demands, losses, liabilities, damages (including foreseeable and unforeseeable consequential damages), liens, obligations, interest, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards, and costs and expenses, (including, without limitation, attorneys' fees and costs and Contractors' fees and costs) of whatever kind or nature, known or unknown, contingent or otherwise. Notwithstanding anything to the contrary contained herein, in no event shall Losses include or shall a party be liable for any indirect, special, consequential, or incidental damages (including without limitation damages for loss of use of facilities or equipment, loss of revenues, loss of profits, or loss of goodwill) regardless of whether such party has been informed of the possibility of such damages or is negligent. It is understood and agreed that for purposes of this Agreement, third party claims for personal injury and the cost of repairing or

replacing damaged property shall be deemed to constitute direct damages and therefore not subject to the limitation set forth in the preceding sentence.

As used herein, the term “**Agents**” means the members, officers, directors, commissioners, employees, agents, contractors, and subcontractors of Contractor, the City, or YGBC, as applicable, or other person or entity, and their respective heirs, legal representatives, successors and assigns.

As used herein, the term “**Premises**” means Yerba Buena Gardens Central Block Two and Three, bounded by Mission St, Folsom St, 3rd St, and 4th St.

Exhibit "D"

SPECIAL PROVISIONS

Municipal Codes Generally; Incorporation.

The San Francisco Municipal Codes (available at www.sfgov.org) described or referenced in this Contract are incorporated by reference as though fully set forth in this Contract. The descriptions below are not comprehensive but are provided for notice purposes only; Contractor is charged with full knowledge of each such ordinances and any related implementing regulations as they may be amended from time to time. Capitalized or highlighted terms used in this Section and not otherwise defined in this Contract shall have the meanings given to them in the cited ordinance. Contractor hereby agrees to comply with the applicable provisions of the following code sections as such sections may apply to the performance of the Services and the Premises.

(a) Prevailing Wages and Working Conditions

Any undefined, initially capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.61. Contractor shall require its contractors and subcontractors performing (i) labor in connection with a "public work" as defined under California Labor Code Section 1720 *et seq.* (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction, at the Premises to (1) pay workers performing such work not less than the highest prevailing rate of wages, (2) provide the same hours, working conditions and benefits as in each case are provided for similar work performed in San Francisco County, and (3) employ apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, "Prevailing Wage Requirements"). The contractor agrees to cooperate with the YBGC and/or City in any action or proceeding against a contractor or subcontractor that fails to comply with the Prevailing Wage Requirements.

Contractor shall include, and shall require its subtenants, and contractors and subcontractors (regardless of tier) to include, the Prevailing Wage Requirements and the agreement to cooperate in YBGC and/or City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each such Construction Contract shall name the YBGC and City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any contractor or subcontractor in accordance with San Francisco Administrative Code Section 23.61. Contractor's failure to comply with its obligations under this Section shall constitute a material breach of this Contract. A contractor's or subcontractor's failure to comply with this Section will enable the YBGC

and/or the City to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party.

(b) Non-Discrimination in Contracts and Benefits Ordinance

(i) Covenant Not to Discriminate

In the performance of this Contract, Contractor agrees not to discriminate against any employee, any YBGC employee or City employee working with Contractor, or applicant for employment with Contractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(ii) Contracts and Other Subcontracts

Contractor shall include in all contracts or subcontracts relating to the Premises a non-discrimination clause applicable to such subtenant or other subcontractor in substantially the form of subsection (a) above. In addition, Contractor shall incorporate by reference in all contracts and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors and other subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Contract.

(iii) Non-Discrimination in Benefits

Contractor does not as of the date of this Contract and will not during the Term, in any of its operations or in San Francisco or with respect to its operations under this Contract elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(iv) CMD Form

As a condition to this Contract, Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division. Contractor

hereby represents that prior to execution of this Contract, (i) Contractor executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and (ii) the CMD approved such form.

(v) **Incorporation of Administrative Code Provisions by Reference**

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Contract as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Contract under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Contract may be assessed against Contractor and/or deducted from any payments due Contractor.

(c) **No Relocation Assistance; Waiver of Claims**

Contractor acknowledges that it will not be a displaced person at the time this Contract is terminated or expires by its own terms, and Contractor fully RELEASES, WAIVES AND DISCHARGES forever any and all Claims against, and covenants not to sue, YBGC and its directors, officers, and employees, and the City and County of San Francisco and its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any laws, including, without limitation, any and all claims for relocation benefits or assistance from YBGC under federal and state relocation assistance laws (including, but not limited to, California Government Code Section 7260 et seq.), except as otherwise specifically **provided in this Contract with respect to a Taking.**

(d) **MacBride Principles - Northern Ireland**

The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Contract. By signing this Contract, Contractor confirms that Contractor has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

(e) **Tropical Hardwood and Virgin Redwood Ban**

The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Contractor shall not provide or use any items for the construction of any Alterations, or otherwise in the performance of this Contract, which are tropical hardwoods, tropical

hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Contractor fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Contractor shall be liable for liquidated damages for each violation in any amount equal to Contractor's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

(f) Restrictions on the Use of Pesticides

Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or "IPM Ordinance") describes an integrated pest management ("IPM") policy to be implemented by all City departments. Contractor shall not use or apply or allow the use or application of any pesticides on the Premises or contract with any party to provide pest abatement or control services to the Premises without first receiving City's written approval of an IPM plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Contractor may need to apply to the Premises during the term of this Contract, (ii) describes the steps Contractor will take to meet the City's IPM Policy described in Section 300 of the IPM Ordinance and (iii) identifies, by name, title, address and telephone number, an individual to act as the Contractor's primary IPM contact person with the city. Contractors shall comply, and shall require all of Contractor's contractors to comply, with the IPM plan approved by the City and shall comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Contractor were a City department. Among other matters, such provisions of the IPM Ordinance: (a) provide for the use of pesticides only as a last resort, (b) prohibit the use or application of pesticides on property owned by the City, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by City's Department of the Environment), (c) impose certain notice requirements, and (d) require Contractor to keep certain records and to report to City all pesticide use at the Premises by Contractor's staff or contractors.

If Contractor or Contractor's contractor will apply pesticides to outdoor areas at the Premises, Contractor must first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation ("CDPR") and any such pesticide application shall be made only by or under the supervision of a person holding a valid, CDPR-issued Qualified Applicator certificate or Qualified Applicator license. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website, <http://sfenvironment.org/ipm>. Nothing herein shall prevent Contractor, through the City's Real Estate Division, from seeking a determination from the Commission on the Environment that it is exempt from complying with certain portions of the Pesticide Ordinance as provided in Section 307 thereof.

(g) First Source Hiring Agreement

Contractor shall comply with the City's First Source Hiring Ordinance, San Francisco Administrative Code, Chapter 83. Any default by Contractor thereunder shall be a default under this Contract.

(h) Sunshine Ordinance

In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between YBGC and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. The information provided which is covered by this Section will be made available to the public upon request.

(i) Conflicts of Interest

Through its execution of this Contract, Contractor acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts that would constitute a violation of said provisions, and agrees that if Contractor becomes aware of any such fact during the term of this Contract Contractor shall immediately notify the YBGC and the City.

(j) Drug-Free Workplace

Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited at the Gardens and in the Premises. Contractor agrees that any violation of this prohibition by Contractor, its Agents or assigns shall be deemed a material breach of this Contract.

(k) Prohibition of Tobacco Sales and Advertising

The contractor acknowledges and agrees that no advertising or sale of cigarettes or tobacco products is allowed on the Premises. This advertising prohibition includes the placement of the name of a company producing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product.

(l) Prohibition of Alcoholic Beverage Advertising

Contractor acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies

and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product.

(m) Requiring Health Benefits for Covered Employees

Unless exempt, Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this Contract as though fully set forth. The text of the HCAO is available on the web at <http://www.sfgov.org/olse/hcao>. Capitalized terms used in this Section and not defined in this Contract shall have the meanings assigned to such terms in Chapter 12Q.

(i) For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

(ii) Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with subsection (a) above.

(iii) Contractor's failure to comply with the HCAO shall constitute a material breach of this Contract. The city will notify Contractor if such a breach has occurred. If, within thirty (30) days after receiving City's written notice of a breach of this Contract for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City and the YBGC.

(iv) Any subcontract entered by Contractor shall require the subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. The contractor shall notify City's Purchasing Department when it enters into such a subcontract and shall certify to the Purchasing Department

that it has notified the subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on subcontractor through the subcontract. The contractor shall be responsible for its subcontractors' compliance with this Chapter. If a subcontractor fails to comply, the YBGC or City may pursue the remedies set forth in this Section against Contractor based on the subcontractor's failure to comply, provided that YBGC or City has first provided Contractor with notice and an opportunity to obtain a cure for the violation.

(v) Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying the YBGC or the City regarding Contractor's compliance or anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(vi) Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

(vii) The contractor shall keep itself informed of the current requirements of the HCAO.

(viii) The contractor shall provide reports to the YBGC and the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on subcontractors and subtenants, as applicable.

(ix) The contractor shall provide the YBGC and the City with access to records pertaining to compliance with HCAO after receiving a written request from YBGC or the City to do so and being provided at least five (5) business days to respond.

(x) The YBGC or City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with YBGC or City when it conducts such audits.

(xi) If Contractor is exempt from the HCAO when this Contract is executed because its amount is less than Twenty-Five Thousand Dollars (\$25,000), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with YBGC to reach Seventy-Five Thousand Dollars (\$75,000), all the agreements shall be thereafter

subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative number of agreements between Contractor and the YBGC to be equal to or greater than Seventy-Five Thousand Dollars (\$75,000) in the fiscal year.

(n) Preservative-Treated Wood Containing Arsenic

Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Contract unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractors may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

(o) Resource-Efficient Buildings

Contractor acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 713 relating to green building requirements for the design, construction, and operation of buildings owned or leased by City. The contractor hereby agrees that it shall comply with all applicable provisions of such code sections.

(p) Food Service Waste Reduction

Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Contract as though fully set forth herein. This provision is a material term of this Contract. By entering this Contract, Contractor agrees that if it breaches this provision, YBGC will suffer actual damages that will be impractical or extremely difficult to determine. Without limiting the Conservatory's other rights and remedies, Contractor agrees that the sum of One Hundred Dollars (\$100.00) liquidated damages for the first breach, Two Hundred Dollars (\$200.00) liquidated damages for the second breach in the same year, and Five Hundred Dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the

damage that YBGC will incur based on the violation, established in light of the circumstances existing at the time this Contract was made. Such amounts shall not be considered a penalty, but rather monetary damages sustained by YBGC because of Contractor's failure to comply with this provision.

(q) Bottled Drinking Water

Unless exempt, Contractor agrees to comply fully with and be bound by all of the provisions of the San Francisco Bottled Water Ordinance, as set forth in San Francisco Environment Code Chapter 24, including the administrative fines, remedies, and implementing regulations provided therein, as the same may be amended from time to time. The provisions of Chapter 24 are incorporated herein by reference and made a part of this Contract as though fully set forth.

(r) Criminal History in Hiring and Employment Decisions

(i) Unless exempt, Contractor agrees to comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions; "Chapter 12 T"), which are hereby incorporated as may be amended from time to time, with respect to applicants and employees of Contractor who would be or are performing work at the Premises.

(ii) Contractor shall incorporate by reference the provisions of Chapter 12T in all subleases of some or all of the Premises and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Contract.

(iii) Contractor and subcontractors shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(iv) Contractors and subcontractors shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (c) above. Contractor and subcontractors shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(v) Contractor and subcontractors shall state in all solicitations or advertisements for employees that are reasonably likely to reach people who are reasonably likely to seek employment with Contractor or subtenant at the Premises, that the Contractor or subtenant will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(vi) Contractor and subcontractors shall post the notice prepared by the City and County of San Francisco's Office of Labor Standards Enforcement ("OLSE"), available on OLSE's website, in a conspicuous place at the Premises and at other workplaces within San Francisco where interviews for job opportunities at the Premises occur. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Premises or other workplace at which it is posted.

(vii) Contractor and subcontractors understand and agree that upon any failure to comply with the requirements of Chapter 12T, the YBGC shall have the right to pursue any rights or remedies available under Chapter 12T or this Contract, including but not limited to a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Contract.

(viii) If Contractor has any questions about the applicability of Chapter 12T, it may contact the City's Real Estate Division for additional information. The City's Real Estate Division may consult with the Director of the City's Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.

(s) **Sugar-Sweetened Beverage Prohibition**

Contractor agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Contract.

(t) Card Check Ordinance.

City has adopted an Ordinance (San Francisco Administrative Code Sections 23.50-23.56) that requires employers of employees in hotel or restaurant projects on City property with more than fifty (50) employees to enter into a “card check” agreement with a labor union regarding the preference of employees to be represented by a labor union to act as their exclusive bargaining representative, if the City has a proprietary interest in the hotel or restaurant project. Contractor acknowledges and agrees that Contractor shall comply, and it shall cause Contractor’s Subcontractors to comply, with the requirements of such Ordinance to the extent applicable to operations within the Premises.

(u) Public Access to Meetings and Records.

If Contractor receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Contractor shall comply with and be bound by all the applicable provisions of that Chapter. Contractor agrees to make good-faith efforts to promote community membership on its Board of Directors in the manner set forth in Section 12L.6 of the San Francisco Administrative Code. Contractor acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Contract. Contractor further acknowledges that such material breach of the Agreement shall be grounds for City to terminate and/or not renew this Contract, partially or in its entirety.

(v) Compliance with Disabled Access Laws; Accessibility Disclosures.

Contractor acknowledges that, pursuant to the Disabled Access Laws, programs, services and other activities provided by a public entity to the public, whether directly or through Contractor or contractor, must be accessible to the disabled public. Contractor shall not discriminate against any person protected under the Disabled Access Laws in connection with the use of all or any portion of the Premises and shall comply at all times with the provisions of the Disabled Access Laws.

California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Contractor is advised that the Premises have not been inspected by a CASp. A CASp can inspect the Premises and determine if they comply with all the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the Premises, City may not prohibit Contractor from obtaining a CASp

inspection of the Premises for the occupancy or potential occupancy of Contractor if requested by Contractor. City and Contractor will mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the CASp inspection fee, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises.

(w) Graffiti.

Graffiti is detrimental to the health, safety, and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and its residents, and to prevent the further spread of graffiti.

Contractor shall remove all graffiti from the Premises and any real property owned or leased by Contractor in the City and County of San Francisco within two (2) business days of the earlier of Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San

San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

In addition to the enforcement mechanisms and abatement procedures for graffiti removal available to City in its regulatory capacity under Sections 1300 et seq. of the San Francisco Administrative Code, any failure of Contractor to comply with this Section of this Contract shall constitute a default of this Contract.

(x) Notification of Limitations in Contributions.

Through its execution of this Contract, Contractor acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. The foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors, chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the name of the each person, entity, or committee described above.

(y) Vending Machines; Nutritional Standards.

Contractor may not install or permit any vending machine on the Premises without the prior written consent of the Director of Property. Any permitted vending machine must comply with the food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code section 4.9-1(c), as may be amended from time to time (the "Nutritional Standards Requirements"). Contractor will incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise

comply with this Section will be a material breach of this Contract. Without limiting Landlord's other rights and remedies under this Contract, Landlord will have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements. In addition, any restaurant located on the Premises is encouraged to ensure that at least 25% of meals offered on the menu meet the nutritional standards set forth in San Francisco Administrative Code section 4.9-1(e), as may be amended.

(z) All-Gender Toilet Facilities.

If applicable, Contractor will comply with San Francisco Administrative Code Section 4.1-3 requiring at least one all-gender toilet facility on each floor of any new building on City-owned land and within existing buildings leased by the City where extensive renovations are made. An "all-gender toilet facility" means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures, and "extensive renovations" means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by this section. If Contractor has any question about applicability or compliance, Contractor should contact the Director of Property for guidance.

(aa) Contractor's Compliance with City Business and Tax and Regulations Code

Contractor acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the City Treasurer and Tax Collector may require the withholding of payments to any vendor that is delinquent in the payment of any amounts that the vendor is required to pay the City under the San Francisco Business and Tax Regulations Code. If, under that authority, any payment City is required to make to Contractor is withheld, the Treasurer and Tax Collector will authorize release of any payments withheld to Contractor under that authority, without interest, late fees, penalties, or other charges, upon Contractor coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.