



**DATE:** January 28, 2020

**CATEGORY:** New Business

**DEPT.:** Public Works

**TITLE:** **Janitorial Services Request for Proposals**

### **RECOMMENDATION**

Approve the following compensation and benefits requirements for the janitorial services Request for Proposals to supplement the compensation and benefits set by State and Federal employment laws:

- For new employees, provide the union-scale new-hire wage rate for Santa Clara County or Mountain View's minimum wage, whichever is higher.
- After one year of employment, provide the union-scale master wage rate (currently exceeding Mountain View's minimum wage) for Santa Clara County.
- Provide one week of paid vacation per year for full-time employees.
- Extend the required worker retention period from 60 days to 90 days.

### **BACKGROUND**

The City contracts for janitorial services for most of its facilities, encompassing approximately 600,000 square feet of building area in 42 locations throughout the City (Attachment 1). Services include after-hours cleaning and restocking of supplies as well as daytime services of "day porters" to provide cleanings as necessary, restocking supplies, room setup, and other services. Special event cleaning is also provided as needed for the City's various community facilities, such as the Center for the Performing Arts, Community Center, and other meeting venues. The City's janitorial contract is complex due to the wide variety of services and facilities. Some are traditional office spaces (e.g., City Hall); some are seven-days-per-week public facilities (e.g., Library, Community Center); some are restrooms only in locations throughout the City (e.g., parks, golf course); and one is a secure, 24/7 facility (Police/Fire Administration Building).

## **Current Janitorial Services Contract**

In August 2013, the City contracted with SWA Services Group, Inc. (SWA) to provide janitorial services. The initial contract term was for a period of two years with three one-year renewal options. Based on Council direction at the time, the contract required that SWA, a nonunion-represented firm, pay union-scale wages for the initial two-year term and become a union-represented firm no later than July 31, 2015 (as part of the first one-year option renewal).

As part of the Fiscal Year 2015-16 budget process, Council considered two pricing options for renewal of the City's contract with SWA: (1) SWA continuing to provide services as a nonunion-represented firm providing union-scale wages; or (2) SWA becoming a signatory to the Service Employees International Union—United Service Workers West (SEIU-USWW) master contract and providing union-specified benefits. At the time, the second pricing option involving union-specified benefits would have increased the City's annual janitorial services costs by 56 percent. Due to this significant cost increase, Council directed staff to continue to contract with SWA requiring union-scale wages but not requiring SWA to sign on to the SEIU-USWW master contract. Council also directed that paid vacation time be provided as part of the City's contract.

Staff monitors SWA's compliance with both the union-scale wage and paid vacation provisions by requiring SWA to submit a certified payroll every month.

In addition to the City's requirement to provide one week of paid vacation per year for all full-time employees, SWA has been providing the following benefits: three days of paid sick leave per year, prorated for part-time employees, in conformance with State law; health benefits pursuant to the Affordable Care Act (ACA); a voluntary 401(k) plan; and education costs reimbursement for English as a Second Language (ESL), computer, and utility skills.

The budget in Fiscal Year 2019-20 for janitorial services, including regularly scheduled services, day porters, and special event cleanings, is \$1.3 million.

## **Request for Proposals**

The City strives to resolicit bids for service contracts every five years. It has been over six years since the SWA contract was awarded, and staff is currently developing a Request for Proposals (RFP) to solicit janitorial services in 2020. Staff proposes that the new janitorial services contract to be awarded through this RFP process be for a four-year term with one one-year extension option.

This is a complicated RFP that will require approximately seven months from the issuance of the RFP to starting services under a new contract. The current agreement with SWA expires on January 31, 2020 and is being extended through October 31, 2020 to provide time to complete the RFP process and arrange for the successful proposer to begin work.

## **ANALYSIS**

### **Scope of Services**

The RFP's scope of services for the list of building and facilities to be cleaned, frequency and types of cleanings, and performance expectations will be consistent with the current janitorial scope of services being provided. The one service revision staff will be including is a requirement for a higher level of supervision for quality control to reduce City staff time spent on monitoring and correcting performance issues. Under the current contract, SWA provides one supervisor to oversee the after-hours janitorial work in all buildings being cleaned each night. To help reduce the amount of City staff time addressing missed or inadequate cleanings, staff plans to require that a minimum of two supervisors be provided for the scheduled janitorial services as part of the proposals. Although this will increase the City's contract costs, it will save a significant number of City staff hours being diverted for this purpose.

Recently, representatives of SEIU-USWW have reached out to the City to request that the RFP include certain provisions dealing primarily with union representation, compensation and benefits, and compliance with, and/or additional provisions beyond those required by, State labor laws. Some of these provisions may have cost implications for the City, limit responses to the RFP providing for a less competitive process, and/or place additional responsibility on staff in administering the contract. They represent key policy and budget decisions to be made by Council prior to the release of the RFP and are discussed in more detail below.

### **Compensation and Benefits Requirements**

The City's current janitorial services contract's requirements exceed Council's 2015 direction that the contractor provide union-scale wages and one week of paid vacation. The agreement used to determine union-scale wages is the Northern California Maintenance Contractors Agreement (NCMCA) between SEIU-USWW and Bay Area janitorial firms who are signatories to the agreement. This agreement includes provisions such as wages, benefits, discipline, grievances, and working hours. The current NCMCA expires on April 30, 2020, and negotiations are expected to begin

shortly for a new four-year agreement. Table 1 provides a comparison between the current NCMCA wage requirements and the City's existing contract terms.

**Table 1: Union-Scale Wages and City Contract Requirements**

<b>Effective Date</b>	<b>Employee</b>	<b>SEIU-USWW Hourly Wage Rates</b>	<b>City Contract Hourly Wage Rates</b>
January 1, 2020	New Hire	\$13.30 (State minimum wage + \$0.30)	\$16.05 (Mountain View minimum wage)
May 1, 2019	Master Wage Recipients	\$16.50 (Paid after three years of service)	\$16.50 (Paid after one year of service)

The City's janitorial contractor must also comply with all State and Federal employment laws, including minimum compensation and benefits requirements. These requirements include three days of paid sick leave per year (prorated for part-time employees), health benefits pursuant to ACA, overtime (1.5 times hourly rate) after eight hours, and double time after 12 hours. The current contractor (SWA) also pays double time for working on holidays.

*Benchmarking with Nearby Cities*

Staff contacted several nearby cities to compare their janitorial services contractor compensation requirements with the City's current requirements. These cities included Los Altos, Menlo Park, Palo Alto, San Jose, and Sunnyvale. Four of the cities had lower hourly wages than Mountain View, ranging from \$14.00 to \$16.00. The fifth city, San Jose, had a higher hourly wage of \$20.57, which is based on San Jose's living wage policy. None of these cities required that the janitorial services contractors have employees covered by a collective bargaining agreement.

*Union-Representation Requirement Analysis*

SEIU-USWW has requested that the City require in the RFP that all janitors performing work for the City be covered by a collective bargaining agreement. This would mean that only firms that are currently or will become signatories to the NCMCA would be allowed to compete for the City's contract. Staff does not recommend requiring that the janitorial services contractor be a signatory to the NCMCA due to the potential budget impacts and obligating the City to an agreement resulting from negotiations that the City is not a party to.

For a preliminary cost analysis of requiring that RFP proposers be a signatory to the NCMCA, staff requested that SWA provide a quote for increasing benefits to be comparable to those required under the current NCMCA. As shown in Table 2, providing the benefits specified in the NCMCA would cost the City an additional \$390,000 annually for scheduled janitorial services, a 33 percent cost increase. A similar or higher increase would occur for the on-call services (special events and emergency response) not included in the scheduled costs. The overall potential minimum increase to the City would be approximately \$420,000 a year. The potential costs may be higher depending on the benefits negotiated under the new NCMCA to be effective after April 30, 2020.

**Table 2: Compensation and Benefits Cost Comparison**

	<b>Current Contract: Union Pay Scale + Vacation</b>	<b>Adding Union- Level Benefits to Current Contract</b>
<b>Hourly Staff Cost Wage</b>	\$16.50	\$16.50
<b>Sick and Vacation Benefits</b>	\$0.19 + \$0.32 = \$0.51	\$0.19 + \$0.89 = \$1.08
	Three sick days + one week of vacation	Three sick days + one to three weeks of vacation depending on seniority
<b>Holiday</b>	\$0	\$0.32
	No paid holidays	Five days paid holidays
<b>Health and Welfare</b>	\$3.16	\$8.52
	Health benefits pursuant to ACA	Full family health benefits
<b>Pension</b>	\$0	\$0.32
	SWA provides 401(k) plan with no administrative cost to employee	Provide funds matching for qualifying employees
<b>Leadership/Education</b>	\$0	\$0.09
	SWA offers education cost reimbursement plan for ESL, computer, and utility skills	Education and other training fund
<b>Total Wage and Benefits</b>	\$20.17	\$26.83
<b>Monthly Billing</b>	\$98,658	\$131,215
<b>Annual Cost (Scheduled Services)</b>	\$1,183,896	\$1,574,582
<b>% Increase vs. Current</b>		33%

Another issue to be considered is that since the City does not participate in negotiating the NCMCA, it may include terms that are not of interest to the City but could affect the City's contract costs (e.g., working hours). The negotiating parties for the agreement are the union and the janitorial firms (i.e., the employers). These janitorial firms recover

the costs of compensation, benefits, and other NCMCA provisions from their clients. Should Council decide to require that only contractors who are or will become a signatory to the NCMCA may provide the City's janitorial services, the City is agreeing to pay for these costs without being a party to the negotiations. A large single-year increase in the contract terms could have a significant impact on the City's budget. In this case, the City's only recourse if the Council desires to reduce the costs of janitorial services is to reduce the scope of services or resolicit the contract removing the requirement that it must be a union-represented firm.

Staff's recommended approach is that the Council set the same minimum requirements for compensation and benefits in the RFP as those in the current contract. This will provide for the broadest level of competition (including both union and nonunion-represented firms) and will maintain Council control over cost factors that could impact the janitorial services budget.

#### *Recommended Compensation and Benefits Requirements*

Staff recommends continuing with the compensation and benefits requirements used in the City's current janitorial services contract. That is, the RFP would require the following compensation and benefits requirements to supplement the compensation and benefits set by state and federal employment laws:

- For new employees, provide the union-scale new hire wage rate for Santa Clara County or Mountain View's minimum wage, whichever is higher.
- After one year of employment, provide the union-scale master wage rate for Santa Clara County.
- Provide one week of paid vacation per year for full-time employees.

#### **Compliance with the Law**

The following is a standard provision in all City contracts and will be included the RFP:

"Compliance with the Law:

The Contractor agrees that performance under the contract shall comply with all applicable laws of the United States of America, the State of California, the County of Santa Clara, and City of Mountain View. Contractor shall also comply with all applicable policies of the City of Mountain View."

The City's standard agreement language permits the City to terminate the contract for any reason, including noncompliance with the law.

SEIU-USWW suggested contracting provisions related to various State labor codes dealing with worker retention, wage theft, janitorial registry, and sexual harassment prevention trainings. While the City's existing standard provision implies compliance with these laws is a condition of the contract, the references to these State labor codes will be specified in the RFP as indicated below.

#### *Worker Retention*

The RFP will include a provision that the successful proposer must comply with the Displaced Janitor Opportunity Act (California Labor Code, Sections 1060-1065). This statute requires that if a new janitorial contractor is awarded the City's contract, they must retain the former contractor's janitorial employees for a minimum of 60 days. The statute also requires that compliance with the Displaced Janitor Opportunity Act be stated in the City's RFP. The statute allows for local agencies to impose greater standards or additional enforcement provisions than those set forth in State law. SEIU-USWW has requested that the City extend the transitional employment period from 60 days to 90 days. Staff recommends extending the period to 90 days and will include this in the RFP.

#### *Wage Theft*

Compliance with the disclosure requirements related to wage theft for both the City and the janitorial contractor is set forth in California Labor Code, Section 238.5. Although referencing this Labor Code in the RFP is not required to ensure compliance by the janitorial contractor, staff will include it in the RFP along with a contractual requirement that the janitorial contractor waive joint and several liability.

In addition, one of the City's priority projects in support of the Council goal to "promote a Community for All" is to propose an ordinance to address wage theft. Staff plans to bring a wage theft ordinance to Council for consideration by June 2020. Any requirements in the City's ordinance related to disclosure of wage theft claims and City contract terms are expected to apply to the janitorial services contract.

#### *Janitorial Registry and Sexual Harassment Prevention Training*

These requirements for janitorial firms are included in the State's Property Service Workers Protection Act (California Labor Code, Sections 1420-1434). Although



including this labor code in the RFP is not required to ensure compliance by the janitorial contractor, staff will reference it in the RFP as a reminder to all proposers.

SEIU-USWW suggested that the City take a further step to require the janitorial services contractor provide the City annual documentation of compliance with the Property Service Workers Protection Act. This is not recommended by staff because it would require additional City resources to audit compliance and it creates a situation where the City may be assuming responsibility for enforcing the contractor's compliance with this State labor code.

### **RFP Schedule**

Staff plans to time the RFP process so that proposals are due after the new NCMCA is signed. The NCMCA will set the union-scale wages for the next four years, which may affect the proposals. Negotiations on the NCMCA have not yet begun, and negotiations of this nature may extend beyond the April 30, 2020 termination date of the current NCMCA. The tentative schedule in Table 3 assumes the new NCMCA will be available by June.

**Table 3: Tentative RFP Schedule**

<b>Date</b>	<b>Task</b>
April 2020	Release RFP
May 2020	Conduct preproposal walk-throughs of all City buildings and facilities
July 2020	Proposals due
August-September 2020	Evaluate proposals; negotiate and award contract
October 2020	Transition planning for new contractor
November 1, 2020	Effective date of new contract

### **FISCAL IMPACT**

The City's janitorial services budget for Fiscal Year 2019-20 is approximately \$1.3 million. The potential increases to the union-scale wages for Fiscal Year 2020-21 are unknown until the new NCMCA is negotiated by SEIU-USWW and the janitorial firms who are signatories to the agreement. Should Council concur with staff's recommendation for the compensation and benefits requirements for the RFP, staff will be proposing a 5 percent (\$65,000) increase for the Fiscal Year 2020-21 janitorial services budget as a placeholder for an increase in wages and additional supervision costs.

Should the Council decide that the new janitorial services contractor must be a signatory to the NCMCA or must otherwise provide comparable union-level benefits, the impact on the annual janitorial budget is estimated to be at least \$420,000 per year (a 32 percent increase). The costs for any wage and benefit increases included in the new NCMCA, effective May 1, 2020, will be in addition to this \$420,000.

Should the Council modify the staff's recommended compensation and benefit requirements to increase the wage rates and/or certain benefits, a cost analysis will be needed to provide an estimated budget impact.

### **CONCLUSION**

Staff is preparing an RFP to solicit janitorial services for most of the City's buildings and facilities. Council direction is requested regarding the minimum compensation and benefits requirements to include in the RFP. Staff recommends continuing with the existing contract requirements to provide union-scale wages or Mountain View's minimum wage, whichever is higher, and one week of paid vacation to supplement compensation and benefits required by State and Federal employment laws. In addition to the general provision that the contractor must comply with all Federal, State, and local laws, the RFP will call out specific labor laws relating to worker retention (extending the state minimum of 60 days to 90 days), wage theft, janitorial registry, and sexual harassment prevention training. The RFP is expected to be released in April 2020 with the successful proposer starting service on November 1, 2020.

### **ALTERNATIVES**

1. Include a minimum requirement in the RFP that the employees of the successful proposer must be covered by a collective bargaining agreement (i.e., the contractor is or will become a signatory to the SEIU-USWW NCMCA).
2. Include a minimum requirement in the RFP that the successful proposer must provide both compensation and benefits comparable to those included in the NCMCA but need not be a signatory to the agreement.
3. Direct staff to include specific compensation and/or benefits requirements in the RFP.
4. Provide other direction to staff.

**PUBLIC NOTICING**

Agenda posting. A copy of the report was also sent to SEIU-USWW and SWA.

Prepared by:

Dawn S. Cameron  
Public Works Director

Reviewed by:

Ann Mehta  
Purchasing and Support Services  
Manager

Diana Fazely  
Senior Deputy City Attorney

DSC/TS/6/CAM  
939-01-28-20CR  
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Attachment: 1. Janitorial Scope of Services Summary

Approved by:

Audrey Seymour Ramberg  
Assistant City Manager/  
Chief Operating Officer

Max Bosel  
Interim City Manager