

RESOLUTION NO. 21/22 - 53

**RESOLUTION OF THE BOARD OF TRUSTEES
OF THE PERALTA COMMUNITY COLLEGE DISTRICT
DECLARING FUTILITY OF SOLICITING ADDITIONAL BIDS AND RATIFYING
CONTRACTS FOR DEEP CLEANING SERVICES DISTRICTWIDE AND APPROVING
OMNIBUS AMENDMENT THERETO FOR COMMENSURATE INCREASE IN
COMPENSATION FOR SUPPLEMETNAL DEEP CLEANING SERVICES**

WHEREAS, in order to safely reopen its campuses and protect human health during the ongoing COVID-19 Pandemic, the Peralta Community College District ("District") determined that it needed to have deep cleaning and floor waxing services provided Districtwide in a timely manner prior to reopening District facilities;

WHEREAS, the District planned to safely reopen facilities included a phased approach with the Return to Campus Phase 1 ("RTCP1") scheduled for August 23, 2021;

WHEREAS, on or about July 16, 2021, the District issued Bid No. 21-22/03 seeking Districtwide Deep Cleaning and Floor Waxing Services for the RTCP1;

WHEREAS, Bid No. 21-22/03 specified square footage to be cleaned and sanitized, and bidders based proposed costs on the square footage of the facilities Districtwide;

WHEREAS, on or about July 26, 2021, the District reviewed the submitted bids and Ray & Associates Cleaning Systems ("Ray & Associates") was the lowest responsive, responsible bidder and, on or about August 9, 2021, the District awarded the six contracts, attached as **Exhibit "1"** hereto, to Ray & Associates as follows:

Total Square Feet / Cost		Site
237,890	\$118,945.00	Laney College Group A
67,903	\$33,952.00	Laney College Group B
152,378	\$76,189.00	College of Alameda
191,452	\$95,726.00	Merritt College
90,447	\$45,223.50	Berkeley City College
41,578	\$20,789.00	District's Administrative Center
\$390,824.50		

WHEREAS, pursuant to the contracts dated August 9, 2021, Ray & Associates agreed to furnish all labor, material, equipment, and supplies to complete the scope of work set forth in the bid documents ("Deep Cleaning Services");

WHEREAS, following the execution of the contracts for the Deep Cleaning Services, each college was responsible for providing specific information on all facilities and rooms to be cleaned on their respective campuses;

WHEREAS, Ray & Associates successfully cleaned and sanitized all areas provided on the lists which included the RTCP1 facilities and additional square footage that was not listed in the bid documents as well as other facilities (\$465,108.50), installation of COVID-

19 signage/decals (\$3,327.00), insurance for additional work (\$17,877.00), and 10% overhead (\$46,843.55) requested after award of contract as follows ("Supplemental Deep Cleaning Services"):

Additional Square Feet / Cost		Site
567,927	\$186,225.17	Laney College Group A
0	\$149.76	Laney College Group B (signs only)
219,973	\$126,003.84	College of Alameda
281,168	\$161,049.94	Merritt College
100,617	\$57,680.70	Berkeley City College
3,422	\$2,046.65	District's Administrative Center
	\$533,156.05	Total

WHEREAS, the value of the Supplemental Deep Cleaning Services will exceed the limits found in Public Contract Code section 20659;

WHEREAS, Public Contract Code section 20659 states that a community college district may, "authorize the contractor to proceed with performance of the change or alteration [to a contract] without the formality of securing bids, if the cost so agreed upon does not exceed the greater of: (a) The amount specified in Section 20651 ...; or (b) Ten percent of the original contract price;"

WHEREAS, Public Contract Code section 20651 states that a community college district is required to competitively bid any contract for services, except for construction services, involving an expenditure of more than \$96,700 in 2021;

WHEREAS, notwithstanding Public Contract Code sections 20651 or 20659, California courts allow a narrow exception to the public bidding law in circumstances in which it would be futile, undesirable or impractical and would cause additional delay and additional cost (*Los Angeles Dredging Company v. City of Long Beach* (1930) 2 Cal. 348; *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631, 645.);

WHEREAS, California law provides that, "Where competitive proposals work an incongruity and are unveiling as affecting the final result or where they do not produce any advantage ... the statute requiring competitive bidding does not apply" (*Hiller v. City of Los Angeles* (1961) 197 Cal.App.2d 685,694);

WHEREAS, it was in the best interest of the District to revise the scope of the work under the awarded contracts when the discrepancy between the Deep Cleaning Services and Supplement Deep Cleaning Services was discovered so that additional work could be performed to accommodate the timely reopening of the campuses;

WHEREAS, Ray & Associates has submitted invoices for the provision of the Deep Cleaning Services and the Supplemental Deep Cleaning Services;

WHEREAS, the submitted documentation to District staff supporting the costs to perform the Supplemental Deep Cleaning Services, and District staff determined that Ray & Associates costs to perform the Supplemental Deep Cleaning Services were reasonable;

WHEREAS, the only other vendor that submitted a bid for the Contract, Janitorial Coronas, LLC, submitted a bid in the amount of One Million Six Hundred Fifty Thousand Dollars and 00/100 Cents (\$1,650,000.00);

WHEREAS, given the huge discrepancy between Ray & Associates original bid and Janitorial Coronas, LLCs bid, bidding the Supplemental Deep Cleaning Services would not have affected the final result of the work, except to delay completion and increase the cost to District;

WHEREAS, based on the foregoing, it would be incongruous, futile, and unavailing to solicit bids for the Supplemental Deep Cleaning Services; and

WHEREAS, District staff, therefore, prepared the Omnibus Amendment to Independent Contractor Agreements for Deep Cleaning Services with Ray & Associates for the Deep Cleaning Services ("Omnibus Amendment), attached hereto as **Exhibit 2**.

NOW, THEREFORE, the Board of Trustees of the Peralta Community College District hereby finds, determines, declares, orders, and resolves as follows:

Section 1. That the foregoing recitals are true.

Section 2. That the Independent Consultant Agreements for Deep Cleaning Services executed on August 9, 2021, attached hereto as Exhibit 1, are hereby ratified.

Section 3. That based on the foregoing, it would be incongruous, futile, and unavailing to attempt to re-bid the Supplemental Deep Cleaning Services.

Section 4. That the Omnibus Amendment to the Independent Contractor Agreements for Deep Cleaning Services with Ray & Associates, attached hereto as **Exhibit 2**, is hereby ratified.


Section 5. That District's Chancellor, or designee, is authorized to take all steps and perform all actions necessary to carry out, give effect to, and comply with the terms and intent of this Resolution. Any past actions of the District's Chancellor, or designee, consistent with the intent of this Resolution are hereby ratified and confirmed.

APPROVED, PASSED, AND ADOPTED this 26th day of October, 2021, by vote of the Board of Trustees:

AYES: Cindi Napoli-Abella Reiss, Nicky Gonzalez-Yuen, Linda Handy, Bill Withrow, Julina Bonilla, Kevin Jenkins, Dyana Delfin-Polk, (Micah Cooper/Student/Advisory Vote), (Leesa Hogan/Student/Advisory Vote)

NOES:

ABSTENTIONS:


Cindi Reiss (Oct 27, 2021 11:52 PDT)

President, Board of Trustees
Peralta Community College District

Attested to:


Sasha Amiri-Nair (Oct 27, 2021 12:27 PDT)

Clerk, Board of Trustees
Peralta Community College District

EXHIBIT 1

Independent Consultant Agreements for Deep Cleaning Services

[Remainder of Page Intentionally Blank; Exhibit Follows]

**INDEPENDENT CONTRACTOR AGREEMENT FOR NON-CONSTRUCTION SERVICES
DEEP CLEANING AND FLOOR WAXING SERVICES**

This Independent Contractor Agreement for Services ("Agreement") is made and entered into as of the 9th day of August 2021, by and between the Peralta Community College District, ("District") and Ray & Associates Cleaning Systems ("Contractor"), (together, "Parties").

WHEREAS, the District duly determined that it needs some or all of the deep cleaning and floor waxing services to be provided pursuant to this Agreement; and

WHEREAS, the Contractor is specially trained and experienced and competent to perform the services required by the District, and those services are needed on a limited basis.

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** Contractor shall provide deep cleaning and floor waxing services as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Contractor shall commence providing services under this Agreement on August 9, 2021 and will diligently perform as required and complete performance by August 19, 2021, unless this Agreement is terminated and/or otherwise cancelled prior to that time.
3. **Validity of Agreement.** This Agreement shall not be a valid contract until it is executed by both Parties, and approved or ratified by the District's Board of Trustees. Services shall not be rendered until Agreement is approved by the District's Board of Trustees. Should Contractor begin performing Services in advance of receiving notice that this Agreement is approved, any Services so performed in advance of the Board of Trustees approval date will be provided at the Contractor's risk.
4. **Submittal of Documents.** Contractor shall not commence the Services under this Agreement until Contractor has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<u> X </u>	Signed Agreement
<u> X </u>	Workers' Compensation Certification
<u> X </u>	Insurance Certificates and Endorsements
<u> X </u>	W-9 Form
<u> </u>	Other: _____

5. **Compensation.** District compensation to the Contractor shall not exceed One Hundred Eighteen Thousand, Nine Hundred and Forty-Five Dollars (\$118,945), inclusive of any costs or expenses paid or incurred by Contractor in performing the Services, without the express approval of the Board of Trustees. The Services shall be performed at the hourly billing rates included in **EXHIBIT "A"** and **EXHIBIT "B."** If hourly billing applies, the itemized invoice shall reflect the hours spent by Contractor in performing its Services pursuant to this Agreement. Payment shall be made for all undisputed amounts within thirty (30) days after the Contractor submits a detailed invoice to the District's Accounts Payable Department for Services actually performed. Invoices must reference corresponding Purchase Order number.
6. **Equipment and Materials.** Contractor shall furnish, at their own expense, all tools, labor, materials, equipment, supplies, transportation services, and any other items (collectively, "Equipment") necessary to complete the Services in a manner which is consistent with generally accepted standards of the profession for similar Services. Notwithstanding the

foregoing, District shall not be responsible for any damages to persons or property as a result of the use, misuse or failure of any Equipment used by Contractor or the Contractor's agents, personnel, employee(s), and/or subcontractor(s) ("Contractor Parties"), even if such Equipment is furnished, rented or loaned to Contractor or Contractor Parties by the District. All original curricular materials provided in conjunction with Contractor's Services must be authorized for use by the District only and remain exclusively the intellectual property of the authors.

7. **Independent Contractor.** The Parties agree that the Contractor is an independent contractor or business entity that is: (i) free from the control and direction of the District in connection with the performance of the Services, (ii) performing Services that are outside the usual course of the District's business, and (iii) customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the Services performed, District being interested only in the results obtained. Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided to employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor's employees.
8. **Certifications, Permits, and Licenses.** Contractor represents and warrants to District that Contractor and all of the Contractor Parties have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement.
9. **Standard of Care.** Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of the District. If any of the Services are performed by any of the Contractor Parties, such work shall only be performed by competent personnel under the supervision of and in the employment of Contractor. Contractor's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for Services to California school districts.
10. **Safety and Security.** Contractor is responsible for maintaining safety in the performance of this Agreement. Contractor shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
11. **Work Product.** Contractor understands and agrees that all matters produced under this Agreement shall become the property of the District and cannot be used without the District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District.
12. **Confidentiality.** The Contractor and all Contractor Parties shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
13. **Audit.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records,

and systems of account during the Term of this Agreement and for three (3) years thereafter. Contractor shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.

14. **Disputes.** In the event of a dispute between the parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Contractor agrees it will neither rescind the Agreement nor stop the performance of the Services, but will allow determination by the court of the State of California, in the county in which the District's administration office is located, having competent jurisdiction of the dispute. Disputes may be determined by mediation if mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Contractor shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Contractor's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Contractor submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.

15. **Termination.**

15.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Contractor only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by Contractor or no later than three (3) calendar days after the day of mailing, whichever is sooner.

15.2. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

15.2.1. material violation of this Agreement by Contractor; or

15.2.2. any act by Contractor exposing the District to liability to others for personal injury or property damage.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Contractor. If the expense, fees, and/or costs to the District exceed the cost of providing the service pursuant to this Agreement, Contractor shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's

notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

16. **Indemnification.** To the furthest extent permitted by California law, Contractor shall indemnify and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "Indemnified Parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Contractor. Contractor shall, to the furthest extent permitted by California law, defend the Indemnified Parties at Contractor's own expense, from any and all claim(s) and allegations relating thereto with counsel approved by District where such approval is not to be unreasonably withheld

17. **Insurance.**

17.1. Contractor shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	 \$ 2,000,000 \$ 1,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	\$ 1,000,000 \$ 1,000,000
Professional Liability	\$ 1,000,000
Workers' Compensation	Statutory Limits
Employers' Liability	\$ 1,000,000

17.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect Contractor, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

17.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, Contractor shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

17.1.3. **Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to Contractor's profession, coverage to continue through completion of construction plus two (2) years thereafter.

17.2. **Proof of Insurance.** Contractor shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

17.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

17.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

17.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.

17.2.4. All policies except the Professional Liability, Workers' Compensation, and Employers' Liability Insurance Policies shall be written on an occurrence form.

17.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District.

18. **Assignment.** The obligations of Contractor pursuant to this Agreement shall not be assigned by Contractor.

19. **Compliance with Laws; Effect of Noncompliance.** Contractor shall observe and comply with all rules and regulations of the Board of Trustees of the District and all federal, state, and local laws, ordinances and regulations. Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Contractor observes that any of the Services required by this Agreement are at variance with any laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

20. **Certificates/Permits/Licenses/Registration.** Contractor represents and warrants to District that Contractor and all of the Contractor's employees or agents have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement.

21. **Employment with Public Agency.** Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, other than vacation pay, as an

employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

- 22. **Anti-Discrimination.** Contractor herein agrees to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the California Government Code, commencing at section 12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246; and all administrative rules and regulations found to be applicable to Contractor and all of its subcontractors. In addition, Contractor agrees to require like compliance by all of its subcontractor(s).
- 23. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
- 24. **District's Evaluation of Contractor and Contractor's Employees and/or Subcontractors.** The District may evaluate Contractor in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:
 - 24.1. Requesting that District employee(s) evaluate Contractor and Contractor's employees and subcontractors and each of their performance.
 - 24.2. Announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s).
- 25. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
- 26. **Confidentiality.** Contractor and all Contractor's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Contractor understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
- 27. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission or electronic mail, addressed as follows:

District:

Peralta Community College District
Department of General Services
333 East 8th Street
Oakland, CA 94606
Fax: _____
Email: _____

Contractor:

[NAME]

_____, CA 9_____
Fax: _____
Email: _____
ATTN: _____

Any notice personally given or sent by facsimile transmission or electronic mail shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) calendar days after deposit in the United States mail.

28. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
29. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.
30. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
31. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
32. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
33. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
34. **Attorney's Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
35. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
36. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
37. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
38. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

39. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: _____, 2021

Dated: _____, 2021

Peralta Community College District

By: _____

By: _____

Print Name: Jannett N. Jackson

Print Name: _____

Print Title: Interim Chancellor

Print Title: _____

Information regarding Contractor:

License No.: _____

Employer Identification and/or
Social Security Number

Registration No.: _____

Address: _____

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires Contractor to furnish the information requested in this section.

Telephone: _____

Facsimile: _____

E-Mail: _____

Type of Business Entity:

____ Individual

____ Sole Proprietorship

____ Partnership

____ Limited Partnership

____ Corporation, State: _____

____ Limited Liability Company

____ Other: _____

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONTRACTOR

DEEP CLEANING AND FLOOR WAXING SERVICES

DEEP CLEANING

- A. General: Provide deep cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and antipollution regulations.
- B. Cleaning: Employ professional cleaning service for final cleaning. Clean each surface or unit to condition expected in an average commercial building cleaning and maintenance program. Comply with manufacturer's written instructions.
 - 1. Complete the following cleaning operations before requesting inspection for validation of the cleaning efficacy:
 - a. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of stains, films, and similar foreign substances. Avoid disturbing natural weathering of exterior surfaces. Restore reflective surfaces to their original condition.
 - b. Horizontal surfaces: All horizontal surfaces must be dusted and/or washed until free of dust and grime.
 - c. Furnishings and equipment:
 - 1) Remove all gum and sticky substances from all surfaces. Wash all furniture and equipment with a neutral cleaner. Use specialized cleaner appropriate for wood and/or excessively dirty surfaces.
 - 2) Dust all machinery and equipment located in any shop area.
 - 3) Clean all marker/chalkboards and rails by washing with water and/or cleaner.
 - 4) Clean exterior of all locked lockers and interior of unlocked ones.
 - 5) Graffiti must be removed from all furnishings and equipment.
 - d. Walls: Wash all wall surfaces with detergent and water. Remove all graffiti. All restroom walls should be washed with a disinfectant cleaner.
 - e. Doors: Wash all doors, frames and hardware.
 - f. Floors:

1) Resilient Floors (except linoleum flooring) – Clean and refinish flooring, using appropriate procedures and finishes/sealers. Strip existing wax from all existing resilient flooring (using appropriate safety measures as recommended by the E.P.A. for any tile containing asbestos) and re-wax as follows:

- Classrooms, offices, and rooms - two coats of wax.
- Corridors - Three coats of wax.

These floors should be scrubbed with detergent – not stripped. Seal as recommended by flooring manufacturer and re-wax as indicated above.

2) Concrete Floors - Scrub using water and detergent.

3) Ceramic Floors - Scrub using water and detergent.

4) Wood Floors - Clean, screen and apply gym seal per manufacturer's recommendation. All gym seal to be approved by Custodial Services Department.

5) Carpeted Floors - Vacuum all carpets and clean by hotwater extraction.

6) Other Floors - Marble, terrazzo and rubber floors should be cleaned and refinished using appropriate procedures and finishes/sealers.

g. STAIRS: All stairs to be scrubbed with detergent including walls, handrails and ledges. Finish not to be applied to stairs unless necessary and approved by the District.

h. RESTROOMS: Thoroughly clean and disinfect all surfaces and fixtures. Remove all foreign objects from walls/ceilings and eliminate all graffiti. Specifications provided above for fixtures, walls and floors are applicable.

i. Remove debris and surface dust from limited access spaces, including roofs, plenums, shafts, trenches, equipment vaults, manholes, attics, and similar spaces.

j. Sweep concrete floors broom clean in unoccupied spaces.

k. Vacuum carpet and similar soft surfaces, removing debris and excess nap; shampoo if visible soil or stains remain.

l. Clean transparent materials, including mirrors and glass in doors and windows. Remove glazing compounds and other noticeable, vision-obscuring materials. Polish mirrors and glass, taking care not to scratch surfaces.

- m. Remove labels that are not permanent.
 - n. Wipe surfaces of mechanical and electrical equipment, elevator equipment, and similar equipment. Remove excess lubrication, paint and mortar droppings, and other foreign substances.
 - o. Clean plumbing fixtures to a sanitary condition, free of stains, including stains resulting from water exposure.
 - p. Clean exposed surfaces of diffusers, registers, and grills.
- C. Clean all light fixtures, lamps, globes, and reflectors to function with full efficiency. Final Inspection: Any surface still exhibiting dirt, graffiti or dust shall be re-cleaned/re-stripped/refinished until free of dirt, graffiti or dust.
- D. Comply with safety standards for cleaning. Do not burn waste materials. Do not bury debris or excess materials on District's property. Do not discharge volatile, harmful, or dangerous materials into drainage systems. Remove materials from project site and dispose of lawfully.

Building List for Deep Cleaning Services

LANEY COLLEGE

Group A

- Administrative Tower
- Art Center
- Building A
- Building B
- Building C
- Building D
- Building E
- Building F
- Student Center
- Theater

TOTAL SF LANEY COLLEGE- GROUP A	237,890
ADMINISTRATION TOWER	
ART BUILDING	
BUILDING A	
BUILDING B	
BUILDING C	
BUILDING D	
BUILDING E	
BUILDING F	

STUDENT CENTER	
THEATER	

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.

- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Services of this Agreement.

Date: _____

Name of Contractor: _____

Signature: _____

Print Name and Title: _____

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Services under this Agreement.)

END OF DOCUMENT

**INDEPENDENT CONTRACTOR AGREEMENT FOR NON-CONSTRUCTION SERVICES
DEEP CLEANING AND FLOOR WAXING SERVICES**

This Independent Contractor Agreement for Services ("Agreement") is made and entered into as of the 9th day of August 2021, by and between the Peralta Community College District, ("District") and Ray & Associates Cleaning Systems ("Contractor"), (together, "Parties").

WHEREAS, the District duly determined that it needs some or all of the deep cleaning and floor waxing services to be provided pursuant to this Agreement; and

WHEREAS, the Contractor is specially trained and experienced and competent to perform the services required by the District, and those services are needed on a limited basis.

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** Contractor shall provide deep cleaning and floor waxing services as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Contractor shall commence providing services under this Agreement on August 9, 2021 and will diligently perform as required and complete performance by August 19, 2021, unless this Agreement is terminated and/or otherwise cancelled prior to that time.
3. **Validity of Agreement.** This Agreement shall not be a valid contract until it is executed by both Parties, and approved or ratified by the District's Board of Trustees. Services shall not be rendered until Agreement is approved by the District's Board of Trustees. Should Contractor begin performing Services in advance of receiving notice that this Agreement is approved, any Services so performed in advance of the Board of Trustees approval date will be provided at the Contractor's risk.
4. **Submittal of Documents.** Contractor shall not commence the Services under this Agreement until Contractor has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<u> X </u>	Signed Agreement
<u> X </u>	Workers' Compensation Certification
<u> X </u>	Insurance Certificates and Endorsements
<u> X </u>	W-9 Form
<u> </u>	Other: _____

5. **Compensation.** District compensation to the Contractor shall not exceed Thirty-Three Thousand, Nine Hundred Fifty-Two Dollars (\$33,952), inclusive of any costs or expenses paid or incurred by Contractor in performing the Services, without the express approval of the Board of Trustees. The Services shall be performed at the hourly billing rates included in **EXHIBIT "A"** and **EXHIBIT "B."** If hourly billing applies, the itemized invoice shall reflect the hours spent by Contractor in performing its Services pursuant to this Agreement. Payment shall be made for all undisputed amounts within thirty (30) days after the Contractor submits a detailed invoice to the District's Accounts Payable Department for Services actually performed. Invoices must reference corresponding Purchase Order number.
6. **Equipment and Materials.** Contractor shall furnish, at their own expense, all tools, labor, materials, equipment, supplies, transportation services, and any other items (collectively, "Equipment") necessary to complete the Services in a manner which is consistent with generally accepted standards of the profession for similar Services. Notwithstanding the

foregoing, District shall not be responsible for any damages to persons or property as a result of the use, misuse or failure of any Equipment used by Contractor or the Contractor's agents, personnel, employee(s), and/or subcontractor(s) ("Contractor Parties"), even if such Equipment is furnished, rented or loaned to Contractor or Contractor Parties by the District. All original curricular materials provided in conjunction with Contractor's Services must be authorized for use by the District only and remain exclusively the intellectual property of the authors.

7. **Independent Contractor.** The Parties agree that the Contractor is an independent contractor or business entity that is: (i) free from the control and direction of the District in connection with the performance of the Services, (ii) performing Services that are outside the usual course of the District's business, and (iii) customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the Services performed, District being interested only in the results obtained. Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided to employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor's employees.
8. **Certifications, Permits, and Licenses.** Contractor represents and warrants to District that Contractor and all of the Contractor Parties have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement.
9. **Standard of Care.** Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of the District. If any of the Services are performed by any of the Contractor Parties, such work shall only be performed by competent personnel under the supervision of and in the employment of Contractor. Contractor's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for Services to California school districts.
10. **Safety and Security.** Contractor is responsible for maintaining safety in the performance of this Agreement. Contractor shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
11. **Work Product.** Contractor understands and agrees that all matters produced under this Agreement shall become the property of the District and cannot be used without the District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District.
12. **Confidentiality.** The Contractor and all Contractor Parties shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
13. **Audit.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records,

and systems of account during the Term of this Agreement and for three (3) years thereafter. Contractor shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.

14. **Disputes.** In the event of a dispute between the parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Contractor agrees it will neither rescind the Agreement nor stop the performance of the Services, but will allow determination by the court of the State of California, in the county in which the District's administration office is located, having competent jurisdiction of the dispute. Disputes may be determined by mediation if mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Contractor shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Contractor's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Contractor submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.

15. **Termination.**

15.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Contractor only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by Contractor or no later than three (3) calendar days after the day of mailing, whichever is sooner.

15.2. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

15.2.1. material violation of this Agreement by Contractor; or

15.2.2. any act by Contractor exposing the District to liability to others for personal injury or property damage.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Contractor. If the expense, fees, and/or costs to the District exceed the cost of providing the service pursuant to this Agreement, Contractor shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's

notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

16. **Indemnification.** To the furthest extent permitted by California law, Contractor shall indemnify and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "Indemnified Parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Contractor. Contractor shall, to the furthest extent permitted by California law, defend the Indemnified Parties at Contractor's own expense, from any and all claim(s) and allegations relating thereto with counsel approved by District where such approval is not to be unreasonably withheld

17. **Insurance.**

17.1. Contractor shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	\$ 2,000,000 \$ 1,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	\$ 1,000,000 \$ 1,000,000
Professional Liability	\$ 1,000,000
Workers' Compensation	Statutory Limits
Employers' Liability	\$ 1,000,000

17.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect Contractor, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

17.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, Contractor shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

17.1.3. **Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to Contractor's profession, coverage to continue through completion of construction plus two (2) years thereafter.

17.2. **Proof of Insurance.** Contractor shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

17.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

17.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

17.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.

17.2.4. All policies except the Professional Liability, Workers' Compensation, and Employers' Liability Insurance Policies shall be written on an occurrence form.

17.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District.

18. **Assignment.** The obligations of Contractor pursuant to this Agreement shall not be assigned by Contractor.

19. **Compliance with Laws; Effect of Noncompliance.** Contractor shall observe and comply with all rules and regulations of the Board of Trustees of the District and all federal, state, and local laws, ordinances and regulations. Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Contractor observes that any of the Services required by this Agreement are at variance with any laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

20. **Certificates/Permits/Licenses/Registration.** Contractor represents and warrants to District that Contractor and all of the Contractor's employees or agents have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement.

21. **Employment with Public Agency.** Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, other than vacation pay, as an

employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

- 22. **Anti-Discrimination.** Contractor herein agrees to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the California Government Code, commencing at section 12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246; and all administrative rules and regulations found to be applicable to Contractor and all of its subcontractors. In addition, Contractor agrees to require like compliance by all of its subcontractor(s).
- 23. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
- 24. **District's Evaluation of Contractor and Contractor's Employees and/or Subcontractors.** The District may evaluate Contractor in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:
 - 24.1. Requesting that District employee(s) evaluate Contractor and Contractor's employees and subcontractors and each of their performance.
 - 24.2. Announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s).
- 25. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
- 26. **Confidentiality.** Contractor and all Contractor's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Contractor understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
- 27. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission or electronic mail, addressed as follows:

District:

Peralta Community College District
Department of General Services
333 East 8th Street
Oakland, CA 94606
Fax: _____
Email: _____

Contractor:

[NAME]

_____, CA 9____
Fax: _____
Email: _____
ATTN: _____

Any notice personally given or sent by facsimile transmission or electronic mail shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) calendar days after deposit in the United States mail.

28. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
29. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.
30. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
31. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
32. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
33. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
34. **Attorney's Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
35. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
36. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
37. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
38. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

39. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: _____, 2021

Dated: _____, 2021

Peralta Community College District

By: _____

By: _____

Print Name: Jannett N. Jackson

Print Name: _____

Print Title: Interim Chancellor

Print Title: _____

Information regarding Contractor:

License No.: _____

Employer Identification and/or
Social Security Number

Registration No.: _____

Address: _____

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires Contractor to furnish the information requested in this section.

Telephone: _____

Facsimile: _____

E-Mail: _____

Type of Business Entity:

- ____ Individual
- ____ Sole Proprietorship
- ____ Partnership
- ____ Limited Partnership
- ____ Corporation, State: _____
- ____ Limited Liability Company
- ____ Other: _____

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONTRACTOR

DEEP CLEANING AND FLOOR WAXING SERVICES

DEEP CLEANING

- A. General: Provide deep cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and antipollution regulations.
- B. Cleaning: Employ professional cleaning service for final cleaning. Clean each surface or unit to condition expected in an average commercial building cleaning and maintenance program. Comply with manufacturer's written instructions.
 - 1. Complete the following cleaning operations before requesting inspection for validation of the cleaning efficacy:
 - a. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of stains, films, and similar foreign substances. Avoid disturbing natural weathering of exterior surfaces. Restore reflective surfaces to their original condition.
 - b. Horizontal surfaces: All horizontal surfaces must be dusted and/or washed until free of dust and grime.
 - c. Furnishings and equipment:
 - 1) Remove all gum and sticky substances from all surfaces. Wash all furniture and equipment with a neutral cleaner. Use specialized cleaner appropriate for wood and/or excessively dirty surfaces.
 - 2) Dust all machinery and equipment located in any shop area.
 - 3) Clean all marker/chalkboards and rails by washing with water and/or cleaner.
 - 4) Clean exterior of all locked lockers and interior of unlocked ones.
 - 5) Graffiti must be removed from all furnishings and equipment.
 - d. Walls: Wash all wall surfaces with detergent and water. Remove all graffiti. All restroom walls should be washed with a disinfectant cleaner.
 - e. Doors: Wash all doors, frames and hardware.
 - f. Floors:

1) Resilient Floors (except linoleum flooring) – Clean and refinish flooring, using appropriate procedures and finishes/sealers. Strip existing wax from all existing resilient flooring (using appropriate safety measures as recommended by the E.P.A. for any tile containing asbestos) and re-wax as follows:

- Classrooms, offices, and rooms - two coats of wax.
- Corridors - Three coats of wax.

These floors should be scrubbed with detergent – not stripped. Seal as recommended by flooring manufacturer and re-wax as indicated above.

2) Concrete Floors - Scrub using water and detergent.

3) Ceramic Floors - Scrub using water and detergent.

4) Wood Floors - Clean, screen and apply gym seal per manufacturer's recommendation. All gym seal to be approved by Custodial Services Department.

5) Carpeted Floors - Vacuum all carpets and clean by hotwater extraction.

6) Other Floors - Marble, terrazzo and rubber floors should be cleaned and refinished using appropriate procedures and finishes/sealers.

g. STAIRS: All stairs to be scrubbed with detergent including walls, handrails and ledges. Finish not to be applied to stairs unless necessary and approved by the District.

h. RESTROOMS: Thoroughly clean and disinfect all surfaces and fixtures. Remove all foreign objects from walls/ceilings and eliminate all graffiti. Specifications provided above for fixtures, walls and floors are applicable.

i. Remove debris and surface dust from limited access spaces, including roofs, plenums, shafts, trenches, equipment vaults, manholes, attics, and similar spaces.

j. Sweep concrete floors broom clean in unoccupied spaces.

k. Vacuum carpet and similar soft surfaces, removing debris and excess nap; shampoo if visible soil or stains remain.

l. Clean transparent materials, including mirrors and glass in doors and windows. Remove glazing compounds and other noticeable, vision-obscuring materials. Polish mirrors and glass, taking care not to scratch surfaces.

- m. Remove labels that are not permanent.
 - n. Wipe surfaces of mechanical and electrical equipment, elevator equipment, and similar equipment. Remove excess lubrication, paint and mortar droppings, and other foreign substances.
 - o. Clean plumbing fixtures to a sanitary condition, free of stains, including stains resulting from water exposure.
 - p. Clean exposed surfaces of diffusers, registers, and grills.
- C. Clean all light fixtures, lamps, globes, and reflectors to function with full efficiency. Final Inspection: Any surface still exhibiting dirt, graffiti or dust shall be re-cleaned/re-stripped/refinished until free of dirt, graffiti or dust.
- D. Comply with safety standards for cleaning. Do not burn waste materials. Do not bury debris or excess materials on District's property. Do not discharge volatile, harmful, or dangerous materials into drainage systems. Remove materials from project site and dispose of lawfully.

Building List for Deep Cleaning Services

LANEY COLLEGE

Group B

- Athletic Field House
- Athletic Field House Restrooms
- Building G - Gym & Locker Rooms
- Football Press Box
- Football Field Restrooms
- Children's Center

TOTAL LANEY COLLEGE- GROUP B	67,904
ATHLETIC FIELD HOUSE	
ATHLETIC FIELD RESTROOMS	
BUILDING G	
FOOTBALL PRESS BOX	
FOOTBALL FIELD RESTROOMS	
CHILDRENS CENTER	

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Services of this Agreement.

Date: _____

Name of Contractor: _____

Signature: _____

Print Name and Title: _____

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Services under this Agreement.)

END OF DOCUMENT

**INDEPENDENT CONTRACTOR AGREEMENT FOR NON-CONSTRUCTION SERVICES
DEEP CLEANING AND FLOOR WAXING SERVICES**

This Independent Contractor Agreement for Services ("Agreement") is made and entered into as of the 9th day of August 2021, by and between the Peralta Community College District, ("District") and Ray & Associates Cleaning Systems ("Contractor"), (together, "Parties").

WHEREAS, the District duly determined that it needs some or all of the deep cleaning and floor waxing services to be provided pursuant to this Agreement; and

WHEREAS, the Contractor is specially trained and experienced and competent to perform the services required by the District, and those services are needed on a limited basis.

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** Contractor shall provide deep cleaning and floor waxing services as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Contractor shall commence providing services under this Agreement on August 9, 2021 and will diligently perform as required and complete performance by August 19, 2021, unless this Agreement is terminated and/or otherwise cancelled prior to that time.
3. **Validity of Agreement.** This Agreement shall not be a valid contract until it is executed by both Parties, and approved or ratified by the District's Board of Trustees. Services shall not be rendered until Agreement is approved by the District's Board of Trustees. Should Contractor begin performing Services in advance of receiving notice that this Agreement is approved, any Services so performed in advance of the Board of Trustees approval date will be provided at the Contractor's risk.
4. **Submittal of Documents.** Contractor shall not commence the Services under this Agreement until Contractor has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<u> X </u>	Signed Agreement
<u> X </u>	Workers' Compensation Certification
<u> X </u>	Insurance Certificates and Endorsements
<u> X </u>	W-9 Form
<u> </u>	Other: _____

5. **Compensation.** District compensation to the Contractor shall not exceed Seventy-Six Thousand One Hundred Eighty Nine Dollars (\$76,189) inclusive of any costs or expenses paid or incurred by Contractor in performing the Services, without the express approval of the Board of Trustees. The Services shall be performed at the hourly billing rates included in **EXHIBIT "A"** and **EXHIBIT "B."** If hourly billing applies, the itemized invoice shall reflect the hours spent by Contractor in performing its Services pursuant to this Agreement. Payment shall be made for all undisputed amounts within thirty (30) days after the Contractor submits a detailed invoice to the District's Accounts Payable Department for Services actually performed. Invoices must reference corresponding Purchase Order number.
6. **Equipment and Materials.** Contractor shall furnish, at their own expense, all tools, labor, materials, equipment, supplies, transportation services, and any other items (collectively, "Equipment") necessary to complete the Services in a manner which is consistent with generally accepted standards of the profession for similar Services. Notwithstanding the

foregoing, District shall not be responsible for any damages to persons or property as a result of the use, misuse or failure of any Equipment used by Contractor or the Contractor's agents, personnel, employee(s), and/or subcontractor(s) ("Contractor Parties"), even if such Equipment is furnished, rented or loaned to Contractor or Contractor Parties by the District. All original curricular materials provided in conjunction with Contractor's Services must be authorized for use by the District only and remain exclusively the intellectual property of the authors.

7. **Independent Contractor.** The Parties agree that the Contractor is an independent contractor or business entity that is: (i) free from the control and direction of the District in connection with the performance of the Services, (ii) performing Services that are outside the usual course of the District's business, and (iii) customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the Services performed, District being interested only in the results obtained. Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided to employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor's employees.
8. **Certifications, Permits, and Licenses.** Contractor represents and warrants to District that Contractor and all of the Contractor Parties have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement.
9. **Standard of Care.** Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of the District. If any of the Services are performed by any of the Contractor Parties, such work shall only be performed by competent personnel under the supervision of and in the employment of Contractor. Contractor's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for Services to California school districts.
10. **Safety and Security.** Contractor is responsible for maintaining safety in the performance of this Agreement. Contractor shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
11. **Work Product.** Contractor understands and agrees that all matters produced under this Agreement shall become the property of the District and cannot be used without the District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District.
12. **Confidentiality.** The Contractor and all Contractor Parties shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
13. **Audit.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records,

and systems of account during the Term of this Agreement and for three (3) years thereafter. Contractor shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.

14. **Disputes.** In the event of a dispute between the parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Contractor agrees it will neither rescind the Agreement nor stop the performance of the Services, but will allow determination by the court of the State of California, in the county in which the District's administration office is located, having competent jurisdiction of the dispute. Disputes may be determined by mediation if mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Contractor shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Contractor's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Contractor submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.

15. **Termination.**

15.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Contractor only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by Contractor or no later than three (3) calendar days after the day of mailing, whichever is sooner.

15.2. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

15.2.1. material violation of this Agreement by Contractor; or

15.2.2. any act by Contractor exposing the District to liability to others for personal injury or property damage.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Contractor. If the expense, fees, and/or costs to the District exceed the cost of providing the service pursuant to this Agreement, Contractor shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's

notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

16. **Indemnification.** To the furthest extent permitted by California law, Contractor shall indemnify and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "Indemnified Parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Contractor. Contractor shall, to the furthest extent permitted by California law, defend the Indemnified Parties at Contractor's own expense, from any and all claim(s) and allegations relating thereto with counsel approved by District where such approval is not to be unreasonably withheld

17. **Insurance.**

17.1. Contractor shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	 \$ 2,000,000 \$ 1,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	\$ 1,000,000 \$ 1,000,000
Professional Liability	\$ 1,000,000
Workers' Compensation	Statutory Limits
Employers' Liability	\$ 1,000,000

17.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect Contractor, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

17.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, Contractor shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

17.1.3. **Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to Contractor's profession, coverage to continue through completion of construction plus two (2) years thereafter.

17.2. **Proof of Insurance.** Contractor shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

17.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

17.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

17.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.

17.2.4. All policies except the Professional Liability, Workers' Compensation, and Employers' Liability Insurance Policies shall be written on an occurrence form.

17.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District.

18. **Assignment.** The obligations of Contractor pursuant to this Agreement shall not be assigned by Contractor.

19. **Compliance with Laws; Effect of Noncompliance.** Contractor shall observe and comply with all rules and regulations of the Board of Trustees of the District and all federal, state, and local laws, ordinances and regulations. Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Contractor observes that any of the Services required by this Agreement are at variance with any laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

20. **Certificates/Permits/Licenses/Registration.** Contractor represents and warrants to District that Contractor and all of the Contractor's employees or agents have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement.

21. **Employment with Public Agency.** Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, other than vacation pay, as an

employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

- 22. **Anti-Discrimination.** Contractor herein agrees to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the California Government Code, commencing at section 12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246; and all administrative rules and regulations found to be applicable to Contractor and all of its subcontractors. In addition, Contractor agrees to require like compliance by all of its subcontractor(s).
- 23. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
- 24. **District's Evaluation of Contractor and Contractor's Employees and/or Subcontractors.** The District may evaluate Contractor in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:
 - 24.1. Requesting that District employee(s) evaluate Contractor and Contractor's employees and subcontractors and each of their performance.
 - 24.2. Announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s).
- 25. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
- 26. **Confidentiality.** Contractor and all Contractor's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Contractor understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
- 27. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission or electronic mail, addressed as follows:

District:

Peralta Community College District
Department of General Services
333 East 8th Street
Oakland, CA 94606
Fax: _____
Email: _____

Contractor:

[NAME]

_____, CA 9____
Fax: _____
Email: _____
ATTN: _____

Any notice personally given or sent by facsimile transmission or electronic mail shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) calendar days after deposit in the United States mail.

28. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
29. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.
30. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
31. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
32. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
33. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
34. **Attorney's Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
35. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
36. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
37. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
38. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

39. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: _____, 2021

Dated: _____, 2021

Peralta Community College District

By: _____

By: _____

Print Name: Jannett N. Jackson

Print Name: _____

Print Title: Interim Chancellor

Print Title: _____

Information regarding Contractor:

License No.: _____

Employer Identification and/or
Social Security Number

Registration No.: _____

Address: _____

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires Contractor to furnish the information requested in this section.

Telephone: _____

Facsimile: _____

E-Mail: _____

Type of Business Entity:

- ____ Individual
- ____ Sole Proprietorship
- ____ Partnership
- ____ Limited Partnership
- ____ Corporation, State: _____
- ____ Limited Liability Company
- ____ Other: _____

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONTRACTOR

DEEP CLEANING AND FLOOR WAXING SERVICES

DEEP CLEANING

- A. General: Provide deep cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and antipollution regulations.
- B. Cleaning: Employ professional cleaning service for final cleaning. Clean each surface or unit to condition expected in an average commercial building cleaning and maintenance program. Comply with manufacturer's written instructions.
 - 1. Complete the following cleaning operations before requesting inspection for validation of the cleaning efficacy:
 - a. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of stains, films, and similar foreign substances. Avoid disturbing natural weathering of exterior surfaces. Restore reflective surfaces to their original condition.
 - b. Horizontal surfaces: All horizontal surfaces must be dusted and/or washed until free of dust and grime.
 - c. Furnishings and equipment:
 - 1) Remove all gum and sticky substances from all surfaces. Wash all furniture and equipment with a neutral cleaner. Use specialized cleaner appropriate for wood and/or excessively dirty surfaces.
 - 2) Dust all machinery and equipment located in any shop area.
 - 3) Clean all marker/chalkboards and rails by washing with water and/or cleaner.
 - 4) Clean exterior of all locked lockers and interior of unlocked ones.
 - 5) Graffiti must be removed from all furnishings and equipment.
 - d. Walls: Wash all wall surfaces with detergent and water. Remove all graffiti. All restroom walls should be washed with a disinfectant cleaner.
 - e. Doors: Wash all doors, frames and hardware.
 - f. Floors:

1) Resilient Floors (except linoleum flooring) – Clean and refinish flooring, using appropriate procedures and finishes/sealers. Strip existing wax from all existing resilient flooring (using appropriate safety measures as recommended by the E.P.A. for any tile containing asbestos) and re-wax as follows:

- Classrooms, offices, and rooms - two coats of wax.
- Corridors - Three coats of wax.

These floors should be scrubbed with detergent – not stripped. Seal as recommended by flooring manufacturer and re-wax as indicated above.

2) Concrete Floors - Scrub using water and detergent.

3) Ceramic Floors - Scrub using water and detergent.

4) Wood Floors - Clean, screen and apply gym seal per manufacturer's recommendation. All gym seal to be approved by Custodial Services Department.

5) Carpeted Floors - Vacuum all carpets and clean by hotwater extraction.

6) Other Floors - Marble, terrazzo and rubber floors should be cleaned and refinished using appropriate procedures and finishes/sealers.

g. STAIRS: All stairs to be scrubbed with detergent including walls, handrails and ledges. Finish not to be applied to stairs unless necessary and approved by the District.

h. RESTROOMS: Thoroughly clean and disinfect all surfaces and fixtures. Remove all foreign objects from walls/ceilings and eliminate all graffiti. Specifications provided above for fixtures, walls and floors are applicable.

i. Remove debris and surface dust from limited access spaces, including roofs, plenums, shafts, trenches, equipment vaults, manholes, attics, and similar spaces.

j. Sweep concrete floors broom clean in unoccupied spaces.

k. Vacuum carpet and similar soft surfaces, removing debris and excess nap; shampoo if visible soil or stains remain.

l. Clean transparent materials, including mirrors and glass in doors and windows. Remove glazing compounds and other noticeable, vision-obscuring materials. Polish mirrors and glass, taking care not to scratch surfaces.

- m. Remove labels that are not permanent.
 - n. Wipe surfaces of mechanical and electrical equipment, elevator equipment, and similar equipment. Remove excess lubrication, paint and mortar droppings, and other foreign substances.
 - o. Clean plumbing fixtures to a sanitary condition, free of stains, including stains resulting from water exposure.
 - p. Clean exposed surfaces of diffusers, registers, and grills.
- C. Clean all light fixtures, lamps, globes, and reflectors to function with full efficiency. Final Inspection: Any surface still exhibiting dirt, graffiti or dust shall be re-cleaned/re-stripped/refinished until free of dirt, graffiti or dust.
- D. Comply with safety standards for cleaning. Do not burn waste materials. Do not bury debris or excess materials on District's property. Do not discharge volatile, harmful, or dangerous materials into drainage systems. Remove materials from project site and dispose of lawfully.

Building List for Deep Cleaning Services

COLLEGE OF ALAMEDA

- Administration- Med-Dental Bldg. A
- Auto Shop Bldg. B
- General Classrooms Building D
- Gym Building G
- Aviation Aero Tech Bldgs. A, B, and C
- 860 Atlantic Ave

TOTAL SF COLLEGE OF ALAMEDA	152,378
ADMIN-MED-DENTAL - A	
AUTO SHOP - B	
CLASSROOM - D	
GYM - G	
AERO TECH BLDG A	
AERO TECH BLDG B	
AERO TECH SHED C	
860 ATLANTIC - COA	

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.

- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Services of this Agreement.

Date: _____

Name of Contractor: _____

Signature: _____

Print Name and Title: _____

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Services under this Agreement.)

END OF DOCUMENT

**INDEPENDENT CONTRACTOR AGREEMENT FOR NON-CONSTRUCTION SERVICES
DEEP CLEANING AND FLOOR WAXING SERVICES**

This Independent Contractor Agreement for Services ("Agreement") is made and entered into as of the 9th day of August 2021, by and between the Peralta Community College District, ("District") and Ray & Associates Cleaning Systems ("Contractor"), (together, "Parties").

WHEREAS, the District duly determined that it needs some or all of the deep cleaning and floor waxing services to be provided pursuant to this Agreement; and

WHEREAS, the Contractor is specially trained and experienced and competent to perform the services required by the District, and those services are needed on a limited basis.

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** Contractor shall provide deep cleaning and floor waxing services as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Contractor shall commence providing services under this Agreement on August 9, 2021 and will diligently perform as required and complete performance by August 19, 2021, unless this Agreement is terminated and/or otherwise cancelled prior to that time.
3. **Validity of Agreement.** This Agreement shall not be a valid contract until it is executed by both Parties, and approved or ratified by the District's Board of Trustees. Services shall not be rendered until Agreement is approved by the District's Board of Trustees. Should Contractor begin performing Services in advance of receiving notice that this Agreement is approved, any Services so performed in advance of the Board of Trustees approval date will be provided at the Contractor's risk.
4. **Submittal of Documents.** Contractor shall not commence the Services under this Agreement until Contractor has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<u> X </u>	Signed Agreement
<u> X </u>	Workers' Compensation Certification
<u> X </u>	Insurance Certificates and Endorsements
<u> X </u>	W-9 Form
<u> </u>	Other: _____

5. **Compensation.** District compensation to the Contractor shall not exceed Ninety-Five Thousand, Seven Hundred Twenty-Six Dollars (\$95,726), inclusive of any costs or expenses paid or incurred by Contractor in performing the Services, without the express approval of the Board of Trustees. The Services shall be performed at the hourly billing rates included in **EXHIBIT "A"** and **EXHIBIT "B."** If hourly billing applies, the itemized invoice shall reflect the hours spent by Contractor in performing its Services pursuant to this Agreement. Payment shall be made for all undisputed amounts within thirty (30) days after the Contractor submits a detailed invoice to the District's Accounts Payable Department for Services actually performed. Invoices must reference corresponding Purchase Order number.
6. **Equipment and Materials.** Contractor shall furnish, at their own expense, all tools, labor, materials, equipment, supplies, transportation services, and any other items (collectively, "Equipment") necessary to complete the Services in a manner which is consistent with generally accepted standards of the profession for similar Services. Notwithstanding the

foregoing, District shall not be responsible for any damages to persons or property as a result of the use, misuse or failure of any Equipment used by Contractor or the Contractor's agents, personnel, employee(s), and/or subcontractor(s) ("Contractor Parties"), even if such Equipment is furnished, rented or loaned to Contractor or Contractor Parties by the District. All original curricular materials provided in conjunction with Contractor's Services must be authorized for use by the District only and remain exclusively the intellectual property of the authors.

7. **Independent Contractor.** The Parties agree that the Contractor is an independent contractor or business entity that is: (i) free from the control and direction of the District in connection with the performance of the Services, (ii) performing Services that are outside the usual course of the District's business, and (iii) customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the Services performed, District being interested only in the results obtained. Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided to employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor's employees.
8. **Certifications, Permits, and Licenses.** Contractor represents and warrants to District that Contractor and all of the Contractor Parties have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement.
9. **Standard of Care.** Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of the District. If any of the Services are performed by any of the Contractor Parties, such work shall only be performed by competent personnel under the supervision of and in the employment of Contractor. Contractor's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for Services to California school districts.
10. **Safety and Security.** Contractor is responsible for maintaining safety in the performance of this Agreement. Contractor shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
11. **Work Product.** Contractor understands and agrees that all matters produced under this Agreement shall become the property of the District and cannot be used without the District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District.
12. **Confidentiality.** The Contractor and all Contractor Parties shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
13. **Audit.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records,

and systems of account during the Term of this Agreement and for three (3) years thereafter. Contractor shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.

14. **Disputes.** In the event of a dispute between the parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Contractor agrees it will neither rescind the Agreement nor stop the performance of the Services, but will allow determination by the court of the State of California, in the county in which the District's administration office is located, having competent jurisdiction of the dispute. Disputes may be determined by mediation if mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Contractor shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Contractor's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Contractor submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.

15. **Termination.**

15.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Contractor only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by Contractor or no later than three (3) calendar days after the day of mailing, whichever is sooner.

15.2. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

15.2.1. material violation of this Agreement by Contractor; or

15.2.2. any act by Contractor exposing the District to liability to others for personal injury or property damage.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Contractor. If the expense, fees, and/or costs to the District exceed the cost of providing the service pursuant to this Agreement, Contractor shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's

notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

16. **Indemnification.** To the furthest extent permitted by California law, Contractor shall indemnify and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "Indemnified Parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Contractor. Contractor shall, to the furthest extent permitted by California law, defend the Indemnified Parties at Contractor's own expense, from any and all claim(s) and allegations relating thereto with counsel approved by District where such approval is not to be unreasonably withheld

17. **Insurance.**

17.1. Contractor shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	\$ 2,000,000 \$ 1,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	\$ 1,000,000 \$ 1,000,000
Professional Liability	\$ 1,000,000
Workers' Compensation	Statutory Limits
Employers' Liability	\$ 1,000,000

17.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect Contractor, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

17.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, Contractor shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

17.1.3. **Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to Contractor's profession, coverage to continue through completion of construction plus two (2) years thereafter.

17.2. **Proof of Insurance.** Contractor shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

17.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

17.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

17.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.

17.2.4. All policies except the Professional Liability, Workers' Compensation, and Employers' Liability Insurance Policies shall be written on an occurrence form.

17.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District.

18. **Assignment.** The obligations of Contractor pursuant to this Agreement shall not be assigned by Contractor.

19. **Compliance with Laws; Effect of Noncompliance.** Contractor shall observe and comply with all rules and regulations of the Board of Trustees of the District and all federal, state, and local laws, ordinances and regulations. Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Contractor observes that any of the Services required by this Agreement are at variance with any laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

20. **Certificates/Permits/Licenses/Registration.** Contractor represents and warrants to District that Contractor and all of the Contractor's employees or agents have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement.

21. **Employment with Public Agency.** Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, other than vacation pay, as an

employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

- 22. **Anti-Discrimination.** Contractor herein agrees to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the California Government Code, commencing at section 12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246; and all administrative rules and regulations found to be applicable to Contractor and all of its subcontractors. In addition, Contractor agrees to require like compliance by all of its subcontractor(s).
- 23. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
- 24. **District's Evaluation of Contractor and Contractor's Employees and/or Subcontractors.** The District may evaluate Contractor in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:
 - 24.1. Requesting that District employee(s) evaluate Contractor and Contractor's employees and subcontractors and each of their performance.
 - 24.2. Announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s).
- 25. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
- 26. **Confidentiality.** Contractor and all Contractor's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Contractor understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
- 27. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission or electronic mail, addressed as follows:

District:

Peralta Community College District
Department of General Services
333 East 8th Street
Oakland, CA 94606
Fax: _____
Email: _____

Contractor:

[NAME]

_____, CA 9____
Fax: _____
Email: _____
ATTN: _____

Any notice personally given or sent by facsimile transmission or electronic mail shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) calendar days after deposit in the United States mail.

28. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
29. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.
30. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
31. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
32. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
33. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
34. **Attorney's Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
35. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
36. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
37. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
38. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

39. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: _____, 2021

Dated: _____, 2021

Peralta Community College District

By: _____

By: _____

Print Name: Jannett N. Jackson

Print Name: _____

Print Title: Interim Chancellor

Print Title: _____

Information regarding Contractor:

License No.: _____

Employer Identification and/or
Social Security Number

Registration No.: _____

Address: _____

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires Contractor to furnish the information requested in this section.

Telephone: _____

Facsimile: _____

E-Mail: _____

Type of Business Entity:

____ Individual

____ Sole Proprietorship

____ Partnership

____ Limited Partnership

____ Corporation, State: _____

____ Limited Liability Company

____ Other: _____

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONTRACTOR

DEEP CLEANING AND FLOOR WAXING SERVICES

DEEP CLEANING

- A. General: Provide deep cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and antipollution regulations.
- B. Cleaning: Employ professional cleaning service for final cleaning. Clean each surface or unit to condition expected in an average commercial building cleaning and maintenance program. Comply with manufacturer's written instructions.
 - 1. Complete the following cleaning operations before requesting inspection for validation of the cleaning efficacy:
 - a. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of stains, films, and similar foreign substances. Avoid disturbing natural weathering of exterior surfaces. Restore reflective surfaces to their original condition.
 - b. Horizontal surfaces: All horizontal surfaces must be dusted and/or washed until free of dust and grime.
 - c. Furnishings and equipment:
 - 1) Remove all gum and sticky substances from all surfaces. Wash all furniture and equipment with a neutral cleaner. Use specialized cleaner appropriate for wood and/or excessively dirty surfaces.
 - 2) Dust all machinery and equipment located in any shop area.
 - 3) Clean all marker/chalkboards and rails by washing with water and/or cleaner.
 - 4) Clean exterior of all locked lockers and interior of unlocked ones.
 - 5) Graffiti must be removed from all furnishings and equipment.
 - d. Walls: Wash all wall surfaces with detergent and water. Remove all graffiti. All restroom walls should be washed with a disinfectant cleaner.
 - e. Doors: Wash all doors, frames and hardware.
 - f. Floors:

1) Resilient Floors (except linoleum flooring) – Clean and refinish flooring, using appropriate procedures and finishes/sealers. Strip existing wax from all existing resilient flooring (using appropriate safety measures as recommended by the E.P.A. for any tile containing asbestos) and re-wax as follows:

- Classrooms, offices, and rooms - two coats of wax.
- Corridors - Three coats of wax.

These floors should be scrubbed with detergent – not stripped. Seal as recommended by flooring manufacturer and re-wax as indicated above.

2) Concrete Floors - Scrub using water and detergent.

3) Ceramic Floors - Scrub using water and detergent.

4) Wood Floors - Clean, screen and apply gym seal per manufacturer's recommendation. All gym seal to be approved by Custodial Services Department.

5) Carpeted Floors - Vacuum all carpets and clean by hotwater extraction.

6) Other Floors - Marble, terrazzo and rubber floors should be cleaned and refinished using appropriate procedures and finishes/sealers.

g. STAIRS: All stairs to be scrubbed with detergent including walls, handrails and ledges. Finish not to be applied to stairs unless necessary and approved by the District.

h. RESTROOMS: Thoroughly clean and disinfect all surfaces and fixtures. Remove all foreign objects from walls/ceilings and eliminate all graffiti. Specifications provided above for fixtures, walls and floors are applicable.

i. Remove debris and surface dust from limited access spaces, including roofs, plenums, shafts, trenches, equipment vaults, manholes, attics, and similar spaces.

j. Sweep concrete floors broom clean in unoccupied spaces.

k. Vacuum carpet and similar soft surfaces, removing debris and excess nap; shampoo if visible soil or stains remain.

l. Clean transparent materials, including mirrors and glass in doors and windows. Remove glazing compounds and other noticeable, vision-obscuring materials. Polish mirrors and glass, taking care not to scratch surfaces.

- m. Remove labels that are not permanent.
 - n. Wipe surfaces of mechanical and electrical equipment, elevator equipment, and similar equipment. Remove excess lubrication, paint and mortar droppings, and other foreign substances.
 - o. Clean plumbing fixtures to a sanitary condition, free of stains, including stains resulting from water exposure.
 - p. Clean exposed surfaces of diffusers, registers, and grills.
- C. Clean all light fixtures, lamps, globes, and reflectors to function with full efficiency. Final Inspection: Any surface still exhibiting dirt, graffiti or dust shall be re-cleaned/re-stripped/refinished until free of dirt, graffiti or dust.
- D. Comply with safety standards for cleaning. Do not burn waste materials. Do not bury debris or excess materials on District's property. Do not discharge volatile, harmful, or dangerous materials into drainage systems. Remove materials from project site and dispose of lawfully.

Building List for Deep Cleaning Services

MERRITT COLLEGE

- Building A
- Building D
- Building R
- Building S

TOTAL SF MERRITT COLLEGE	191,452
BUILDING A	
BUILDING D	
CAMPUS CENTER R	
SCIENCE/ALLIED HEALTH	

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.

- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Services of this Agreement.

Date: _____

Name of Contractor: _____

Signature: _____

Print Name and Title: _____

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Services under this Agreement.)

END OF DOCUMENT

**INDEPENDENT CONTRACTOR AGREEMENT FOR NON-CONSTRUCTION SERVICES
DEEP CLEANING AND FLOOR WAXING SERVICES**

This Independent Contractor Agreement for Services ("Agreement") is made and entered into as of the 9th day of August 2021, by and between the Peralta Community College District, ("District") and Ray & Associates Cleaning Systems ("Contractor"), (together, "Parties").

WHEREAS, the District duly determined that it needs some or all of the deep cleaning and floor waxing services to be provided pursuant to this Agreement; and

WHEREAS, the Contractor is specially trained and experienced and competent to perform the services required by the District, and those services are needed on a limited basis.

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** Contractor shall provide deep cleaning and floor waxing services as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Contractor shall commence providing services under this Agreement on August 9, 2021 and will diligently perform as required and complete performance by August 19, 2021, unless this Agreement is terminated and/or otherwise cancelled prior to that time.
3. **Validity of Agreement.** This Agreement shall not be a valid contract until it is executed by both Parties, and approved or ratified by the District's Board of Trustees. Services shall not be rendered until Agreement is approved by the District's Board of Trustees. Should Contractor begin performing Services in advance of receiving notice that this Agreement is approved, any Services so performed in advance of the Board of Trustees approval date will be provided at the Contractor's risk.
4. **Submittal of Documents.** Contractor shall not commence the Services under this Agreement until Contractor has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<u> X </u>	Signed Agreement
<u> X </u>	Workers' Compensation Certification
<u> X </u>	Insurance Certificates and Endorsements
<u> X </u>	W-9 Form
<u> </u>	Other: _____

5. **Compensation.** District compensation to the Contractor shall not exceed Forty-Five Thousand and Two-Hundred Twenty-Three Dollars and Fifty Cents (\$45,223.50), inclusive of any costs or expenses paid or incurred by Contractor in performing the Services, without the express approval of the Board of Trustees. The Services shall be performed at the hourly billing rates included in **EXHIBIT "A"** and **EXHIBIT "B."** If hourly billing applies, the itemized invoice shall reflect the hours spent by Contractor in performing its Services pursuant to this Agreement. Payment shall be made for all undisputed amounts within thirty (30) days after the Contractor submits a detailed invoice to the District's Accounts Payable Department for Services actually performed. Invoices must reference corresponding Purchase Order number.
6. **Equipment and Materials.** Contractor shall furnish, at their own expense, all tools, labor, materials, equipment, supplies, transportation services, and any other items (collectively, "Equipment") necessary to complete the Services in a manner which is consistent with

generally accepted standards of the profession for similar Services. Notwithstanding the foregoing, District shall not be responsible for any damages to persons or property as a result of the use, misuse or failure of any Equipment used by Contractor or the Contractor's agents, personnel, employee(s), and/or subcontractor(s) ("Contractor Parties"), even if such Equipment is furnished, rented or loaned to Contractor or Contractor Parties by the District. All original curricular materials provided in conjunction with Contractor's Services must be authorized for use by the District only and remain exclusively the intellectual property of the authors.

7. **Independent Contractor.** The Parties agree that the Contractor is an independent contractor or business entity that is: (i) free from the control and direction of the District in connection with the performance of the Services, (ii) performing Services that are outside the usual course of the District's business, and (iii) customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the Services performed, District being interested only in the results obtained. Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided to employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor's employees.
8. **Certifications, Permits, and Licenses.** Contractor represents and warrants to District that Contractor and all of the Contractor Parties have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement.
9. **Standard of Care.** Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of the District. If any of the Services are performed by any of the Contractor Parties, such work shall only be performed by competent personnel under the supervision of and in the employment of Contractor. Contractor's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for Services to California school districts.
10. **Safety and Security.** Contractor is responsible for maintaining safety in the performance of this Agreement. Contractor shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
11. **Work Product.** Contractor understands and agrees that all matters produced under this Agreement shall become the property of the District and cannot be used without the District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District.
12. **Confidentiality.** The Contractor and all Contractor Parties shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
13. **Audit.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of

Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Contractor shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.

14. **Disputes.** In the event of a dispute between the parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Contractor agrees it will neither rescind the Agreement nor stop the performance of the Services, but will allow determination by the court of the State of California, in the county in which the District's administration office is located, having competent jurisdiction of the dispute. Disputes may be determined by mediation if mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Contractor shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Contractor's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Contractor submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.

15. **Termination.**

15.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Contractor only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by Contractor or no later than three (3) calendar days after the day of mailing, whichever is sooner.

15.2. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

15.2.1. material violation of this Agreement by Contractor; or

15.2.2. any act by Contractor exposing the District to liability to others for personal injury or property damage.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Contractor. If the expense, fees, and/or costs to the District exceed the cost of providing the service pursuant to this Agreement, Contractor shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's

notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

16. **Indemnification.** To the furthest extent permitted by California law, Contractor shall indemnify and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "Indemnified Parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Contractor. Contractor shall, to the furthest extent permitted by California law, defend the Indemnified Parties at Contractor's own expense, from any and all claim(s) and allegations relating thereto with counsel approved by District where such approval is not to be unreasonably withheld

17. **Insurance.**

17.1. Contractor shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	 \$ 2,000,000 \$ 1,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	 \$ 1,000,000 \$ 1,000,000
Professional Liability	\$ 1,000,000
Workers' Compensation	Statutory Limits
Employers' Liability	\$ 1,000,000

17.1.1. **Commercial General Liability and Automobile Liability Insurance.**

Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect Contractor, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

17.1.2. **Workers' Compensation and Employers' Liability Insurance.**

Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, Contractor shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

17.1.3. **Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to Contractor's profession, coverage to continue through completion of construction plus two (2) years thereafter.

17.2. **Proof of Insurance.** Contractor shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

17.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

17.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

17.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.

17.2.4. All policies except the Professional Liability, Workers' Compensation, and Employers' Liability Insurance Policies shall be written on an occurrence form.

17.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District.

18. **Assignment.** The obligations of Contractor pursuant to this Agreement shall not be assigned by Contractor.

19. **Compliance with Laws; Effect of Noncompliance.** Contractor shall observe and comply with all rules and regulations of the Board of Trustees of the District and all federal, state, and local laws, ordinances and regulations. Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Contractor observes that any of the Services required by this Agreement are at variance with any laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

20. **Certificates/Permits/Licenses/Registration.** Contractor represents and warrants to District that Contractor and all of the Contractor's employees or agents have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement.

21. **Employment with Public Agency.** Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, other than vacation pay, as an

employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

- 22. **Anti-Discrimination.** Contractor herein agrees to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the California Government Code, commencing at section 12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246; and all administrative rules and regulations found to be applicable to Contractor and all of its subcontractors. In addition, Contractor agrees to require like compliance by all of its subcontractor(s).
- 23. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
- 24. **District's Evaluation of Contractor and Contractor's Employees and/or Subcontractors.** The District may evaluate Contractor in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:
 - 24.1. Requesting that District employee(s) evaluate Contractor and Contractor's employees and subcontractors and each of their performance.
 - 24.2. Announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s).
- 25. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
- 26. **Confidentiality.** Contractor and all Contractor's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Contractor understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
- 27. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission or electronic mail, addressed as follows:

District:

Peralta Community College District
Department of General Services
333 East 8th Street
Oakland, CA 94606
Fax: _____
Email: _____

Contractor:

[NAME]

_____, CA 9____
Fax: _____
Email: _____
ATTN: _____

Any notice personally given or sent by facsimile transmission or electronic mail shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) calendar days after deposit in the United States mail.

28. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
29. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.
30. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
31. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
32. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
33. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
34. **Attorney's Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
35. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
36. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
37. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
38. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

39. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: _____, 2021

Dated: _____, 2021

Peralta Community College District

By: _____

By: _____

Print Name: Jannett N. Jackson

Print Name: _____

Print Title: Interim Chancellor

Print Title: _____

Information regarding Contractor:

License No.: _____

Employer Identification and/or
Social Security Number

Registration No.: _____

Address: _____

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires Contractor to furnish the information requested in this section.

Telephone: _____

Facsimile: _____

E-Mail: _____

Type of Business Entity:

____ Individual

____ Sole Proprietorship

____ Partnership

____ Limited Partnership

____ Corporation, State: _____

____ Limited Liability Company

____ Other: _____

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONTRACTOR

DEEP CLEANING AND FLOOR WAXING SERVICES

DEEP CLEANING

- A. General: Provide deep cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and antipollution regulations.
- B. Cleaning: Employ professional cleaning service for final cleaning. Clean each surface or unit to condition expected in an average commercial building cleaning and maintenance program. Comply with manufacturer's written instructions.
 - 1. Complete the following cleaning operations before requesting inspection for validation of the cleaning efficacy:
 - a. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of stains, films, and similar foreign substances. Avoid disturbing natural weathering of exterior surfaces. Restore reflective surfaces to their original condition.
 - b. Horizontal surfaces: All horizontal surfaces must be dusted and/or washed until free of dust and grime.
 - c. Furnishings and equipment:
 - 1) Remove all gum and sticky substances from all surfaces. Wash all furniture and equipment with a neutral cleaner. Use specialized cleaner appropriate for wood and/or excessively dirty surfaces.
 - 2) Dust all machinery and equipment located in any shop area.
 - 3) Clean all marker/chalkboards and rails by washing with water and/or cleaner.
 - 4) Clean exterior of all locked lockers and interior of unlocked ones.
 - 5) Graffiti must be removed from all furnishings and equipment.
 - d. Walls: Wash all wall surfaces with detergent and water. Remove all graffiti. All restroom walls should be washed with a disinfectant cleaner.
 - e. Doors: Wash all doors, frames and hardware.
 - f. Floors:

1) Resilient Floors (except linoleum flooring) – Clean and refinish flooring, using appropriate procedures and finishes/sealers. Strip existing wax from all existing resilient flooring (using appropriate safety measures as recommended by the E.P.A. for any tile containing asbestos) and re-wax as follows:

- Classrooms, offices, and rooms - two coats of wax.
- Corridors - Three coats of wax.

These floors should be scrubbed with detergent – not stripped. Seal as recommended by flooring manufacturer and re-wax as indicated above.

2) Concrete Floors - Scrub using water and detergent.

3) Ceramic Floors - Scrub using water and detergent.

4) Wood Floors - Clean, screen and apply gym seal per manufacturer's recommendation. All gym seal to be approved by Custodial Services Department.

5) Carpeted Floors - Vacuum all carpets and clean by hotwater extraction.

6) Other Floors - Marble, terrazzo and rubber floors should be cleaned and refinished using appropriate procedures and finishes/sealers.

g. STAIRS: All stairs to be scrubbed with detergent including walls, handrails and ledges. Finish not to be applied to stairs unless necessary and approved by the District.

h. RESTROOMS: Thoroughly clean and disinfect all surfaces and fixtures. Remove all foreign objects from walls/ceilings and eliminate all graffiti. Specifications provided above for fixtures, walls and floors are applicable.

i. Remove debris and surface dust from limited access spaces, including roofs, plenums, shafts, trenches, equipment vaults, manholes, attics, and similar spaces.

j. Sweep concrete floors broom clean in unoccupied spaces.

k. Vacuum carpet and similar soft surfaces, removing debris and excess nap; shampoo if visible soil or stains remain.

l. Clean transparent materials, including mirrors and glass in doors and windows. Remove glazing compounds and other noticeable, vision-obscuring materials. Polish mirrors and glass, taking care not to scratch surfaces.

- m. Remove labels that are not permanent.
 - n. Wipe surfaces of mechanical and electrical equipment, elevator equipment, and similar equipment. Remove excess lubrication, paint and mortar droppings, and other foreign substances.
 - o. Clean plumbing fixtures to a sanitary condition, free of stains, including stains resulting from water exposure.
 - p. Clean exposed surfaces of diffusers, registers, and grills.
- C. Clean all light fixtures, lamps, globes, and reflectors to function with full efficiency. Final Inspection: Any surface still exhibiting dirt, graffiti or dust shall be re-cleaned/re-stripped/refinished until free of dirt, graffiti or dust.
- D. Comply with safety standards for cleaning. Do not burn waste materials. Do not bury debris or excess materials on District's property. Do not discharge volatile, harmful, or dangerous materials into drainage systems. Remove materials from project site and dispose of lawfully.

Building List for Deep Cleaning Services

BERKELEY CITY COLLEGE

- BCC Campus (five story single building)

TOTAL SF BERKELEY CITY COLLEGE	90,447
Single Building	

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.

- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Services of this Agreement.

Date: _____

Name of Contractor: _____

Signature: _____

Print Name and Title: _____

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Services under this Agreement.)

END OF DOCUMENT

**INDEPENDENT CONTRACTOR AGREEMENT FOR NON-CONSTRUCTION SERVICES
DEEP CLEANING AND FLOOR WAXING SERVICES**

This Independent Contractor Agreement for Services ("Agreement") is made and entered into as of the 9th day of August 2021, by and between the Peralta Community College District, ("District") and Ray & Associates Cleaning Systems ("Contractor"), (together, "Parties").

WHEREAS, the District duly determined that it needs some or all of the deep cleaning and floor waxing services to be provided pursuant to this Agreement; and

WHEREAS, the Contractor is specially trained and experienced and competent to perform the services required by the District, and those services are needed on a limited basis.

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** Contractor shall provide deep cleaning and floor waxing services as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Contractor shall commence providing services under this Agreement on August 9, 2021 and will diligently perform as required and complete performance by August 19, 2021, unless this Agreement is terminated and/or otherwise cancelled prior to that time.
3. **Validity of Agreement.** This Agreement shall not be a valid contract until it is executed by both Parties, and approved or ratified by the District's Board of Trustees. Services shall not be rendered until Agreement is approved by the District's Board of Trustees. Should Contractor begin performing Services in advance of receiving notice that this Agreement is approved, any Services so performed in advance of the Board of Trustees approval date will be provided at the Contractor's risk.
4. **Submittal of Documents.** Contractor shall not commence the Services under this Agreement until Contractor has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<u> X </u>	Signed Agreement
<u> X </u>	Workers' Compensation Certification
<u> X </u>	Insurance Certificates and Endorsements
<u> X </u>	W-9 Form
<u> </u>	Other: _____

5. **Compensation.** District compensation to the Contractor shall not exceed Twenty Thousand, Seven Hundred Eighty Nine Dollars (\$20,789), inclusive of any costs or expenses paid or incurred by Contractor in performing the Services, without the express approval of the Board of Trustees. The Services shall be performed at the hourly billing rates included in **EXHIBIT "A"** and **EXHIBIT "B."** If hourly billing applies, the itemized invoice shall reflect the hours spent by Contractor in performing its Services pursuant to this Agreement. Payment shall be made for all undisputed amounts within thirty (30) days after the Contractor submits a detailed invoice to the District's Accounts Payable Department for Services actually performed. Invoices must reference corresponding Purchase Order number.
6. **Equipment and Materials.** Contractor shall furnish, at their own expense, all tools, labor, materials, equipment, supplies, transportation services, and any other items (collectively, "Equipment") necessary to complete the Services in a manner which is consistent with generally accepted standards of the profession for similar Services. Notwithstanding the

foregoing, District shall not be responsible for any damages to persons or property as a result of the use, misuse or failure of any Equipment used by Contractor or the Contractor's agents, personnel, employee(s), and/or subcontractor(s) ("Contractor Parties"), even if such Equipment is furnished, rented or loaned to Contractor or Contractor Parties by the District. All original curricular materials provided in conjunction with Contractor's Services must be authorized for use by the District only and remain exclusively the intellectual property of the authors.

7. **Independent Contractor.** The Parties agree that the Contractor is an independent contractor or business entity that is: (i) free from the control and direction of the District in connection with the performance of the Services, (ii) performing Services that are outside the usual course of the District's business, and (iii) customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the Services performed, District being interested only in the results obtained. Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided to employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor's employees.
8. **Certifications, Permits, and Licenses.** Contractor represents and warrants to District that Contractor and all of the Contractor Parties have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement.
9. **Standard of Care.** Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of the District. If any of the Services are performed by any of the Contractor Parties, such work shall only be performed by competent personnel under the supervision of and in the employment of Contractor. Contractor's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for Services to California school districts.
10. **Safety and Security.** Contractor is responsible for maintaining safety in the performance of this Agreement. Contractor shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
11. **Work Product.** Contractor understands and agrees that all matters produced under this Agreement shall become the property of the District and cannot be used without the District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District.
12. **Confidentiality.** The Contractor and all Contractor Parties shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
13. **Audit.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter.

Contractor shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.

14. **Disputes.** In the event of a dispute between the parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Contractor agrees it will neither rescind the Agreement nor stop the performance of the Services, but will allow determination by the court of the State of California, in the county in which the District's administration office is located, having competent jurisdiction of the dispute. Disputes may be determined by mediation if mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Contractor shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Contractor's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Contractor submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.

15. **Termination.**

15.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Contractor only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by Contractor or no later than three (3) calendar days after the day of mailing, whichever is sooner.

15.2. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

15.2.1. material violation of this Agreement by Contractor; or

15.2.2. any act by Contractor exposing the District to liability to others for personal injury or property damage.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Contractor. If the expense, fees, and/or costs to the District exceed the cost of providing the service pursuant to this Agreement, Contractor shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

16. **Indemnification.** To the furthest extent permitted by California law, Contractor shall indemnify and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "Indemnified Parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Contractor. Contractor shall, to the furthest extent permitted by California law, defend the Indemnified Parties at Contractor's own expense, from any and all claim(s) and allegations relating thereto with counsel approved by District where such approval is not to be unreasonably withheld

17. **Insurance.**

17.1. Contractor shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	 \$ 2,000,000 \$ 1,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	 \$ 1,000,000 \$ 1,000,000
Professional Liability	\$ 1,000,000
Workers' Compensation	Statutory Limits
Employers' Liability	\$ 1,000,000

17.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect Contractor, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

17.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, Contractor shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

17.1.3. **Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to Contractor's profession, coverage to continue through completion of construction plus two (2) years thereafter.

17.2. **Proof of Insurance.** Contractor shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the

required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

17.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

17.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

17.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.

17.2.4. All policies except the Professional Liability, Workers' Compensation, and Employers' Liability Insurance Policies shall be written on an occurrence form.

17.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District.

18. **Assignment.** The obligations of Contractor pursuant to this Agreement shall not be assigned by Contractor.

19. **Compliance with Laws; Effect of Noncompliance.** Contractor shall observe and comply with all rules and regulations of the Board of Trustees of the District and all federal, state, and local laws, ordinances and regulations. Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Contractor observes that any of the Services required by this Agreement are at variance with any laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

20. **Certificates/Permits/Licenses/Registration.** Contractor represents and warrants to District that Contractor and all of the Contractor's employees or agents have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement.

21. **Employment with Public Agency.** Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

22. **Anti-Discrimination.** Contractor herein agrees to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the

California Government Code, commencing at section 12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246; and all administrative rules and regulations found to be applicable to Contractor and all of its subcontractors. In addition, Contractor agrees to require like compliance by all of its subcontractor(s).

- 23. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
- 24. **District's Evaluation of Contractor and Contractor's Employees and/or Subcontractors.** The District may evaluate Contractor in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:
 - 24.1. Requesting that District employee(s) evaluate Contractor and Contractor's employees and subcontractors and each of their performance.
 - 24.2. Announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s).
- 25. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
- 26. **Confidentiality.** Contractor and all Contractor's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Contractor understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
- 27. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission or electronic mail, addressed as follows:

District:

Peralta Community College District
Department of General Services
333 East 8th Street
Oakland, CA 94606
Fax: _____
Email: _____

Contractor:

[NAME]

_____, CA 9____
Fax: _____
Email: _____
ATTN: _____

Any notice personally given or sent by facsimile transmission or electronic mail shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) calendar days after deposit in the United States mail.

28. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
29. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.
30. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
31. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
32. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
33. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
34. **Attorney's Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
35. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
36. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
37. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
38. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
39. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: _____, 2021

Dated: _____, 2021

Peralta Community College District

By: _____

By: _____

Print Name: Jannett N. Jackson

Print Name: _____

Print Title: Interim Chancellor

Print Title: _____

Information regarding Contractor:

License No.: _____

Employer Identification and/or
Social Security Number

Registration No.: _____

Address: _____

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires Contractor to furnish the information requested in this section.

Telephone: _____

Facsimile: _____

E-Mail: _____

Type of Business Entity:

- ____ Individual
- ____ Sole Proprietorship
- ____ Partnership
- ____ Limited Partnership
- ____ Corporation, State: _____
- ____ Limited Liability Company
- ____ Other: _____

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONTRACTOR

DEEP CLEANING AND FLOOR WAXING SERVICES

DEEP CLEANING

- A. General: Provide deep cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and antipollution regulations.
- B. Cleaning: Employ professional cleaning service for final cleaning. Clean each surface or unit to condition expected in an average commercial building cleaning and maintenance program. Comply with manufacturer's written instructions.
 - 1. Complete the following cleaning operations before requesting inspection for validation of the cleaning efficacy:
 - a. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of stains, films, and similar foreign substances. Avoid disturbing natural weathering of exterior surfaces. Restore reflective surfaces to their original condition.
 - b. Horizontal surfaces: All horizontal surfaces must be dusted and/or washed until free of dust and grime.
 - c. Furnishings and equipment:
 - 1) Remove all gum and sticky substances from all surfaces. Wash all furniture and equipment with a neutral cleaner. Use specialized cleaner appropriate for wood and/or excessively dirty surfaces.
 - 2) Dust all machinery and equipment located in any shop area.
 - 3) Clean all marker/chalkboards and rails by washing with water and/or cleaner.
 - 4) Clean exterior of all locked lockers and interior of unlocked ones.
 - 5) Graffiti must be removed from all furnishings and equipment.
 - d. Walls: Wash all wall surfaces with detergent and water. Remove all graffiti. All restroom walls should be washed with a disinfectant cleaner.
 - e. Doors: Wash all doors, frames and hardware.
 - f. Floors:
 - 1) Resilient Floors (except linoleum flooring) – Clean and

refinish flooring, using appropriate procedures and finishes/sealers. Strip existing wax from all existing resilient flooring (using appropriate safety measures as recommended by the E.P.A. for any tile containing asbestos) and re-wax as follows:

- Classrooms, offices, and rooms - two coats of wax.
- Corridors - Three coats of wax.

These floors should be scrubbed with detergent – not stripped. Seal as recommended by flooring manufacturer and re-wax as indicated above.

- 2) Concrete Floors - Scrub using water and detergent.
 - 3) Ceramic Floors - Scrub using water and detergent.
 - 4) Wood Floors - Clean, screen and apply gym seal per manufacturer's recommendation. All gym seal to be approved by Custodial Services Department.
 - 5) Carpeted Floors - Vacuum all carpets and clean by hotwater extraction.
 - 6) Other Floors - Marble, terrazzo and rubber floors should be cleaned and refinished using appropriate procedures and finishes/sealers.
- g. STAIRS: All stairs to be scrubbed with detergent including walls, handrails and ledges. Finish not to be applied to stairs unless necessary and approved by the District.
 - h. RESTROOMS: Thoroughly clean and disinfect all surfaces and fixtures. Remove all foreign objects from walls/ceilings and eliminate all graffiti. Specifications provided above for fixtures, walls and floors are applicable.
 - i. Remove debris and surface dust from limited access spaces, including roofs, plenums, shafts, trenches, equipment vaults, manholes, attics, and similar spaces.
 - j. Sweep concrete floors broom clean in unoccupied spaces.
 - k. Vacuum carpet and similar soft surfaces, removing debris and excess nap; shampoo if visible soil or stains remain.
 - l. Clean transparent materials, including mirrors and glass in doors and windows. Remove glazing compounds and other noticeable, vision-obscuring materials. Polish mirrors and glass, taking care not to scratch surfaces.
 - m. Remove labels that are not permanent.

- n. Wipe surfaces of mechanical and electrical equipment, elevator equipment, and similar equipment. Remove excess lubrication, paint and mortar droppings, and other foreign substances.
 - o. Clean plumbing fixtures to a sanitary condition, free of stains, including stains resulting from water exposure.
 - p. Clean exposed surfaces of diffusers, registers, and grills.
- C. Clean all light fixtures, lamps, globes, and reflectors to function with full efficiency. Final Inspection: Any surface still exhibiting dirt, graffiti or dust shall be re-cleaned/re-stripped/refinished until free of dirt, graffiti or dust.
- D. Comply with safety standards for cleaning. Do not burn waste materials. Do not bury debris or excess materials on District's property. Do not discharge volatile, harmful, or dangerous materials into drainage systems. Remove materials from project site and dispose of lawfully.

Building List for Deep Cleaning Services

DISTRICT ADMINISTRATIVE CENTER

- Clean all skylights
- Admissions and Records
- PCCD TV1
- PCCD TV2
- DAC - Central Office
- DGS - Purchasing - Warehouse Office - IT
- International ED 1
- International ED 2

TOTAL SF DISTRICT ADMINISTRATIVE CENTER	41,578
ADMINISTRATIVE CTR	
PCTV 1	
PCTV2	
WAREHOUSE DP	
INTL ED 1	
INTL ED 2	

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Services of this Agreement.

Date: _____

Name of Contractor: _____

Signature: _____

Print Name and Title: _____

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Services under this Agreement.)

END OF DOCUMENT

EXHIBIT 2

Omnibus Amendment to Independent Consultant Agreements for Deep Cleaning Services

[Remainder of Page Intentionally Blank; Exhibit Follows]

**OMNIBUS AMENDMENT TO
INDEPENDENT CONTRACTOR AGREEMENTS**

This Omnibus Amendment to Independent Contractor Agreements (this "**Amendment**") is entered into as of October 26, 2021, and is by and between **Ray & Associates Cleaning Systems ("Contractor")**, and **Peralta Community College District ("District")**. In this Amendment, Contractor and District are sometimes referred to individually as a "**Party**" and collectively as the "**Parties**." Terms not otherwise defined herein shall have the meanings set forth in the Original Agreements.

RECITALS

WHEREAS, the Parties entered into those certain Independent Contractor Agreements as more particularly described on Exhibit A (collectively, the "**Original Agreements**") on August 9, 2021 and as each Original Agreement incorporates the payment terms therein (the "**Compensation**") in its entirety;

WHEREAS, the Parties wish to make amendments to the Original Agreements and Compensation provision as set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals, and the mutual premises, representations, warranties, covenants, conditions herein contained, the Original Agreements and Compensation provisions are amended as follows.

1. Amendment of Compensation Section – Laney College Group A

Section 5 of the Original Agreements, Compensation, is hereby deleted in its entirety and replaced with the following:

5. Compensation. District compensation to the Contractor shall not exceed Three Hundred Five Thousand, One Hundred Seventy Dollars and 17/100 Cents (\$305,170.17), inclusive of any costs or expenses paid or incurred by Contractor in performing the Services, without the express approval of the Board of Trustees. Payment shall be made for all undisputed amounts within thirty (30) days after the Contractor submits a detailed invoice to the District's Accounts Payable Department for Services actually performed. Invoices must reference corresponding Purchase Order number.

2. Amendment of Compensation Section – Laney College Group B

5. Compensation. District compensation to the Contractor shall not exceed Thirty-Four Thousand, One Hundred One Dollars and 76/100 Cents (\$34,101.76), inclusive of any costs or expenses paid or incurred by Contractor in performing the Services, without the express approval of the Board of Trustees. Payment shall be made for all undisputed amounts within thirty (30) days after the Contractor submits a detailed invoice to the District's Accounts Payable Department for Services actually performed. Invoices must reference corresponding Purchase Order number.

3. Amendment of Compensation Section – Merritt College

5. Compensation. District compensation to the Contractor shall not exceed Two

Hundred Fifty-Six Thousand, Seven Hundred Seventy-Five Dollars and 94/100 Cents (\$256,775.94), inclusive of any costs or expenses paid or incurred by Contractor in performing the Services, without the express approval of the Board of Trustees. Payment shall be made for all undisputed amounts within thirty (30) days after the Contractor submits a detailed invoice to the District's Accounts Payable Department for Services actually performed. Invoices must reference corresponding Purchase Order number.

6. Amendment of Compensation Section – Berkeley City College

5. Compensation. District compensation to the Contractor shall not exceed One Hundred Two Thousand, Nine Hundred Four Dollars and 20/100 Cents (\$102,904.20), inclusive of any costs or expenses paid or incurred by Contractor in performing the Services, without the express approval of the Board of Trustees. Payment shall be made for all undisputed amounts within thirty (30) days after the Contractor submits a detailed invoice to the District's Accounts Payable Department for Services actually performed. Invoices must reference corresponding Purchase Order number.

6. Amendment of Compensation Section – College of Alameda

5. Compensation. District compensation to the Contractor shall not exceed Two Hundred Two Thousand, One Hundred Ninety-Two Dollars and 84/100 Cents (\$202,192.84), inclusive of any costs or expenses paid or incurred by Contractor in performing the Services, without the express approval of the Board of Trustees. Payment shall be made for all undisputed amounts within thirty (30) days after the Contractor submits a detailed invoice to the District's Accounts Payable Department for Services actually performed. Invoices must reference corresponding Purchase Order number.

6. Amendment of Compensation Section – District Administrative Center

5. Compensation. District compensation to the Contractor shall not exceed Twenty-Two Thousand, Eight Hundred Thirty-Five Dollars and 65/100 Cents (\$22,835.65), inclusive of any costs or expenses paid or incurred by Contractor in performing the Services, without the express approval of the Board of Trustees. Payment shall be made for all undisputed amounts within thirty (30) days after the Contractor submits a detailed invoice to the District's Accounts Payable Department for Services actually performed. Invoices must reference corresponding Purchase Order number.

[signatures follow]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their respective duly authorized representatives on the date hereof.

CONTRACTOR:

Ray & Associates Cleaning Systems

By: _____
Name:
Title:

DISTRICT:

Peralta Community College District

By: _____
Name: Jannett N. Jackson
Title: Interim Chancellor

EXHIBIT A

Original Agreements

1. Independent Contractor Services Agreement for Non-Construction Services - Laney College, Group A, dated August 9, 2021
2. Independent Contractor Services Agreement for Non-Construction Services - Laney College, Group B, dated August 9, 2021
3. Independent Contractor Services Agreement for Non-Construction Services - Merritt College, dated August 9, 2021
4. Independent Contractor Services Agreement for Non-Construction Services - Berkeley City College, dated August 9, 2021
5. Independent Contractor Services Agreement for Non-Construction Services - College of Alameda, dated August 9, 2021
6. Independent Contractor Services Agreement for Non-Construction Services - District Administrative Center, dated August 9, 2021