

**FIFTH AMENDMENT TO  
MAINTENANCE SERVICES AGREEMENT  
BETWEEN THE CITY OF CORONA  
AND  
FASTENAL COMPANY**

**1. PARTIES AND DATE.**

This **Fifth** Amendment to the Maintenance Services Agreement (“**Fifth** Amendment”) is made and entered into this **29<sup>th</sup>** day of **March, 2017** by and between the City of Corona (“City”) and **Fastenal Company, a Minnesota Corporation** (“Contractor”). City and Contractor are sometimes individually referred to as “Party” and collectively as “Parties” in this **Fifth** Amendment.

**2. RECITALS.**

2.1 Agreement. City and Contractor entered into that certain Maintenance Services Agreement dated July 3, 2013 (“Agreement”), whereby Contractor agreed to provide **Warehouse Supply and Inventory Control/Vending Machine** Program services through June 30, 2014.

2.2 Prior Amendment(s). City and Contractor entered into that certain **First** Amendment to the Maintenance Services Agreement dated **July 1, 2014** (“**First** Amendment”). City and Contractor entered into that certain **Second** Amendment to the Maintenance Services Agreement dated **June 17, 2015** (“**Second** Amendment”). City and Contractor entered into that certain **Third** Amendment to the Maintenance Services Agreement dated **July 20, 2015** (“**Third** Amendment”). City and Contractor entered into that certain **Fourth** Amendment to the Maintenance Services Agreement dated **July 1, 2016** (“**Fourth** Amendment”).

2.3 Amendment Purpose. City and Contractor desire to amend the Agreement for the **Fifth** time in order to (1) extend the term of the Agreement through **June 30, 2018**; (2) increase the total Compensation by \$100,000 to **\$275,000** for fiscal year 16/17 & 17/18 in accordance with City Council authorization on April 5, 2017 (3) replace Exhibit “C” (Compensation) with Exhibit “C-1” (Compensation).

**3. TERMS.**

3.1 Term. Section 3.1.2 (Term) of the Agreement, as amended by the **Fourth** Amendment, is hereby deleted in its entirety and replaced with the following:

“3.1.2 Term. The term of this Agreement shall be from **March 29, 2017** to **June 30, 2018** (“Term”), unless earlier terminated as provided herein. Contractor shall complete the Services within the Term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the Term of this Agreement one or more times by executing a written amendment pursuant to Section 3.5.9 below

(each a “Renewal Term”). The terms “Term” and “Renewal Term” may sometimes be generally and collectively referred to as “Term” in this Agreement.”

3.2 Compensation. Section 3.3.1 (Compensation) and Exhibit “C” (Compensation) of the Agreement, is hereby deleted in its entirety and replaced with the following:

“3.3.1 Rates & Total Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under the Agreement at the rates set forth in Exhibit “C-1” attached hereto and incorporated herein by reference. The total compensation, including authorized reimbursements, shall not exceed **Two Hundred Seventy Five Thousand (\$275,000)** (“Total Compensation”) during fiscal year 16/17 and 17/18 without written approval of the City’s Representative. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.”

3.3 Continuing Effect of Agreement. Except as amended by this **Fifth** Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this **Fifth** Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement as amended by this **Fifth** Amendment.

3.4 Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this **Fifth** Amendment.

3.5 Counterparts. This **Fifth** Amendment may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument.

**[SIGNATURES ON FOLLOWING TWO PAGES]**

**CITY'S SIGNATURE PAGE FOR**  
**CITY OF CORONA FIFTH AMENDMENT TO**  
**MAINTENANCE SERVICES AGREEMENT**  
**WITH FASTENAL COMPANY**

IN WITNESS WHEREOF, the Parties have entered into this **Fifth** Amendment to Maintenance/General Services Agreement as of the date noted on the first page of the Amendment.

**CITY OF CORONA**

By: \_\_\_\_\_  
Tom Moody  
Assistant General Manager

Reviewed By:

\_\_\_\_\_  
Ed Lockhart  
Maintenance Manager

**CONTRACTOR'S SIGNATURE PAGE FOR**  
**CITY OF CORONA FIFTH AMENDMENT TO**  
**MAINTENANCE SERVICES AGREEMENT**  
**WITH FASTENAL**

IN WITNESS WHEREOF, the Parties have entered into this **Fifth** Amendment to Maintenance/General Services Agreement as of the date noted on the first page of the Amendment.

**FASTENAL COMPANY**  
**a Minnesota corporation**

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Title (CEO, President, V.P.)

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Title (Secretary, CFO, Treasurer)

## EXHIBIT "C-1"

### COMPENSATION

The total Compensation shall not exceed \$275,000 without authorized written approval of the City's Representative.

#### RATE SCHEDULE

1. ANNUAL WEB HOSTING FEE.

- 1.1 FEE PER UNIT. Contractor shall be entitled to an annual web hosting fee of Three Hundred Dollars (\$300) per unit of FVS Equipment supplied to City under this Agreement ("Annual Web Hosting Fee"). The Annual Web Hosting Fee shall be due and payable at the end of each Fiscal Year (as used herein, "Fiscal Year" shall mean July 1<sup>st</sup> of one calendar year through June 30<sup>th</sup> of the following calendar year).
- 1.2 WAIVER. Notwithstanding the foregoing, the Annual Web Hosting Fee shall be waived by Contractor for any Fiscal Year during which the City meets or exceeds the Minimum Annual Spend Requirement defined in Section 4.3 below.
- 1.3 EARLY EXPIRATION OR TERMINATION OF AGREEMENT. If this Agreement expires or terminates prior to the end of any Fiscal Year, the Annual Web Hosting Fee and Minimum Annual Spend Requirement shall be pro-rated through the effective date of the expiration or termination, in order to determine the amount of Web Hosting Fee, if any, to which Contractor is entitled.

2. MARKET BASKET AND PRICE LIST.

- 2.1 CURRENT LIST. Consumable products and industrial supplies purchased by the City from Contractor's Market Basket and Price List shall be purchased at the prices listed in the Market Basket and Price List. The Market Basket and Pricing List, which is currently forty-one (41) pages in length, shall be printed and made available to City and Contractor.
- 2.2 AMENDMENTS TO LIST. The Market Basket and Pricing List may be amended in February of each year, and any such amendment shall be effective as of March 1st. On or before March 1 of each year, Contractor shall print and email to City's Representative an updated Market Basket and Pricing List, which shall be deemed to be incorporated by reference into this Agreement.

3. OUTSIDE MARKET BASKET AND PRICE LIST.

- 3.1 CREATION AND MAINTENANCE OF LIST. For any additional product not listed in the Market Basket and Price List which City desires to have stocked in the FVS Equipment, Contractor shall create and maintain a list of such products and their related prices, which list shall be known as the Outside Market Basket and Price List. Upon approval by City of the price quoted by Contractor, as provided for in Section 1.6 of Exhibit "A" attached hereto, Contractor shall add such product to the Outside Market Basket and Price List.

**4. MINIMUM SPEND REQUIREMENTS.**

- 4.1 MINIMUM MONTHLY SPEND REQUIREMENT.** The City agrees to purchase Products from each unit of FVS Equipment in at least the amounts noted below per month ("Minimum Monthly Spend Requirement). Prices are provided for unit types which have not been designated by City in Section 1.1 of Exhibit "A" attached, but will be used in the event they are subsequently requested by City.

<u>Type of Equipment</u>	<u>Monthly Minimum</u>
Fast2000 Vending Machines	\$2,000/unit
Fast3000 Vending Machines	\$1,000/unit
Fast4000 Vending Machines	\$4,000/unit
Fast5000 Vending Machines	\$2,000/unit
Fast10000 Vending Machines	\$3,000/unit
3 Door Lockers	\$250/unit
12 Door Lockers	\$750/unit
18 Door Lockers	\$1,500/unit
72-Hole Bins	\$250/unit

The aggregate amount purchased from all FVS Equipment during a particular month will be used to determine if the Minimum Monthly Spend Requirement has been met for that month, not the amount purchased from each unit of FVS Equipment.

- 4.2 QUARTERLY REVIEW AND FAILURE TO MEET MINIMUM MONTHLY SPEND REQUIREMENT.** The aggregate Minimum Monthly Spend Requirement for all FVS Equipment shall be reviewed as of October 1<sup>st</sup>, January 1<sup>st</sup>, April 1<sup>st</sup> and July 1<sup>st</sup> of each Fiscal Year for the immediately preceding three (3) months. If the City's purchases for those three (3) months do not meet the aggregate Minimum Monthly Spend Requirement noted above multiplied by three (3), Contractor may invoice the City three percent (3%) of the difference between the aggregate Minimum Monthly Spend Requirement multiplied by three (3) and the amount actually spent for Products from all FVS Equipment over that same period.
- 4.3 MINIMUM ANNUAL SPEND REQUIREMENT.** The Minimum Annual Spend Requirement shall be calculated as the sum of the aggregate Minimum Monthly Spend Requirement multiplied by twelve (12).
- 4.4 EARLY EXPIRATION OR TERMINATION OF AGREEMENT.** If this Agreement expires or terminates prior to the end of any Fiscal Year, the Minimum Monthly Spend Requirement and the Minimum Annual Spend Requirement shall be pro-rated through the effective date of the expiration or termination.

5. **OWNERSHIP OF FVS EQUIPMENT.**

- 5.1 **PURCHASE OF BINS.** After a 72-Hole Bin has been located at any City facility for a period of three (3) years, title to the 72-Hole Bin shall automatically transfer to the City at no additional cost to the city, provided the City is not in default of this Agreement or any other agreement with Contractor. If this Agreement expires or is terminated prior to the three (3) years, the 72-Hole Bin supplied by Contractor may be purchased by the City at a pro-rated price, based on Contractor's then current wholesale price for said 72-Hole Bin, within ten (10) days from the date of expiration or termination.

6. **AS-NEEDED MAINTENANCE SERVICES.**

- 6.1 **Hourly Rate.** As-Needed Maintenance Services shall be performed at the hourly rate provided for in Exhibit "C" attached hereto, by Contractor at the rate of Ten Dollars (\$10.00) per hour.

7. **BONDS.**

- 7.1 **Section 3.2.13 Bond Requirements.** As provided for in Section 3.2.13 of the Agreement, no bonds are required at this time for this Agreement.