



CITY OF HOUSTON INVITATION TO BID

Issued: June 18, 2010

BID OPENING

Sealed bids, in duplicate, will be received by the City Secretary of the City of Houston, in the City Hall Annex, Public Level, 900 Bagby, Houston, Texas 77002, until **10:30 AM Thursday, July 15, 2010** and all bids will be opened and publicly read in the City Council Chamber, City Hall Annex, Public Level, 900 Bagby at 11:00 AM on that date for the purchase of:

**TOWING & STORAGE SERVICES FOR SEIZED VEHICLES
FOR THE HOUSTON POLICE DEPARTMENT - NARCOTICS DIVISION
BID INVITATION NO.: S37-L23668
NIGP CODE: 968-90**

BUYER

Questions regarding this solicitation document should be addressed to **Joyce Hays**, at **832-393-8723**, or e-mail to joyce.hays@cityofhouston.net.

ELECTRONIC BIDDING

In order to submit a bid for the items associated with this procurement, you must fill in the pricing information on the "PLACE BID" page.

PRE-BID CONFERENCE

A Pre-Bid Conference will be held for all Prospective Bidders in the Strategic Purchasing Division, Conference Room No. 1, located at 900 Bagby, City Hall Annex, Tunnel Level, Houston, 77002 at **9:00 AM on Monday, June 28, 2010**.

All Prospective Bidders are urged to be present. It is the bidder's responsibility to ensure that they have secured and thoroughly reviewed the solicitation documents prior to the Pre-Bid Conference. Any revisions to be incorporated into this solicitation document arising from discussions before, during and subsequent to the Pre-Bid Conference will be confirmed in writing by Letter(s) of Clarification prior to the bid due date. Verbal responses will not otherwise alter the specifications, terms and conditions as stated herein.

Bidding forms, specifications, and all necessary information should be downloaded from the Internet at <https://purchasing.houstontx.gov/>. By registering and downloading this solicitation document, all updates to this solicitation document will be automatically forwarded via e-mail to all registered bidders. This information may also be obtained from the Supplier Assistance Desk, Strategic Purchasing Division, 901 Bagby, Concourse Level, Houston, Texas 77002.

The place of the bid opening may be transferred in accordance with Paragraph (b), (5) of Section 15-3 of The Code of Ordinances, Houston, Texas. The bid opening meeting may be rescheduled in accordance with Paragraph (b), (6) of said Section 15-3.

The City reserves the right to reject any or all bids or to accept any bid or combination of bids deemed advantageous to it.

City Employees are prohibited from bidding on this solicitation in accordance with the Code of Ordinances, Section 15-1.

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SECTION A: OFFER
SECTION B: SCOPE OF WORK/SPECIFICATIONS
SECTION C: GENERAL TERMS & CONDITIONS

***NOTE 1:** Actual page numbers for each Section may change when the solicitation document is downloaded from the Internet or because of Letters of Clarification. Therefore, Bidders must read the bid document in its entirety and comply with all the requirements set forth therein.

***NOTE 2:** To be considered for award, please submit the electronic bid form and the forms listed in Section A, including the Official Signature Page, which must be signed by a company official authorized to bind the company.

SECTION A



**TOWING & STORAGE SERVICES FOR SEIZED VEHICLES
FOR THE HOUSTON POLICE DEPARTMENT - NARCOTICS DIVISION
BID INVITATION NO.: S37-L23668
NIGP CODE: 968-90**

To The Honorable Mayor
and Members of the City Council
of the City of Houston (the "City"), Texas:

The undersigned Bidder hereby offers to contract with the City upon the terms and conditions stated in that certain "**Contract for TOWING & STORAGE SERVICES FOR SEIZED VEHICLES for a three-year period with two (2) one-year option periods to extend for the Houston Police Department**", which was distributed by the City together with the "Notice to Bidders" and is hereby incorporated herein by this reference (the "Contract"). This offer is made at the prices stated on the electronic Bid Form. When issued by the City of Houston, Letters of Clarification shall automatically become part of this bid document and shall supersede any previous specifications or provisions in conflict with the Letters of Clarification. It is the responsibility of the bidder to ensure that it has obtained all such letters. By submitting a bid on this project, bidder shall be deemed to have received all Letters of Clarification and to have incorporated them into its bid.

The City may accept this bid offer by issuance of a Contract covering award of said bid to this Bidder at any time on or before the 180th day following the day this Official Bid Form is opened by the City. This offer shall be irrevocable for 180 days, but shall expire on the 181st day unless the parties mutually agree to an extension of time in writing.

The City of Houston reserves the option, after bids are opened, to increase or decrease the quantities listed, subject to the availability of funds, and/or make award by line item.

If the City accepts the foregoing offer, this Bidder promises to deliver to the City Purchasing Agent of the City, five (5) original counterparts of said Contract duly executed by this Bidder (as "Contractor") in accordance with this paragraph, proof of insurance as outlined in Article II of the Contract, all on or before the tenth (10th) day following the day this Bidder receives from the City the unsigned counterparts shall be executed so as to make it binding upon the Bidder, and all of the applicable requirements stated in the document entitled "Instructions for Execution of Contract Documents," (which was distributed by the City) shall be complied with.

The City reserves the right to accept or reject, in whole or in part, any or all bids received and to make award on the basis of individual items or combination of items, as it is deemed in the best interest of the City.

If the City accepts the foregoing offer, this bidder shall furnish all labor, supervision, materials, supplies, equipment and tools necessary to provide **Towing & Storage Services for Seized Vehicles** for the City in accordance with attached Specifications.

Documents/forms must be downloaded from the City's Website at <https://purchasing.houstontx.gov/>

Additional Required Forms to be included with this Bid:

In addition to the Electronic Bid Form and the Official Signature Page, the Forms listed in Table 1 **must be completed and submitted to the Office of the City Secretary on or before the date and time the bid is due.** When submitting bids via UPS/FedEx, etc. please label it with the name: Office of the City Secretary, City Hall Annex, Public Level, 900 Bagby, Houston, Texas 77002, along with the bid/proposal number:

TABLE 1 - REQUIRED FORMS
Affidavit of Ownership.doc
Fair Campaign Ordinance.doc
Statement of Residency.doc
Conflict of Interest Questionnaire.doc
Pay or Play Program Acknowledgement Form
Pay or Play Certification of Agreement to Comply w' the Program
Contractor's Questionnaire

Table 2 lists other documents and forms that should be viewed/downloaded from the City's website, but are not required to be submitted with the bid. The City will request these forms, as applicable, to be completed and submitted to the City by the recommended/successful bidder:

TABLE 2 - DOCUMENTS & FORMS
Drug Forms.doc
EEOC.doc
Formal Instructions for Bid Terms.doc
M/WBE.doc
Sample Insurance Over \$50,000.pdf
Pay or Play Affirmative Action & Contract Compliance Q & A
Pay or Play Affirmative Action & Contract Compliance Requirements
Pay or Play Contractor/Subcontractor Payment Reporting Form
Pay or Play Contractor/Subcontractor Waiver Request
Pay or Play List of Participating Subcontractors

Questions concerning the Bid should be submitted in writing to: City of Houston, Strategic Purchasing Division, 901 Bagby, Room B506, Houston, TX 77002, Attn: Joyce Hays or via fax: 832-393-8759 or via email (preferred method) to joyce.hays@cityofhouston.net no later than 12:00 PM, Wednesday, June 30, 2010.

CONTRACTOR'S QUESTIONNAIRE

In order to receive bid award consideration, the bidder must be able to demonstrate that they are currently providing or have had at least one contract, as a prime contractor, for **Towing & Storage Services for Seized Vehicles** that is similar in size and scope to this contract. **Bidder must have references documenting that it has performed Towing & Storage Services for Seized Vehicles.** The reference(s) should be included in the space provided below. Please attach another piece of paper if necessary. If references are not included with the bid, the bidder shall be required to provide such references to the City of Houston within five working days from receipt of a written request from the City of Houston to do so. **Bidder's capability and experience shall be a factor in determining the Contractor's responsibility.**

- 1. Name: _____
Address: _____
City & State: _____
Name & Phone Number of Contact: _____ Years of Services: _____

- 2. Name: _____
Address: _____
City & State: _____
Name & Phone Number of Contact: _____ Years of Services: _____

- 3. Name: _____
Address: _____
City & State: _____
Name & Phone Number of Contact: _____ Years of Services: _____

SITE INSPECTION

The City of Houston reserves the right to inspect the bidder's current place of business to evaluate equipment condition and capabilities, staff experience, training and capabilities, and storage capabilities as they relate to the performance of this contract.

QUALITY AND WORKMANSHIP

The bidder must be able to demonstrate upon request that it has satisfactorily performed services similar to the services specified herein. The bidder will provide records of warranty and repair services upon request by City. The City of Houston shall be the sole judge as to whether the services performed are similar to the scope of services contained herein and whether the bidder is capable of performing such services.

SECTION B
SCOPE OF WORK/SPECIFICATIONS

1.0 BACKGROUND

1.1 This contract is for towing and storage services for vehicles being seized by the City of Houston Police Department (herein after referred to as "HPD"). The Contractor awarded this contract shall have the experience and technical ability to perform all work specified herein.

2.0 SCOPE OF WORK

2.1 Contractor shall provide light-duty, medium-duty, and heavy-duty towing services, other general maintenance services. Services apply to privately-owned vehicles in police custody during the seizure process.

2.2 Contractor shall provide all tools, supplies, fuel, transportation, equipment, labor, training and supervision necessary for light-duty, medium-duty, and heavy-duty towing and starting services.

2.3 Contractor shall maintain at least seven (7) approved light duty wreckers, 1 medium duty wrecker, two heavy-duty trucks and two (2) roll-back trucks

2.4 Light-duty, medium-duty, and heavy-duty wreckers shall be available twenty-four (24) hours per day, seven (7) days a week, 365 days per year, and fully operational with all the required equipment in good working order.

2.5 Towing services shall be provided on an as-needed basis.

2.5.1 Due to the nature of handling seized vehicles, the Contractor shall have light-duty, medium duty and heavy-duty wreckers available 24 hours a day to be used at the direction of the Departments Representative. The Contractor may be called upon to stage numerous wreckers at a location while an on-going investigative operation is in progress. The Contractor shall be directed to the final location(s) by on-scene officers. The Contractor shall ensure his/her employees do not divulge the covert investigative operation to other parties. The Contractor may be directed to tow a vehicle to a location other than the Contractor's storage facility. Due to investigative necessity, the wrecker may be required to wait while the investigation continues. Stand-by rates will apply in this situation. The Contractor shall provide the appropriate wrecker needed for the situation. The wrecker shall arrive within 1 hour, unless specialized equipment is needed to complete the tow. In that case, the Contractor shall contact the on-scene officer via telephone to advise of the delay. The towing of a seized vehicle shall be considered a priority tow. The Contractor will have 7 light-duty, 1 medium duty and 2 heavy-duty trucks available 24 hours a day, 365 days a year, for the towing of vehicles seized by HPD. The Contractor will have roll-back type wreckers available to safely tow specialty vehicles requiring such.

2.6 Approved Light-Duty Wrecker

2.6.1 Contractor shall provide an approved light-duty tow truck with the capacity to tow a vehicle with a combined gross vehicle weight of 10,000 pounds or less equipped with wheel lifts, hitches, dollies, chains and cables, and any other equipment necessary to tow any type of passenger car, farm or construction-type tractor or light-duty truck meeting the gross vehicle weight requirements. An approved light-duty wrecker shall be equipped to lift and carry any of the above-mentioned vehicles without bending or scratching or otherwise damaging the vehicle or equipment. A properly equipped rollback type truck is an approved light-duty wrecker.

2.6.1.1 If the Contractor uses a medium-duty wrecker to tow light-duty vehicles or equipment, the HPD will pay the service rate for a light-duty tow. In the event of damage to the vehicle or equipment, the Contractor shall be liable.

2.7 Approved Medium-Duty Wrecker

2.7.1 Contractor shall provide an approved medium-duty tow truck with the capacity to tow a vehicle with a combined gross vehicle weight of 10,001 to 25,999 pounds or less equipped with wheel lifts, hitches, dollies, chains and cables, and any other equipment necessary to tow any type of vehicle, tractor or equipment. An approved medium-duty wrecker shall be equipped to lift and carry any of the above-mentioned vehicles without bending or scratching or otherwise damaging the vehicle or equipment: A properly equipped roll-back type truck is an approved medium-duty wrecker.

2.7.1.1 If the Contractor uses a heavy-duty wrecker to tow medium-duty vehicles or equipment, the HPD will pay the service rate for a medium-duty tow. In the event of damage to the vehicle or equipment, the Contractor shall be liable.

2.8 Approved Heavy-Duty Wrecker

2.8.1 Contractor shall provide an approved heavy-duty tow truck with the capacity to tow a vehicle with a combined gross vehicle weight of 26,000 pounds or heavier. An approved heavy-duty wrecker shall be properly equipped to tow or start any heavy truck. An approved heavy-duty wrecker shall be equipped and capable of lifting the above-mentioned vehicles without bending or scratching or otherwise damaging the vehicle or equipment. A properly equipped roll-back type truck is an approved heavy-duty wrecker.

2.8.1.1 If the contractor uses a medium-duty wrecker to tow heavy-duty vehicles or equipment, the HPD will pay the service rate for a medium-duty tow. In the event of damage to the vehicle or equipment, the Contractor shall be liable.

2.9 Required Wrecker Equipment

2.9.1 Each wrecker shall have at least one (1) fire extinguisher that is properly filled and readily accessible. Fire extinguisher must meet or exceed the requirements of the National Fire Protection Handbook (current edition) for a 10 BC Fire Extinguisher. Fire extinguisher must be labeled by a national testing laboratory.

2.9.2 Each wrecker shall have at least three (3) flares that can be seen at a distance of six hundred (600) feet.

2.9.3 Each wrecker shall have at least five (5) gallons of dry sand or other absorbent as effective in absorbing liquid.

2.9.4 Each wrecker shall have one (1) set of jumper cables, two (2) four-way lug wrenches (one metric and one SAE), and a mobile two-way radio system or cellular telephone.

2.9.5 Wrecker will comply with all local and state laws regulating them.

2.10 Additional Types of Wreckers and Equipment

2.10.1 Contractor may use a Roll-Back truck to tow vehicles or equipment. The vehicles or equipment shall be secured with no overhang.

2.10.1.1 A Roll-back truck is defined as a heavy truck equipped with a tilt bed and winch.

2.10.2 Contractor may use a Low-Boy truck and trailer to tow vehicles or equipment.

2.10.2.1 A Low-Boy truck and trailer is defined as a truck and trailer combination designed for transporting vehicles or equipment.

2.10.3 Contractor may use an Under-Reach to lift vehicles or equipment.

2.10.3.1 An Under-Reach is defined as a device capable of extending under the vehicle to be towed.

2.10.4 Contractor may use a Wheel Lift to transport vehicles or equipment.

2.10.4.1 A Wheel Lift is defined as a device used to safely lift the vehicle by the wheels when bumpers cannot be used.

2.11 Personnel

2.11.1 Contractor shall provide trained and skilled personnel with experience in performing wrecker services.

2.11.2 Drivers shall be employees of the Contractor.

2.11.3 Drivers shall have a current Commercial Drivers License (CDL) issued by the State of Texas when required by State law.

2.11.4 Personnel shall wear identification badges or distinctive uniforms furnished by the Contractor. Upon arrival at the dispatched location or HPD premises, personnel shall identify themselves to a HPD representative on site.

2.11.5 Contractor shall designate one (1) employee as Contract Coordinator. The Coordinator will address contract-related issues and resolve disputes.

2.11.6 Personnel providing towing services shall be able to speak, read, write, and understand the English language.

2.12 Dispatch and Services

2.12.1 Contractor shall tow vehicles or equipment only at the request of an authorized HPD representative (dispatcher).

2.12.2 Contractor shall maintain one or more dispatchers on duty twenty-four (24) hours a day, seven (7) days a week, 365 days per year, to respond to telephone requests for service and to transmit information to the authorized HPD representative (dispatcher). A mechanical or electronic answering device is not acceptable.

2.12.3 Contractor shall maintain and operate a mobile two-way radio system or cellular telephone equipment to facilitate continuous communications with all on-duty wreckers. A paging system is not considered an adequate communication system.

- 2.12.4 Contractor shall respond to service request by directing an approved wrecker to the dispatched location designated by authorized HPD representative (dispatcher).
 - 2.12.4.1 Locations may be specific job sites, City facilities, streets, roadways or any place where a vehicle or equipment has become part of an investigation for the seizure process.
 - 2.12.4.2 Contractor may decline to provide service, without any penalty, if the vehicle or equipment is located more than fifty (50) feet (measured horizontally) off of hard pavement, or is more than twelve (12) feet (measured vertically) below the pavement elevation.
- 2.12.5 Contractor shall immediately contact the authorized HPD representative (dispatcher) upon arrival at dispatched location and make note of the arrival time.
- 2.12.6 Contractor shall perform work while the operator of the vehicle or equipment or designated HPD representative is present. If the operator or designated HPD representative is not present; the Contractor shall contact the authorized HPD representative (dispatcher) to get instructions on how to proceed.
- 2.12.7 Contractor shall ensure that the vehicle or equipment is properly secured and free from danger or harm during transportation.
- 2.12.8 Contractor shall make accommodations for at least one (1) HPD representative in the cab of the wrecker to accompany the vehicle or equipment during the tow, if needed.
- 2.12.9 Contractor shall transport the vehicle or equipment to the storage facility designated by the authorized HPD representative (dispatcher) or location requested by the authorized HPD representative and provide a copy of the Delivery Ticket or Service Orders to the HPD representative that receives the vehicle or equipment.
- 2.12.10 Delivery Ticket and/or Service Orders shall include the information as stated below in 2.25.

2.13 Levels of Service

- 2.13.1 Contractor shall perform all services diligently and without unnecessary interruptions or delay.
- 2.13.2 Service shall meet or exceed the technical service specifications and requirements specified by the original equipment manufacturer for the vehicle or equipment being towed. This provision is required to prevent damage to the vehicle drivetrain and other mechanical systems during towing.
- 2.13.3 Dispatch Requirements:
 - 2.13.3.1 The Contractor shall have a staffed dispatch center 24 hours a day, 7 days a week. The dispatch center will handle all incoming calls and dispatching wreckers needed for the towing of a seized vehicle. The Contractor shall utilize a dispatch management system software, such as *TOPS Link*, that permits the HPD dispatcher to request service, check status of calls in progress and provide pertinent information to the Contractor's dispatch center. This shall be an Internet based program utilizing a secure website. The information will be entered into the system by the HPD dispatcher and

sent automatically to the Contractor's dispatcher. This shall be provided to HPD at no cost.

2.13.4 Standard Response Service

2.13.4.1 Standard Response Time shall be sixty (60) minutes from the time the service call request is received by the Contractor. If Contractor fails to provide service within sixty (60) minutes, Contractor shall bill at 75% of the contract price, as specified in the Fee Schedule. If end-user (department) dispatching logs indicate that ten (10) or more service requests were dispatched to the Contractor during a sixty (60) minute period, this provision shall not apply.

2.13.5 Non-Priority Response Service

2.13.5.1 Non-Priority Response Time shall be four (4) hours from the time the service call request is received by the Contractor. The authorized HPD representative (dispatcher) may extend the response time to eight (8) hours. Non-priority towing services will normally be from a City facility to a place where City representatives are on duty, such as the City Vehicle Auctioneer's Yard.

2.14 Transportation of Vehicles

2.14.1 Vehicles or equipment towed by the Contractor shall be transported to the storage facility designated by the authorized City representative (dispatcher).

2.15 Storage Facility

2.15.1 Contractor shall transport vehicles or equipment to a secured garage, parking lot, or facility that is privately-owned and operated by a business entity or owned by the City for storing vehicles.

2.15.2 The Contractor will provide a clean, professional facility located within Beltway 8 of the Houston Police Department Headquarters building at 1200 Travis. The storage location will be staffed 7 days a week, 24 hours a day, 365 days per year, to receive new vehicles and monitor the security of the seized vehicles. The Contractor shall have space available for the storage and maintenance of up to 300 vehicles. This will be a combination of inside, outside, and large vehicles. The vehicles will be divided into categories of:

2.15.2.1 inside storage

2.15.2.2 outside storage

2.15.2.3 large vehicles (large trailers / tractor trucks) – A vehicle longer than 21 feet in length.

2.15.3 The determination of inside or outside storage will be based upon the estimated value of the vehicle. Vehicles deemed to be valued in excess of \$20,000 will be stored inside. Vehicles below this amount will be stored outside. Adjustments to this rule will be made at the discretion and direction of the Department's Representative.

2.15.4 Inside Storage Requirements:

2.15.4.1 The Contractor shall provide a minimum of 20,000 square feet of secure interior warehouse space for the storage of 150 vehicles. The vehicles shall be parked in a manner to provide walking access between them for inspection and maintenance. The Department's Representative will inspect all buildings to determine the buildings' suitability of security and protection from the weather prior to the awarding of the contract. The interior storage area shall be a fully enclosed structure with substantial/permanent walls, roof, and floor which shall allow for movement of vehicles while controlling surface and environmental problems such as standing water, mud, dirt and dust. The Contractor is not required to have the 20,000 square feet of storage space in just one building; an aggregate total of the square feet of several buildings may be used. However, the Contractor is required to have all the buildings at the same location.

2.15.4.2 The Contractor will only use pre-approved vehicle covers to cover the overflow vehicles which exceed the 150 required to be indoors and that must be stored outside in special situations, as approved by the Department's Representative. The covers will be made to fit the entire vehicle and the material shall be breathable and moisture resistant. All covers must filter out dust and pollutants to protect the vehicles finish from scratches and dents.

2.15.5 Outside Storage Requirements:

2.15.5.1 The Contractor shall have outside secure space for the segregation and storage of 125 light duty vehicles and 25 large vehicles (tractor trucks/trailers). The Department's seized vehicles shall be segregated from all other vehicles with a barrier to restrict all unauthorized access. Acceptable barriers include cyclone security fencing and buildings. Security tape is not an acceptable barrier. The Contractor shall ensure restricted visibility of stored vehicles to the public. Visibility shall be controlled sufficiently by sight barriers to shield seized vehicles from outside view. The Department's Representative will inspect a prospective Contractor's facility for compliance with this section.

2.15.6 Security Requirements:

2.15.6.1 The security of any seized asset is paramount. The Contractor shall provide an outside storage area with perimeter security fencing a minimum of 7' tall. Exterior lighting must provide adequate illumination to act as a deterrent to criminal activity. The Department's Representative will inspect the premises for compliance prior to the awarding of the contract. The inside storage warehouses must be of solid construction to protect the vehicles from criminal activity and weather. A sufficient number of video surveillance cameras shall be utilized to monitor all the stored vehicles. The surveillance shall be recorded and maintained by the Contractor for a minimum of 45 days. The cameras shall provide both interior and exterior coverage of the grounds, buildings, and vehicles. A live video feed shall be provided to the Department Representative for off-site remote viewing via the Internet. The software and training for use must be provided to the Departments Representative at no charge. The cameras shall be monitored 24 hours a day, 7 days a week, 365 days a year, by on-site employees of the Contractor.

- 2.15.6.2 The Contractor shall equip the interior storage spaces with alarm sensors on all exterior doors and windows where seized vehicles are stored to prevent theft and intrusion. This system shall be monitored 24 hours a day, 7 days a week, 365 days per year, by an on-duty dispatcher or monitoring station. Contractor shall provide a point of contact for access 24 hours per day, 7 days per week, 365 days per year.
- 2.15.6.3 The Contractor shall maintain all documents pertaining to the seized vehicles in a secure manner. Locking filing cabinets must be used to store and maintain files on all vehicles impounded. Locking key boxes must be used for all keys on vehicles impounded. Only pre-authorized individuals meeting Houston Police Department (HPD) background checks and screening requirements and those individuals with contract clearance from the Department Representative shall be allowed access to those locked and secured storage files. Only those individuals with security clearance will be allowed to enter the vehicle storage areas. All inquiries on the seized vehicles will be recorded and reported to the Contracting Officer. Additionally, all computer systems shall have an HPD security level access program in place.
- 2.15.6.4 The Contractor shall provide a detailed physical security plan describing alarm system, emergency response notification, access points, indoor and outdoor lighting.
- 2.15.6.5 Loss, theft, or damage to any vehicle while in the Contractor's custody shall be reported immediately to the Department's Representative. Loss and/or damage to the vehicle shall be replaced by the Contractor, at his expense (with that of like or equal value) or repaired, as instructed by the Department's Representative, within 20 days of notification. The Contractor will not be responsible for vehicle damage that occurs due to natural disasters.
- 2.15.6.6 Access is restricted to the Contractor or their authorized employees, the Department's Representative and his/her designees, or individuals that are approved by the Department's Representative.

2.15.7 Personal Property:

- 2.15.7.1 Contents in a seized vehicle that are not standard accessories, such as: clothing, personal items, compact discs, tapes, furniture, appliances, supplies, cargo, etc. shall be removed from the vehicle and stored in a safe, secure location. The Contractor shall advise the Department's Representative of the property and shall maintain custody of the items until delivered to the Department's Representative or designee. The property shall be retrieved within 48-hours.

2.16 Description of Initial Intake Procedures, Key Tags and Impounding Procedures:

- 2.16.1 Only employees meeting the screening requirements and back ground checks performed by Contractor will be allowed to perform work under this contract. Each wrecker driver shall be required to complete a new Contractor inspection report on each vehicle. All damages on each vehicle shall be noted and pictures shall be taken of all damages, radios, mileage, and special equipment before each vehicle is taken into custody. No vehicle will be accepted with personal property without approval, and all discrepancies shall

be reported to the Department's Representative immediately. Contractor shall utilize a computer program to track all necessary information pertaining to each seized vehicle, time, date, locations, and all work performed. Upon arrival at the impound yard, at least 6 pictures shall be taken of each seized unit. Pictures and other required documentation shall be forwarded to the Department's Representative within five business days. The Department's Representative shall be notified by email no later than the next business day of the arrival of a vehicle received at the storage lot for seizure. All vehicles requiring maintenance shall then be washed, insides cleaned, fluids checked, and tire pressure filled, if necessary. All tires' make, size, and model shall be documented on the inspection report and checked for recalls. All recalled tires shall be reported to the Department's Representative. Each vehicle shall be parked in the proper secured storage area. All seized vehicles shall be kept in segregated areas. All windows, doors, and trunks shall be secured or covered with heavy plastic. The vehicle keys shall be tagged, labeled, and kept in a secure locked box. Each key tag shall contain all the proper information about the seized car. If the keys are not available, proper request for approval shall be obtained from the Department's Representative and shall be replaced, or new lock tumblers and keys shall be installed.

2.16.3 When a vehicle is received, the asset case number, date towed, the control number, and the key tag number shall be written on the windshield. A designated employee shall make a folder with all required paper work and information needed for each vehicle. Each folder shall include the following information: a signed document task order form, original invoice, an inspection report noting damages and any property received with a signature from the releasing agent, a minimum of 6 photographs, one of all four sides, dash, radio, VIN plate, miles and any special equipment. Also, any copies of any original task order requesting service. This information shall be also kept in the computer under the assigned tracking number. The tagged key with the assigned number will be locked in a secure key box that is mounted to the wall and used only for this contract. All vehicles shall be checked for any tire recalls. All safety defects that are discovered shall be noted in the file report, and forwarded to the Department's Representative by the next business day.

2.17 Description of Vehicle Key Procedures:

2.17.1 Each key tag shall contain a unique tracking number, case number, and brief description of the seized car. If the keys are not available, proper request for approval shall be obtained from the Department's Representative, and they shall be replaced or new lock tumblers and keys shall be installed. The tagged key with the assigned number shall be locked in a secure key box that is mounted to the wall inside a locked office and used only for this contract. All safety defects that are discovered shall be noted in the file report, and forwarded to the Department's Representative by the next business day.

2.18 Description of Monthly Maintenance Procedures, Required Documentation:

2.18.1 Vehicle maintenance shall be performed on a monthly basis. All vehicles shall be washed, and shall have all fluids checked and filled, if necessary. The Contractor shall provide cleaning supplies and vehicle fluids (oil, transmission fluid, power steering fluid, etc.) at the Contractor's expense. If fuel for a vehicle is needed, the Contractor shall contact the Department's Representative for authorization for the purchase. Upon approval, the Contractor shall purchase the fuel and the Department will reimburse the Contractor for the expense. Tires shall also be checked and inflated, if necessary. The vehicles shall then be started and shall run approximately 10 minutes. For this duration, the vehicle shall be driven at least 15 feet forward and 15 feet back to the original place.

While performing a monthly inspection of the cars, any needed repairs shall be reported to Department's Representative on a case by case basis for approval or rejection by the Department's Representative.

2.18.2 The Contractor shall provide a monthly report to the Department's Representative of vehicles that will not start and a brief description for the reason the vehicle will not start. Also, only by written approval will repairs be performed. All required monthly and approved maintenance shall be recorded on Contractor's preprinted maintenance check sheets located in each vehicle's individual folder. The following items shall be noted in a monthly maintenance log: Tire checks, fluids checks, battery checks and notations if vehicle needed a jump start, if vehicle started and moved forward and backwards as required and any needed repairs that may arise from time to time.

2.18.3 In the event a vehicle will not start due to mechanical issues, lack of a key, alarm malfunction, etc, the Contractor will not be able to perform the required monthly maintenance as describe in this section. The "no-start" status will be documented as required in Section 2.21.1 in the report provided to the Department's Representative. In this case, a vehicle may be moved, at the discretion of the Department's Representative, to a status of: OUTSIDE / NO MAINTENANCE. The Contractor will perform all maintenance for the vehicles except for the starting, moving 15 feet forward and back.

2.19 Release of Vehicles:

2.19.1 When receiving written notice from the Department's Representative to release a vehicle, the Contractor will make the vehicle ready to release. This will include washing the vehicle. All fluids will be checked and tire pressure checked. The Contractor will facilitate the release of the vehicle to the designated party and collect reimbursement, if required and remove all Contractor's marking from the windshield.

2.20 Use of Other Wrecker Companies

2.20.1 Contractor may use other wrecker companies during emergency situations when all required contractor resources are depleted for a time not to exceed (7) days. However, this must be approved by the HPD.

2.20.2 Other wreckers shall meet all the requirements of an approved wrecker.

2.21 Dry Run

2.21.1 If the vehicle or equipment is gone on arrival of the Contractor and it is confirmed that the Contractor arrived in the time required by the contract and no notice of cancellation was given prior to arrival, Contractor may charge for a "Dry Run Service Call". Also if a vehicle or equipment is being towed from or to a city or an outside vendor repair facility and the unit is not accessible for pickup then the Contractor may charge for a "Dry Run Service Call". However the Contractor must contact the manager at the facility and inform the manager that the Contractor cannot gain access to the vehicle or equipment. The manager's name and employee number should be noted on the tow ticket. Dry run charges will be billed separately and must be approved by the Director.

2.22 Cancelled Service Call

- 2.22.1 A service call may be cancelled at any time. If an approved wrecker is dispatched and arrives at the designated location prior to notice of cancellation, the Contractor may charge for a "Road Service Call".
- 2.22.2 The wrecker may be dismissed by a police officer at the scene or the authorized HPD representative (dispatcher) only.

2.23 Mileage

2.23.1 Contractor may charge a mileage rate for pick-up of vehicles outside Houston city limits. The mileage rate applies to loaded miles, which is the total number of miles driven from outside of Houston city limits to Houston city limits line.

2.23.1.1 Formula: Flat rate per service call + (number of loaded miles x rate per mile)

2.24 Damaged Property

- 2.24.1 If the property is damaged as a result of carelessness or neglect by the Contractor or its agents, the Contractor shall be responsible for all repair costs.
- 2.24.2 The HPD shall not be liable for any loss, breakage, or damage to tools, materials, supplies, vehicles or equipment owned by the Contractor or its agents.
- 2.24.3 Loss, theft, or damage to any vehicle while in the Contractor's custody shall be reported immediately to the Department's Representative. Loss and/or damage to the vehicle shall be replaced, by the Contractor, at his expense, (with that of like or equal value) or repaired, as instructed by the Department's Representative, within 20 days of notification. The Contractor will not be responsible for vehicle damage that occurs due to natural disasters.

2.25 Service Orders or Delivery Tickets

2.25.1 Service Orders or Delivery Tickets must contain, at a minimum, the following:

- 2.25.1.1 Date of service;
- 2.25.1.2 Name of Department/Division that requested service;
- 2.25.1.3 Name of authorized City representative (dispatcher) who requested services;
- 2.25.1.4 Dispatch time;
- 2.25.1.5 Dispatch number (Issued by the City);
- 2.25.1.6 Type of vehicle or equipment;
- 2.25.1.7 Shop number or VIN of vehicles not owned by the City;
- 2.25.1.8 Dispatched location of vehicle or equipment (address);
- 2.25.1.9 Arrival time at dispatched location;

- 2.25.1.10 Departure time from dispatched location;
- 2.25.1.11 Type of service provided;
- 2.25.1.12 Quantity of each service provided;
- 2.25.1.13 Delivery location;
- 2.25.1.14 Arrival time at delivery location;
- 2.25.1.15 Departure time from delivery location; and
- 2.25.1.16 Signature and employee number of the authorized City representative who approved the completed towing service.

2.26 Invoices

2.26.1 Collection of Reimbursements:

2.26.1.1 The Contractor shall, at the direction of the Department's Representative, collect from identified individuals or companies reimbursements of towing and/or storage fees owed upon release of a vehicle. The reimbursement shall be authorized by the appropriate Vehicle Release Form provided by the Department's Representative. The Contractor shall collect the monies from the designated individual or company and maintain custody of the monies until the end of the month. The Contractor shall prepare its monthly invoice for services and shall deduct the reimbursement amount from the invoice total that is submitted to the Department's Representative. The invoice and supporting documentation shall be submitted to the Departments Representative no later than the 10th day of the following month. The invoice shall contain all pertinent information concerning each vehicle. The invoice will be reviewed for approval by the Department's Representative.

2.26.2 Contractor shall, unless otherwise directed by the Director, submit invoices as follows:

2.26.2.1 An original and two (2) copies shall be submitted to the remittance addresses as specified below.

2.26.2.2 Tow tickets with the required information shall be noted on an invoice per vehicle. This shall include:

2.26.2.2.1 year, make, model, case number, VIN, license plate, starting and ending mileage and the Departments incident number

2.26.2.2.2 Only the contracted price shall be charged, per storage/maintenance category that applies to each towed unit. All fees charged for seized vehicles towed, and work performed under this contract, shall follow the storage/maintenance category of firm fixed prices in the awarded contract.

2.27.2.3 Each invoice shall contain:

2.27.2.3.1 Contract Number;

- 2.27.2.3.2 Contract Item Number, Description, Quantity, Unit Price, and Total Amount;
- 2.27.2.3.3 Name of department for which services were performed;
- 2.27.2.3.4 Total Amount of Invoice; and
- 2.27.2.3.5 Three copies of the Delivery Ticket or Service Order reflecting the information required in 2.25.

2.27.2.4 Contractor shall mail invoices to applicable department:

HPD Narcotics
 Attn: F.I.S.T. Sergeant
 1200 Travis, Ste. 300
 Houston, Texas 77002

Houston Police Department
 Attn: Accounts Payable Dept
 1200 Travis, 17th Floor
 Houston, Texas 77002

2.28 Final Inspection

2.28.1 The Department's Representative will inspect Contractor's facility and equipment for compliance with the items listed within this Scope of Services prior to the awarding of the contract.

2.29 Software Requirements

2.29.1 The Contractor shall be required to use internet based software for the purpose of generating an electronic tow ticket order.

2.29.2 The Contractor shall make the software accessible to the HPD Dispatch and generate a confirmation that the contractor has received the tow order.

3.0 ADDITIONS & DELETIONS

3.1 The City, by written notice from the City Purchasing Agent to the Contractor, at any time during the term of this contract, may add or delete like or similar equipment, supplies, locations and/or services to the list of equipment, supplies, locations, and/or services to be provided. Any such written notice shall take effect on the date stated in the notice from the City. Similar equipment, supplies, services, or locations added to the contract shall be in accordance with the contract specification/scope of services, and the charges or rates for items added shall be the same as specified in the fee schedule. In the event that the additional equipment, supplies, locations and/or services are not identical to the item(s) already under contract, the charges therefore will then be the Contractor's normal and customary charges or rates for the equipment, supplies, locations and/or services classified in the fee schedule.

4.0 ESTIMATED QUANTITIES NOT GUARANTEED

4.1 The estimated quantities specified herein are not a guarantee of actual quantities, as the City does not guarantee any particular quantity of towing services during the term of this contract. The quantities may vary depending upon the actual needs of the user Department. The quantities specified herein are good faith estimates of usage during the term of this contract. Therefore, the City shall not be liable for any contractual agreements/obligations the Contractor enters into based on the City purchasing/requiring all the quantities specified, herein.

5.0 WARRANTY OF SERVICES

5.1 *Definitions:* "Acceptance" as used in this clause, means the act of an authorized representative of the City by which the City assumes for itself, approval of specific services as partial or complete performance of the contract.

"Correction" as used in this clause, means the elimination of a defect.

5.2 Notwithstanding inspection and acceptance by the City or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The City shall give written notice of any defect or nonconformance to the Contractor within a one-year period from the date of acceptance by the City. This notice shall state either (1) that the Contractor shall correct or re-perform any defective or non-conforming services at no additional cost to the City, or (2) that the City does not require correction or re-performance.

5.3 If the Contractor is required to correct or re-perform, it shall be at no cost to the City, and any services corrected or re-performed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or re-perform, the City may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the City thereby, or make an equitable adjustment in the contract price.

5.4 If the City does not require correction or re-performance, the City shall make an equitable adjustment in the contract price.

6.0 Contract Compliance:

6.1 The various departments reserve the right to monitor this contract for compliance to ensure legal obligations are fulfilled and acceptable levels of service are provided.

6.2 Monitoring may take the form of, but not necessarily be limited to:

6.2.1 Inspection, testing, and/or sampling of goods delivered or to be delivered

6.2.2 Review of deliveries received for accuracy and timeliness

6.2.3 Review of Supplier's invoices for accuracy

6.2.4 Review of certifications and/or licenses

6.2.5 Site visits

6.3 The primary responsibility for monitoring compliance rests with the Contract Compliance Section, Management Support Branch of the Office of the Director, Department of Public Works & Engineering.

7.0 Pre-Performance Meeting:

7.1 Subsequent to contract approval/execution, the contractors shall be required to attend a performance conformance. HPD will host the pre-performance conference. The purpose of the pre-performance conference is for the contractor to introduce his or her project manager to the City staff and for City staff to introduce the contract end-users, contract compliance and accounts payable representatives.

**SECTION C
GENERAL TERMS & CONDITIONS**

THE STATE OF TEXAS

BID # S37-L23668

ORDINANCE # _____

COUNTY OF HARRIS

CONTRACT # _____

I. PARTIES

1.0 ADDRESS

THIS AGREEMENT for **TOWING & STORAGE SERVICES FOR SEIZED VEHICLES** ("Agreement") is made on the Countersignature Date between the **CITY OF HOUSTON, TEXAS** ("City"), a Texas Home - Rule city and _____ ("Contractor or Vendor"), a corporation doing business in Texas.

The initial addresses of the parties, which one party may change by giving written notice to the other party, are as follows:

City

City Purchasing Agent for Director
of the Houston Police Department
1200 Travis Street, Ste. 300
City of Houston
Houston, Texas 77002

Contractor

Phone: _____
Fax: _____

The Parties agree as follows:

2.0 TABLE OF CONTENTS

2.1 This Agreement consists of the following sections:

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- * F. CERTIFICATION OF NO SAFETY IMPACT POSITIONS
- * G. DRUG POLICY COMPLIANCE DECLARATION
- * H. FEES AND COSTS
- * I. CITY’S CONTRACTORS PAY OR PLAY PROGRAM

* Note: These Exhibits shall be inserted into the Contract agreement at the time of Contract execution.

3.0 PARTS INCORPORATED

3.1 The above described sections and exhibits are incorporated into this Agreement.

4.0 CONTROLLING PARTS

4.1 If a conflict among the sections or exhibits arises, the Exhibits control over the Sections.

5.0 DEFINITIONS

5.1 Certain terms used in this Agreement are defined in Exhibit "A".

6.0 SIGNATURES

6.1 The Parties have executed this Agreement in multiple copies, each of which is an original.

ATTEST/SEAL: (if a corporation)

WITNESS: (if not corporation)

By: _____

Name:

Title:

By: _____

Name:

Title:

Federal Tax ID Number: _____

ATTEST/SEAL:

CITY OF HOUSTON, TEXAS

Signed by:

City Secretary

Mayor

APPROVED:

COUNTERSIGNED BY:

City Purchasing Agent

City Controller

DATE COUNTERSIGNED:

This Contract has been reviewed as to form by the undersigned legal assistant and has been found to meet established Legal Department criteria. The Legal Department has not reviewed the content of these documents.

Date

Legal Assistant

II. DUTIES OF CONTRACTOR

1.0 SCOPE OF SERVICES

- 1.1 In consideration of the payments specified in this Agreement, Contractor shall provide all supervision, labor, tools, equipment, permits, parts, expendable items, material, and supplies necessary to perform the services described in Exhibit "B" & "BB".

2.0 RELEASE

- 2.1 PRIME CONTRACTOR/SUPPLIER AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE CITY) FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

3.0 INDEMNIFICATION

- 3.1 PRIME CONTRACTOR/SUPPLIER AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY "THE CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:
- 3.1.1 PRIME CONTRACTOR/SUPPLIER AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 2.1-3.2, "CONTRACTOR") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;
 - 3.1.2 THE CITY'S AND PRIME CONTRACTOR/SUPPLIER ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; AND
 - 3.1.3 THE CITY'S AND PRIME CONTRACTOR/SUPPLIER ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT.
 - 3.1.4 PRIME CONTRACTOR/SUPPLIER SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS CONTRACT AND FOR FOUR YEARS AFTER THE CONTRACT TERMINATES. CONTRACTOR'S INDEMNIFICATION IS LIMITED TO \$500,000.00 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.
- 3.2 CONTRACTOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY.

4.0 INDEMNIFICATION PROCEDURES

4.1 Notice of Claims. If the City or Prime Contractor/Supplier receives notice of any claim or circumstances, which could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:

4.1.1 a description of the indemnification event in reasonable detail, and

4.1.2 the basis on which indemnification may be due and

4.1.3 the anticipated amount of the indemnified loss.

4.2 This notice does not stop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10 day period, it does not waive any right to indemnification except to the extent that Prime Contractor/Supplier is prejudiced, suffers loss, or incurs expense because of the delay.

4.3 Defense of Claims

4.3.1 Assumption of Defense. Prime Contractor/Supplier may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. Prime Contractor/Supplier shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Prime Contractor/Supplier must advise the City as to whether or not it will defend the claim. If Prime Contractor/Supplier does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.

4.3.2 Continued Participation. If Prime Contractor/Supplier elects to defend the claim, the City may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Prime Contractor/Supplier may settle the claim without the consent or agreement of the City, unless it (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City, (ii) would require the City to pay amounts that Prime Contractor/Supplier does not fund in full, (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

5.0 INSURANCE

5.1 Contractor shall maintain in effect certain insurance coverage and shall furnish certificates of insurance, in duplicate form, before beginning its performance under this Agreement. All policies except Professional Liability and Workers' Compensation must name the City as an additional insured. The issuer of any policy (1) shall have a Certificate of Authority to transact insurance business in Texas or (2) shall be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide. Contractor shall maintain the following insurance coverage in the following amounts:

5.1.1 Commercial General Liability insurance including Contractual Liability insurance:
\$500,000 per occurrence; \$1,000,000 aggregate

5.1.2 Workers' Compensation including Broad Form All States endorsement:
Statutory amount

5.1.3 Automobile Liability insurance
\$1,000,000 combined single limit per occurrence

Defense costs are excluded from the face amount of the policy
Aggregate Limits are per 12-month policy period unless otherwise indicated

- 5.1.4 Employer's Liability
 - Bodily injury by accident \$100,000 (each accident)
 - Bodily injury by disease \$100,000 (policy limit)
 - Bodily injury by disease \$100,000 (each employee)

5.2 All insurance policies must require on their face, or by endorsement, that the insurance carrier waives any rights of subrogation against the City, Contractor shall give 30 days written notice to the Director if any of its insurance policies are cancelled, materially changed or non-renewed. Within the 30 day period, Contractor shall provide other suitable policies in lieu of those about to be canceled, materially changed, or non-renewed so as to maintain in effect the required coverage. If Contractor does not comply with this requirement, the Director, at his or sole discretion, may:

- 5.2.1 immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default, or
- 5.2.2 purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Agreement.

6.0 WARRANTIES

- 6.1 Contractor represents and warrants that it shall perform all work in a good and workmanlike manner, meeting the standards of quality prevailing in Harris County, Texas for work of this kind. Contractor shall perform all work using trained and skilled persons having substantial experience performing the work required under this Agreement.
- 6.2 With respect to any parts and goods furnished by it, Contractor warrants:
 - 6.2.1 that all items are free of defects in title, material, and workmanship,
 - 6.2.2 that each item meets or exceeds the manufacturer's specifications and requirements for the equipment, structure, or other improvement in which the item is installed,
 - 6.2.3 that each replacement item is new in accordance with original equipment manufacturer's specifications, and of a quality at least as good as the quality of the item which it replaces (when the replaced item was new), and
 - 6.2.4 that no item or its use infringes any patent, copyright, or proprietary right.

7.0 LICENSES AND PERMITS

- 7.1 Contractor shall obtain and pay for all licenses, permits, and certificates required by any statute, ordinance, rule, or regulation.

8.0 COMPLIANCE WITH EQUAL OPPORTUNITY ORDINANCE

- 8.1 Contractor shall comply with the City's Equal Employment Opportunity Ordinance as set out in Exhibit "C".

9.0 MWBE COMPLIANCE

- 9.1 Contractor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances.

Contractor shall make good faith efforts to award subcontracts or supply agreements in at least **15%** of the value of this Agreement to MWBE's. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Affirmative Action Division and will comply with them.

- 9.2 Contractor shall require written subcontracts with all MWBE subcontractors and shall submit all disputes with MWBE's to binding arbitration in Houston, Texas if directed to do so by the Affirmative Action Division Director. MWBE subcontracts must contain the terms set out in Exhibit "D". If Contractor is an individual person (as distinguished from a corporation, partnership, or other legal entity), and the amount of the subcontract is \$50,000 or less, the subcontract must also be signed by the attorneys of the respective parties.

10.0 DRUG ABUSE DETECTION AND DETERRENCE

- 10.1 It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.
- 10.2 Before the City signs this Agreement, Contractor shall file with the Contract Compliance Officer for Drug Testing ("CCODT"):
- 10.2.1 a copy of its drug-free workplace policy,
 - 10.2.2 the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "E", together with a written designation of all safety impact positions, and
 - 10.2.3 if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "F".
- 10.3 If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "G". Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed or if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.
- 10.4 Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.
- 10.5 Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection.

11.0 ENVIRONMENTAL LAWS

- 11.1 Contractor shall comply with all rules, regulations, statutes, or orders of the Environmental Protection Agency ("EPA"), the Texas Commission on Environmental Quality ("TCEQ"), and any other governmental agency with the authority to promulgate environmental rules and regulations ("Environmental Laws"). Contractor shall promptly reimburse the City for any fines or penalties levied against the City because of Contractor's failure to comply.

- 11.2 Contractor shall not possess, use, generate, release, discharge, store, dispose of, or transport any Hazardous Materials on, under, in, above, to, or from the site except in strict compliance with the Environmental Regulations. "Hazardous Materials" means any substances, materials, or wastes that are or become regulated as hazardous or toxic substances under any applicable federal, state, or local laws, regulations, ordinances, or orders. Contractor shall not deposit oil, gasoline, grease, lubricants or any ignitable or hazardous liquids, materials, or substances in the City's storm sewer system or sanitary sewer system or elsewhere on City Property in violation of the Environmental Laws.

12.0 CITY'S CONTRACTOR PAY OR PLAY PROGRAM

- 12.1 The requirement and terms of the City of Houston Pay or Play Policy, as set out in Executive Order 1-7, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order 1-7 and shall comply with its terms and conditions as they are set out at the time of City Council approval of this Agreement.
- 12.2 The Pay or Play Program for various departments will be administered by the City of Houston Affirmative Action Division's designee and for a Department specific contract; the Department's designated contract administrator will administer the Pay or Play Program.

13.0 CONTRACTOR'S PERFORMANCE

- 13.1 Contractor shall make citizen satisfaction a priority in providing services under this Agreement. Contractor shall train its employees to be customer service-oriented and to positively and politely interact with citizens when performing contract services. Contractor's employees shall be clean, courteous, efficient, and neat in appearance and committed to offering the highest quality of service to the public. If, in the Director's opinion, Contractor is not interacting in a positive and polite manner with citizens, he or she shall direct Contractor to take all remedial steps to conform to these standards.

14.0 PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

- 14.1 Contractor shall make timely payments in accordance with applicable state and federal law to all persons and entities supplying labor, materials or equipment for the performance of this Agreement including Contractor's employees.
- 14.2 Failure of Contractor to pay its employees as required by law shall constitute a default under this contract for which the Contractor and its surety shall be liable on Contractor's performance bond if Contractor fails to cure the default as provided under this Agreement.
- 14.3 Contractor shall defend and indemnify the City from any claims or liability arising out of Contractor's failure to pay its subcontractors as required by law. Contractor shall submit disputes relating to payment of M/WBE subcontractors to arbitration in the same manner as any other disputes under the M/WBE subcontract.

III. DUTIES OF CITY

1.0 PAYMENT TERMS

- 1.1 The City shall pay and Contractor shall accept fees provided in Exhibit "H" for all services rendered and the Deliverables furnished by Contractor. The fees must only be paid from Allocated Funds, as provided below.

2.0 TAXES

- 2.1 The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to the City must not contain assessments of any of these taxes. The Director will furnish the City's exemption certificate and federal tax identification number to Contractor if requested.

3.0 METHOD OF PAYMENT

- 3.1 The City shall pay Contractor on the basis of invoices submitted by Contractor and approved by the Director, showing the specific tasks completed in the preceding month and the corresponding prices. The City shall make payments to Contractor at its address for notices within 30 days of receipt of an approved invoice.

4.0 METHOD OF PAYMENT - DISPUTED PAYMENTS

- 4.1 If the City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Contractor of the dispute and request remedial action. After the dispute is settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

5.0 LIMIT OF APPROPRIATION:

- 5.1 The City's duty to pay money to Contractor under this Agreement is limited in its entirety by the provisions of this Section.
- 5.2 In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum of \$275,000.00 to pay money due under this Agreement (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies:
- 5.3 The City makes a Supplemental Allocation by issuing to Contractor a Service Release Order, or similar form approved by the City Controller, containing the language set out below. When necessary, the Supplemental Allocation shall be approved by motion or ordinance of City Council.

"NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS"

"By the signature below, the City Controller certifies that, upon the request of the responsible director, the supplemental sum set out below has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This supplemental allocation has been charged to such appropriation."

- 5.4 The Original Allocation plus all supplemental allocations are the Allocated Funds. The City shall never be obligated to pay any money under this Agreement in excess of the Allocated Funds. Contractor must assure itself that sufficient allocations have been made to pay for services it provides. If Allocated Funds are exhausted, Contractor's only remedy is suspension or termination of its performance under this Agreement and it has no other remedy in law or in equity against the City and no right to damages of any kind.

6.0 **CHANGES**

6.1 At any time during the Agreement Term, the City Purchasing Agent or Director may issue a Change Order to increase or decrease the scope of services or change plans and specifications, as he or she may find necessary to accomplish the general purposes of this Agreement. Contractor shall furnish the services or deliverables in the Change Order in accordance with the requirements of this Agreement plus any special provisions, specifications, or special instructions issued to execute the extra work.

6.2 The City Purchasing Agent or Director will issue the Change Order in substantially the following form:

CHANGE ORDER

TO: [Name of Contractor]
FROM: City of Houston, Texas (the "City")
DATE: [Date of Notice]
SUBJECT: Change Order under the Agreement between the City and [Name of Contractor] countersigned by the City Controller on [Date of countersignature of the Agreement]

Subject to all terms and conditions of the Agreement, the City requests that Contractor provide the following:

[Here describe the additions to or changes to the equipment or services and the Change Order Charges applicable to each.]

Signed:
[Signature of City Purchasing Agent or Director]

6.3 The City Purchasing Agent or Director may issue more than one Change Order, subject to the following limitations:

6.3.1 Council expressly authorizes the City Purchasing Agent or Director to approve a Change Order of up to \$50,000. A Change Order of more than \$50,000 over the approved contract amount must be approved by the City Council.

6.3.2 If a Change Order describes items that Contractor is otherwise required to provide under this Agreement, the City is not obligated to pay any additional money to Contractor.

6.3.3 The total of all Change Orders issued under this section may not increase the Original Agreement amount by more than 25%.

6.4 Whenever Contractor receives a Change Order, Contractor shall furnish all material, equipment, and personnel necessary to perform the work described in the Change Order. Contractor shall complete the work within the time prescribed. If no time for completion is prescribed, Contractor shall complete the work within a reasonable time. If the work described in any Change Order causes an unavoidable delay in any other work Contractor is required to perform under this Agreement, Contractor may request a time extension for the completion of the work. The City Purchasing Agent's or Director's decision regarding a time extension is final.

6.5 A product or service provided under a Change Order is subject to inspection, acceptance, or rejection in the same manner as the work described in the Original Agreement, and is subject to the terms and conditions of the Original Agreement as if it had originally been a part of the

Agreement.

6.6 Change Orders are subject to the Allocated Funds provisions of this Agreement.

IV. TERM AND TERMINATION

1.0 CONTRACT TERM

1.1 This Agreement is effective on the Countersignature Date and expires three (3) years after the starting date specified in the Notice to Proceed unless sooner terminated according to the terms of this Agreement.

2.0 NOTICE TO PROCEED

2.1 Contractor shall begin performance under this Agreement on the date specified in a Notice to Proceed from the City Purchasing Agent.

3.0 RENEWALS

3.1 Upon expiration of the Initial Term, and so long as the City makes sufficient supplemental allocations, this Agreement will be automatically renewed for two successive one-year terms on the same terms and conditions. If the Director/Chief of the City Department elects not to renew this Agreement, the City Purchasing Agent shall notify Contractor in writing of non-renewal at least 30 days before the expiration of the then current term.

4.0 TIME EXTENSIONS

4.1 If Department requests an extension of time to complete its performance, then the City Purchasing Agent may, in his or her sole discretion, extend the time so long as the extension does not exceed 90 days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for delay(s) regardless of the cause of the delay(s).

5.0 TERMINATION FOR CONVENIENCE BY THE CITY

5.1 The City Purchasing Agent or Director may terminate this Agreement at any time by giving 30 days written notice to Contractor. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies, which exist now or in the future.

5.2 On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. The City shall then pay the fees to Contractor for services actually performed, but not already paid for, in the same manner as prescribed in Section III unless the fees exceed the allocated funds remaining under this Agreement.

5.3 TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIED IN THIS SECTION), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE

CITY'S TERMINATION FOR CONVENIENCE.

6.0 TERMINATION FOR CAUSE BY CITY

- 6.1 If Contractor defaults under this Agreement, the City Purchasing Agent or Director may either terminate this Agreement or allow Contractor to cure the default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies, which exist now or in the future. Default by Contractor occurs if:
- 6.1.1 Contractor fails to perform any of its duties under this Agreement;
 - 6.1.2 Contractor becomes insolvent;
 - 6.1.3 all or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or
 - 6.1.4 a receiver or trustee is appointed for Contractor.
- 6.2 If a default occurs, the City Purchasing Agent or Director may, but is not obligated to, deliver a written notice to Contractor describing the default and the termination date. The City Purchasing Agent or Director, at his or her sole option, may extend the termination date to a later date. If the City Purchasing Agent or Director allows Contractor to cure the default and Contractor does so to the City Purchasing Agent's or Director's satisfaction before the termination date, then the termination is ineffective. If Contractor does not cure the default before the termination date, then the City Purchasing Agent or Director may terminate this Agreement on the termination date, at no further obligation of the City.
- 6.3 To effect final termination, the City Purchasing Agent or Director must notify Contractor in writing. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement, and promptly cancel all orders or subcontracts chargeable to this Agreement.

7.0 TERMINATION FOR CAUSE BY CONTRACTOR

- 7.1 Contractor may terminate its performance under this Agreement only if the City defaults and fails to cure the default after receiving written notice of it. Default by the City occurs if the City fails to perform one or more of its material duties under this Agreement. If a default occurs and Contractor wishes to terminate the Agreement, then Contractor must deliver a written notice to the Director describing the default and the proposed termination date.
- 7.2 The date must be at least 30 days after the Director receives notice. Contractor, at its sole option, may extend the proposed termination date to a later date. If the City cures the default before the proposed termination date, then the proposed termination is ineffective. If the City does not cure the default before the proposed termination date, then Contractor may terminate its performance under this Agreement on the termination date.

8.0 REMOVAL OF CONTRACTOR OWNED EQUIPMENT AND MATERIALS

- 8.1 Upon expiration, or termination of this Agreement, Contractor is permitted ten (10) days within which to remove contractor-owned material and equipment from the City's premises. The City shall make such material and equipment readily available to Contractor. The time period may be extended upon approval by the Director. The City reserves the right to deny any extension of time.

V. MISCELLANEOUS

1.0 INDEPENDENT CONTRACTOR

- 1.1 Contractor shall perform its obligations under this Agreement as an independent contractor and not as an employee of the City.

2.0 FORCE MAJEURE

- 2.1 Timely performance by both parties is essential to this Agreement. However, neither party is liable for delays or other failures to perform its obligations under this Agreement to the extent the delay or failure is caused by Force Majeure. Force Majeure means fires, floods, explosions, and other acts of God, war, terrorist acts, riots, court orders, and the acts of superior governmental or military authority.
- 2.2 This relief is not applicable unless the affected party does the following:
 - 2.2.1 uses due diligence to remove the Force Majeure as quickly as possible, and
 - 2.2.2 provides the other party with prompt written notice of the cause and its anticipated effect.
- 2.3 The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance does not constitute a default or breach of this Agreement by the City.
- 2.4 If the Force Majeure continues for more than 30 days, the City Purchasing Agent or Director may terminate this Agreement by giving 30 days written notice to Contractor. This termination is not a default or breach of this Agreement. **CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT AT THE TIME OF THE TERMINATION.**

3.0 SEVERABILITY

- 3.1 If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.

4.0 ENTIRE AGREEMENT

- 4.1 This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind exist between the Parties regarding this Agreement.

5.0 WRITTEN AMENDMENT

- 5.1 Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance duly adopted by the City Council) and Contractor. The Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

6.0 APPLICABLE LAWS

- 6.1 This Agreement is subject to the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction.
- 6.2 Venue for any litigation relating to this Agreement is Harris County, Texas.

7.0 NOTICES

- 7.1 All notices to either party to the Agreement must be in writing and must be delivered by hand, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, Airborne Express, UPS or any other national overnight express delivery service. The notice must be addressed to the party to whom the notice is given at its address set out in Section I of this Agreement or other address the receiving party has designated previously by proper notice to the sending party. Postage or delivery charges must be paid by the party giving the notice.

8.0 NON-WAIVER

- 8.1 If either party fails to require the other to perform a term of this Agreement, that failure does not prevent the party from later enforcing that term and all other terms. If either party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.
- 8.2 An approval by the Director, or by any other employee or agent of the City, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard of performance other than that required by this Agreement and by law. The Director is not authorized to vary the terms of this Agreement.

9.0 INSPECTIONS AND AUDITS

- 9.1 City representatives may perform, or have performed, (1) audits of Contractor's books and records, and (2) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least 3 years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

10.0 ENFORCEMENT

- 10.1 The City Attorney or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. Contractor shall provide to the City Attorney all documents and records that the City Attorney requests to assist in determining Contractor's compliance with this Agreement, with the exception of those documents made confidential by federal or State law or regulation.

11.0 AMBIGUITIES

- 11.1 If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

12.0 SURVIVAL

- 12.1 Contractor shall remain obligated to the City under all clauses of this Agreement that

expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, the indemnity provisions.

13.0 PARTIES IN INTEREST

13.1 This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Contractor only.

14.0 SUCCESSORS AND ASSIGNS

14.1 This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in the following paragraph. This Agreement does not create any personal liability on the part of any officer or agent of the City.

15.0 BUSINESS STRUCTURE AND ASSIGNMENTS

15.1 Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the City Purchasing Agent's or Director's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest under Section 9.406(c) of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

15.2 Contractor shall not delegate any portion of its performance under this Agreement without the City Purchasing Agent's or Director's prior written consent.

16.0 REMEDIES CUMULATIVE

16.1 Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative of all rights and remedies which exist now or in the future. Neither party may terminate its duties under this Agreement except in accordance with its provisions.

17.0 CONTRACTOR DEBT

17.1 If Contractor, at any time during the term of this agreement, incurs a debt, as the word is defined in Section 15-122 of the Houston City Code of Ordinances, it shall immediately notify the City Controller in writing. If the City Controller becomes aware that Contractor has incurred a debt, she shall immediately notify contractor in writing. If Contractor does not pay the debt within 30 days of either such notification, the City Controller may deduct funds in an amount equal to the debt from any payments owed to Contractor under this agreement, and Contractor waives any recourse therefore.

EXHIBIT A DEFINITIONS

As used in this Agreement, the following terms have the meanings set out below:

"Agreement" means this contract between the Parties, including all exhibits, change orders, and any written amendments authorized by City Council and Contractor.

"City" is defined in the preamble of this Agreement and includes its successors and assigns.

"City Purchasing Agent" is defined as the person or duly authorized successor, authorized in writing to act for the City. The term includes, except as otherwise provided in this Contract, the authorized representative of the City Purchasing Agent acting within the limits of delegated authority.

"Contract Award Notice" means the official notification substantiated by the Notice to Proceed issued by the City Purchasing Agent to the Contractor.

"Contract Charges" means charges that accrue during a given month as defined in Article III.

"Contract Term" is defined in Article IV.

"Contractor" is defined in the preamble of this Agreement and includes its successors and assigns.

"Countersignature Date" means the date this agreement is countersigned by the City Controller.

"Director" means the Chief of the Narcotics Division or the City Purchasing Agent for the City, or the person he or she designates.

"Effective Date" is defined as date contract is countersigned by the City Controller.

"Governing Body" means the Mayor and City Council of the City of Houston.

"Hazardous Materials" is defined in Article II (Environmental Laws).

"Notice to Proceed" means a written communication from the City Purchasing Agent to Contractor instructing Contractor to begin performance.

"Parties" mean all the entities set out in the Preamble who are bound by this Agreement.

EXHIBIT B
SCOPE OF SERVICES

(To be inserted by the City at the time of Contract execution)

EXHIBIT C
EQUAL EMPLOYMENT OPPORTUNITY

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier or lessee agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.

2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.

3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.

5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.

6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.

7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. The contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.

EXHIBIT D
MWBE SUBCONTRACT TERMS

(To be inserted by the City at the time of Contract execution)

**EXHIBIT E
DRUG POLICY COMPLIANCE AGREEMENT**

(To be inserted by the City at the time of Contract execution)

**EXHIBIT F
CONTRACTOR'S CERTIFICATION OF NO SAFETY IMPACT POSITIONS
IN PERFORMANCE OF A CITY CONTRACT**

I, _____
(Name - Print/Type) **(Title)**

as an owner or officer of _____ (Contractor) have authority to bind the Contractor with respect to its bid, and I hereby certify that Contractor has no employee safety impact positions as defined in §5.18 of Executive Order No. 1-31 that will be involved in performing this City Contract. Contractor agrees and covenants that it shall immediately notify the City's Director of Personnel if any safety impact positions are established to provide services in performing this City Contract.

Date

Contractor Name

Signature

Title

**CONTRACTOR'S CERTIFICATION OF NON-APPLICATION OF
CITY OF HOUSTON DRUG DETECTION AND DETERRENCE PROCEDURES
FOR CONTRACTORS**

I, _____
(Name - Print/Type)

as an owner or officer of _____ (Contractor) have authority to bind the Contractor with respect to its bid, and I hereby certify that Contractor has fewer than fifteen (15) employees during any 20-week period during a calendar year and also certify that Contractor has no employee safety impact positions as defined in §5.18 of Executive Order No. 1-31 that will be involved in performing this City Contract. Safety impact position means a Contractor's employment position involving job duties that if performed with inattentiveness, errors in judgment, or diminished coordination, dexterity, or composure may result in mistakes that could present a real and/or imminent threat to the personal health or safety of the employee, co-workers, and/or the public.

Date

Contractor Name

Signature

Title

**EXHIBIT G
DRUG POLICY COMPLIANCE DECLARATION**

(To be inserted by the City at the time of Contract execution)

**EXHIBIT H
FEES AND COSTS**

(To be inserted by the City at the time of Contract execution)

**EXHIBIT I
PAY OR PLAY**

(To be inserted by the City at the time of Contract execution)