CITY OF HOUSTON

Administration and Regulatory Affairs Department
Strategic Purchasing Division

Annise D. Parker
Mayor

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August 30, 2011

Subject: Letter of Clarification No. 1 to Invitation to Bid No. S50-L24020 for On-Site Water Treatment, Sludge Removal and Disposal Services for the Public Works and Engineering Department

To: All Prospective Bidders:

This letter of Clarification is being issued for the following reasons:

- **The bid solicitation issued on August 26, 2011 has been revised in its entirety. Accordingly, the Invitation to Bid issued August 26, 2011 is hereby deleted and replaced with the attached solicitation Marked "*RE-ISSUED, AUGUST 30, 2011.***

When issued, Letter(s) of Clarification shall automatically become a part of the bid documents and shall supersede any previous specification(s) and/or provision(s) in conflict with the Letter(s) of Clarification. It is the responsibility of the bidders to ensure that it has obtained all such letter(s). By submitting a bid on this project, bidders shall be deemed to have received all Letter(s) of Clarification and to have incorporated them into this solicitation.

Furthermore, it is the responsibility of each Contractor to obtain any previous Letter of Clarification associated with this solicitation.

Arturo Lopez
Arturo Lopez
Senior Procurement Specialist
832-393-8731

Attachment: "Re-Issued Solicitation" dated August 30, 2011

Partnering to better serve Houston

Council Members: Brenda Stardig Jarvis Johnson Anne Clutterbuck Wanda Adams Mike Sullivan Al Hoang Oliver Pennington Edward Gonzalez James G. Rodriguez Stephen C. Costello Sue Lovell Melissa Noriega C.O. "Brad" Bradford Jolanda "Jo" Jones **Controller: Ronald C. Green**

RE-ISSUED AUGUST 30, 2011

City of Houston ARA Administration & Regulatory Affairs	**CITY OF HOUSTON, TEXAS** **NOTICE OF BEST VALUE BID (BVB)** **SOLICITATION NO.: S50-L24020** ***REVISED 9.2.2011***	**STRATEGIC PURCHASING DIVISION** ***"PARTNERING TO BETTER SERVE HOUSTON"***

NIGP CODE: **968-93 & 910-70**

SOLICITATION DUE DATE/TIME: **September 22, 2011 at 10:30 AM, CST**

SUBMITTAL LOCATION:

City Secretary's Office
City Hall Annex, Public Level
900 Bagby Street
Houston, Texas 77002

DESCRIPTION:

ONSITE WATER TREATMENT, SLUDGE DEWATERING AND DISPOSAL SERVICES FOR PUBLIC WORKS & ENGINEERING DEPARTMENT

	Date	*Time*	*Location*
PRE-BID CONFERENCE:	**09-08-2011**	**10:00 AM**	**Conference Room of the Northeast Water Purification Plant, 12121 North Sam Houston Parkway East, Humble TX (KM 377W)** ***(NOTE: Valid Picture I.D. is Required in Order to Enter the Facility, NO Exceptions Taken)***

In accordance with T.L.G.C. § Chapter 252, competitive sealed Bids for the services specified will be received by the City Secretary's Office of the City of Houston at the above specified location, until the time and date cited. Offers must be in the actual possession of the City Secretary's Office on or prior to the time and date, and at the location indicated above. Late offers will not be considered.

Offers must be submitted in a sealed envelope or package with the Solicitation Number and the Offeror's name and address clearly indicated on the envelope or package. All offers must be completed in ink or typewritten. Additional instructions for preparing an offer are included in this Solicitation.

NOTICE: To be considered for award, the bidder must submit the electronic bid form, including the signature page, which must be signed by a company official authorized to bind the company, a 10% Bid Bond and the forms listed in Table 1 on page 2.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION

Sollicitation Contact Person:
Arturo Lopez

Name
E-mail Address
Arturo.lopez@houstontx.gov

City Purchasing Agent

August 30, 2011

1.0 SUBMITTAL PROCEDURE:

1.1 Sealed bids, two (2) hard copies of the Bid package, including one (1) printed original must be signed in ink on the Official Signature Page by an authorized officer of the Offering Company. Additionally, the Bid package must include the hard copy of the Electronic Bid Form and five (5) additional electronic CD copies of the Bid Forms as referenced in Section 2.3 below are required to be submitted in a sealed envelope/box bearing the assigned Solicitation Number S50-L24020, located on the first page of the BVB document to:

City Secretary's Office
City Hall Annex, Public Level
900 Bagby St.
Houston, Texas 77002

1.2 The deadline for the submittal of the Bid to the City Secretary's Office is no later than the date and time as indicated on the first page of the BVB document. All bids will be opened and publicly read in the City Council Chamber, City Hall Annex, Public Level, 900 Bagby St. at 11:00 AM on the solicitation due date. Failure to submit the required number of copies as stated above may be subject for disqualification from the BVB process.

1.3 Respondents may elect to either mail or personally deliver their Bids to the City Secretary's Office.

1.4 The City of Houston shall bear no responsibility for submitting responses on behalf of any Offeror. Offeror(s) may submit their Bid to the City Secretary's Office any time prior to the stated deadline.

2.0 BEST VALUE BID FORMAT:

2.1 The Bid should be electronically generated, printed and signed in original ink. The bid should not be submitted in elaborate or expensive binders. Legibility, clarity, and completeness are important and essential.

2.2 The Bid must be signed by an individual(s) legally authorized to bind the Offeror(s), and the City may accept this bid offer by issuance of a Contract to the said Offeror(s) 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.

2.3 The complete Bid packet shall consist of the following items:

TABLE 1 – REQUIRED BID FORMS
Signed Official Signature Page
Hard Copy of Electronic Bid Form (Pricing Sheet)
*Affidavit of Ownership.doc
*Fair Campaign Ordinance.doc
*Statement of Residency.doc
*Conflict of Interest Questionnaire.doc
*Pay or Play Program Acknowledgement Form
Contractor's Questionnaire
List of Subcontractor(s)
M/WBE Attachment A & B Forms
10% Bid Bond
Expertise/Experience/Reliability Statement
Organizational Chart
Certifications/Licenses (If applicable) & Resumes of Key Personnel
Financial Statements
Five (5) Electronic CD Copies

*** Documents/forms can be downloaded from the City's Website: http://purchasing.houstontx.gov/solicitation_forms.htm**

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
Sample Insurance Over $50,000.pdf
Pay or Play Compliance Certification Form 2
Pay or Play List of Participating Subcontractors Form 3
Performance Bond

3.0 PRE-BID CONFERENCE:

3.1 A Pre-Proposal Conference will be held at the date, time, and location as indicated on the first page of the Best Value Bid Document. Interested Offeror(s) should plan to attend. It will be assumed that potential Offeror(s) attending this meeting have reviewed the BVB in detail, and are prepared to bring up any substantive questions not already addressed by the City.

4.0 ADDITIONAL INFORMATION AND SPECIFICATION CHANGES:

4.1 Requests for additional information and questions should be addressed to the Administration and Regulatory Affairs Department, Strategic Purchasing Division's Buyer, Art Lopez, telephone: (832) 393-8731, fax: (832) 393-8758, or e-mail (preferred method to): **arturo.lopez@houstontx.gov** no later than ***Monday, September 12, 2011 at 5:00 P.M. CST***. The City of Houston shall provide written response to all questions received in writing before the submittal deadline. Questions received from all Offeror(s) shall be answered and sent to all Offeror(s) who are listed as having obtained the BVB from the City's E-Bid website. Offeror(s) shall be notified in writing of any changes in the specifications contained in this BVB.

4.2 Currently, the water treatment sludge is processed through gravity thickeners and dewatered using belt filter presses (City's own equipment) at the NEWPP. Three filter belt presses which consisted of two Komline-Sanderson systems (each rated for 1,300 lbs/hour) and one Ashbrook system (rated at 1,500 lbs/hour) are being used at this facility.

4.3 It is the intent of the City to award one contract as a result of this invitation to bid. An incomplete bid or partial bid response shall disqualify the Contractors bid from further consideration.

5.0 LETTER(S) OF CLARIFICATION:

5.1 All Letters of Clarification and interpretations to this Solicitation shall be in writing. Any Letter of Clarification(s) or interpretation that is not in writing shall not legally bind the City of Houston. Only information supplied by the City of Houston in writing or outlined in this BVB should be used in preparing bid responses.

5.2 The City does not assume responsibility for the receipt of any Letters of Clarification sent to Offeror(s).

6.0 EXAMINATION OF DOCUMENTS AND REQUIREMENTS:

6.1 Each Offeror shall carefully examine all BVB documents and thoroughly familiarize themselves with all requirements prior to submitting a Bid to ensure that the Bid meets the intent of this BVB.

6.2 Before submitting a Bid, each Offeror shall be responsible for making all investigations and examinations that are necessary to ascertain conditions and requirements affecting the requirements of this BVB. Failure to make such investigations and examinations shall not relieve the Offeror from obligation to comply, in every detail, with all

provisions and requirements of the BVB.

7.0 EXCEPTIONS TO TERMS AND CONDITIONS:

7.1 Best Value Bids: An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, may be rejected.

8.0 ACCEPTANCE AND REJECTION OF BIDS:

8.1 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 most advantageous or in the best intrest to the City.

9.0 PROTEST:

9.1 A protest shall comply with and be resolved, according to the City of Houston Municipal Code, Chapter 15, Article 1 and rules adopted thereunder. Protests shall be submitted in writing and filed with both, the City Purchasing Agent and the Solicitation contact person as identified on the first page of the BVB. A pre-award protest of the BVB shall be received by the City Purchasing Agent prior to the Contract award date. A post-award protest of an awarded Contract shall be filed within ten (10) days after the protester knows, or should have known, the basis or outcome of the Contract award.

9.2 A protest shall include the following:

9.2.1 The name, address, e-mail, and telephone number of the protester;

9.2.2 The signature of the protester or its representative who has the delegated authority to legally bind its company;

9.2.3 Identification of the BVB description and the BVB or Contract number;

9.2.4 A detailed written statement of the legal and factual grounds of the protest, including copies of relevant documents, etc.; and

9.2.5 The desired form of relief or outcome, which the protester is seeking.

10.0 BID BOND:

The Contractor shall be required to provide and submit with the bid a Bid Bond in the amount of ***10%*** of the total amount bid by the Contractor. The Bid Bond shall be in the same form as that distributed by the City, and attached hereto, all duly executed by this Bidder (as "Principal") and by a corporate surety company licensed to do business in the State of Texas, and if the amount of the bond is greater than $100,000.00 the surety must hold a certificate of authority from the United States Secretary of the Treasury, or a Cashier's or a Certified check in a like amount. Company or personal checks are not acceptable. *(See the sample Bid Bond Document on page 49 of 56)*

11.0 PERFORMANCE BOND:

The Contractor shall furnish and maintain a performance bond in the amount of ***50% of the annual contract amount, renewable annually***, which will be for a period not to exceed one year. If the City exercises its option to extend the agreement beyond the initial term of three years and the Contractor mutually agrees, the Contractor shall furnish a performance bond for each renewal year. However, the surety providing the performance bond for each year of the initial term of the agreement shall be under no obligation to provide the performance bond for any renewal year. The bond shall be conditioned upon the Contractor's full and timely performance of this agreement and must be issued by a corporate surety authorized to write surety bonds in the State of Texas and in the form set out in Exhibit "J".

If the City exercises any option years, the Contractor shall maintain a Performance Bond in the amount equal to 50% of the contract amount for the option year, as determined by the City Purchasing Agent or Director. The bond must be in substantially the form attached as Exhibit "J" and issued by a corporate surety authorized and admitted to write surety bonds in Texas. If the amount of the bond exceeds $100,000, the surety must be listed on the current list of accepted sureties on federal bonds published by the United States Treasury Department or reinsured for any liability in excess of $100,000 by a reinsurer listed on the U.S. Treasury list.

The Contractor must deliver the Performance Bond or Clean Irrevocable Letter of Credit to the City Purchasing Agent of the City on or before the tenth (10th) day following the day this Bidder receives notification from the City of a possible award.

11.0 PRICING:

The Contractor shall provide unit prices to perform the following services:

Basic Services: Group No. 1 – Line Item No. 1: Operate and maintain equipment as defined in Section BB "Equipment Asset Checklist"

Basic Services: Group No. 1 – Line Item No. 2: Tdispose of the sludge to off-site facility.

Additional Services: Group No. 2 – Line Item No. 1: Sludge removal services at other locations of the facility.

Additional Services: Group No. 2 – Line Item No. 2: Repairs to City-Owned equipment that exceeds the $3,000 threshold.

Additional Services: Group No. 2 – Line Item No. 3: Capital improvements to City-Owned equipment that improve the operability and reliability of the system.

1.0 This BVB does not commit the City of Houston to award a Contract, issue a Purchase Order, or to pay any costs incurred in the preparation of a Bid in response to this request.

2.0 The Bid will become part of the City's official files without any obligation on the City's part. All Responses shall be held confidential from all parties other than the City until after the Bids are opened and publicly read. Afterward, the Bids shall be available to the public.

3.0 The City of Houston shall not be held accountable if material from responses is obtained without the written consent of the Offeror by parties other than the City, at any time during the Bid evaluation process.

4.0 In the event an Offeror submits trade secret information to the City, the information must be clearly labeled as a ***"Trade Secret."*** The City will maintain the confidentiality of such trade secrets to the extent provided by law.

5.0 Offeror(s) shall not offer any gratuities, favors, or anything of monetary value to any official or employee of the City of Houston (including any and all members of the Bid evaluation committees).

6.0 Offeror(s) shall not collude in any manner, or engage in any practices, with any other Offeror(s), which may restrict or eliminate competition, or otherwise restrain trade. This is not intended to preclude subcontracts and joint ventures for the purposes of: a) responding to this BVB; or b) establishing a project team with the required experience and/or capability to provide the goods or services specified herein.

7.0 Offeror(s), their authorized representatives and their agents are responsible for obtaining, and will be deemed to have, full knowledge of the Conditions, requirements, and Specifications of the BVB at the time a Bid is submitted to the City.

8.0 The Agreement(s) shall become effective on or about ***November 14, 2011*** for a term of three (3) years. The City of Houston reserves the option of extending the Agreement(s) on an annual basis for two (2) additional one-year terms, or portions thereof.

9.0 If necessary for the completion of tasks required under the project, the City will provide reasonable working space to the Prime Contractor.

10.0 Clerical support and reproduction of documentation costs shall be the responsibility of the Prime Contractor. If required, such support and costs shall be factored into the Bid amount.

11.0 Prime Contractor personnel essential to the continuity, and the successful and timely completion of the project should be available for the duration of the project unless substitutions are approved in writing by the City Project Director.

12.0 The Prime Contractor will be expected to adhere to all standard contractual requirements of the City which shall include, but are not limited to, provisions for: Time Extensions; Appropriation of Available Funds; Approvals; Term and Termination; Independent Contractor; Business Structure and Assignments; Subcontractors; Parties in Interest; Non-Waiver; Applicable Laws; Notices; Use of Work Products; Equal Employment Opportunity; Force Majeure; and Inspections and Audits.

13.0 The City may terminate its performance under a Contract in the event of a default by the Prime Contractor and a failure to cure such default after receiving notice of default from the City. Default may result from the Prime Contractor's failure to perform under the Terms of the Contract or from the Prime Contractor becoming insolvent, having a substantial portion of its assets assessed for the benefit of creditors, or having a receiver or trustee appointed.

14.0 Prime Contractor must promptly report to the City Project Director any conditions, transactions, situation, or circumstances encountered by the Prime Contractor which would impede or impair the proper and timely performance of the Contract.

15.0 The City of Houston has sole discretion and reserves the right to cancel this BVB, or to reject any or all Bids received prior to Contract award.

16.0 The City reserves the right to waive any minor informality concerning this BVB, or to reject any or all Bids or any part thereof.

17.0 The City reserves the right to request clarity of any Bid after they have been received.

18.0 After Contract execution, the successful Offeror shall be the Prime Contractor and responsible party for contracting and communicating the work to be performed to subcontractors, and for channeling other information between the City and subcontractors. Any subcontracting must be specified in the BVB. Any subcontracting not specified in the BVB will need prior written approval from the City Purchasing Agent.

19.0 Prime Contractor assumes total responsibility for the quality and quantity of all work performed, whether it is undertaken by the Prime Contractor or is subcontracted to another organization.

20.0 If subcontractor involvement is required in the use of license, patent, or proprietary process, the Prime Contractor is responsible for obtaining written authorization from the subcontractor to use the process, or provide another process comparable to that which is required and which is acceptable to the City, all at no additional cost or liability to the City.

SECTION B
SCOPE OF WORK/SPECIFICATIONS

ONSITE WATER TREATMENT SLUDGE DEWATERING AND DISPOSAL SERVICES

1.0 GENERAL:

1.1 The Contractor shall furnish all supervision, labor, parts, tools, materials, equipment, supplies, and transportation necessary to perform all operations and maintenance functions of the sludge dewatering system at the Northeast Water Purification Plant (NEWPP) located at 2121 North Sam Houston Parkway East, Humble, Texas 77396 (Key Map 377W).

1.1.1 Operations and Maintenance of the System (Fee Schedule, Group No. 1, Line Item No. 1 – Unit of Measure is by Monthly Fee). The system includes the following components:

1.1.1.1 Sludge feed pump and transfer pump system and associated equipment.
1.1.1.2 Belt press system and associated equipment.
1.1.1.3 Overflow/recycle basins No 1 and 2.
1.1.1.4 Thickener system and associated equipment.
1.1.1.5 Variable frequency drives associated with the sludge feed pump system.
1.1.1.6 Management of all costs associated with procurement and handling of the polymer and operations and maintenance of the polymer system.

1.1.2 Transportation and Disposal of Sludge (Fee Schedule, Group No. 1, Line Item No. 2 – Unit of Measure is by Dry Ton). The Contractor shall transport and dispose of the dewatered sludge at an approved Texas Commission on Environmental Quality (TCEQ) landfill. The Contractor must be capable of providing all services detailed in this invitation to bid to be considered for this award.

1.2 The services must meet or exceed all requirements of the Environmental Protection Agency (EPA) and the Texas Commission on Environmental Quality (TCEQ), as well as local regulations governing these activities.

1.3 All transportation and disposal operations must be performed in compliance with all applicable statutes and regulations which shall include, but not be limited to, federal, state, county, and local regulations. Disposal site(s) shall be permitted or registered with certificates current. Waste haulers/transporters, where used, shall have current registrations and stickers on trucks.

1.4 Contractor shall perform Work in a manner which minimizes disruption of the normal operation of the water treatment plants and maintain continuous operation of existing facilities. The City will not tolerate inaction or action by the Contractor that could jeopardize the operation of the plant.

1.5 The amount of sludge the Contractor may be asked to handle may vary depending on various factors which include, but are not limited by raw water chemistry and turbidity, treatment chemical types and dosages, treated water flow capacity, and equipment failure. There no minimum/maximum quantities of sludge guaranteed under this contract.

1.6 The City recommends that the Contractor base its pricing on the same sludge polymer that is being used at the NEWPP (Polydyne Clarifloc A6320). If an alternate dewatering polymer is subsequently proposed by the Contractor, the Contractor must obtain approval from the Plant Manager/CTR prior to utilizing the new chemical.

1.7 The thickener sludge blanket level shall never exceed 12-feet at any time. The torque shall never exceed 15 (x 1,000) ft-lbs at any time. This requirement supercedes any specifications provided in the O&M manual.

1.7.1 The Contractor shall verbally notify the Plant Manager (Contract Technical Representative) CTR or designee any time the above requirements (sludge blanket level or torque) are not satisfied, and document the associated information in the monthly operations report per section 3.5.

1.7.1.1 Penalty and time to cure

A. If the Contractor, upon receiving written notice from the Plant Manager/CTR, does not comply with operation levels specified for the thickeners, then a penalty of $500/day may be applied. The Contractor has 24 hours to cure the deficiency from the time notice is provided before the fine is applied.

B. If the Contractor, upon receiving written notice from the Plant Manager/CTR, does not repair a belt press with 48 hours from notice, then a penalty of $500/day may be applied.

C. If the Contractor, upon receiving written notice from the Plant Manager/CTR, does not provide documentation as specified in this contract, then a penalty of $250/day may be applied. The Contractor has 5 business days to cure deficiency from the time notice is provided before the fine is applied.

Assessed penalties may be applied to monthly invoice.

1.7.2 The Contractor shall be responsible for any accumulation of sediments/sludge in the Overflow/Recycle Pond 1 and 2. When sludge levels are approximately 3-feet below the bottom of one or more of the 4-inch diameter weep holes in the Overflow basins, the City reserves the right to direct Contractor to remove sludge/sediment from the Overflow basins/recycle ponds at the expense of the Contractor. Based on historical operation records, approximately 2 basin clean-outs per year are typical.

1.7.3 The Contractor shall perform daily sludge blanket level readings and torque measurements on each thickener. The measurements shall be recorded once in the morning at the start of the shift, and at the end of the day prior to the Contractor leaving the site. The measurements shall be called-in and hand delivered to the Plant Operator Supervisor in the NEWPP Control Room and included in the MonthlyOperations Report. If, at any time the thickener polymer blending unit is used, the Contractor shall notify the Plant Manager/CTR prior to its use.

2.0 SITE DESCRIPTION:

2.1 The Contractor shall provide operation, maintenance, transport, and disposal services to the following water treatment plants:

2.1.1 Northeast Water Purification Plant

2.2 Northeast Water Purification Plant (NEWPP):

2.2.1 The NEWPP is located at 12121 North Sam Houston Parkway East, Humble, Texas 77396 (Key Map 377W).

2.2.2 The daily average treated water flow rate for the NEWPP is 60 MGD, and the annual water treatment sludge produced is approximately 4,600 dry tons per year. Daily treated water flow rate for the NEWPP may increase to an average flow rate of 80 MGD during the contract term.

2.2.3 After the sludge is dewatered, the sludge is currently hauled off in form of a truck-able dry cake and disposed of at an off-site commercial landfill.

2.2.4 The Contractor shall have sole responsibility for the method of disposal of sludge. The Contractor is responsible for finding and arranging for disposal site(s). The Contractor, at its own expense, shall obtain and analyze sludge samples to ascertain the quality and characteristics of dewatered sludge for disposal, if required by disposal site(s).

3.0 SCOPE OF SERVICES:

3.1 The Plant Manager/CTR will be the designated point of contact for the contract. All coordination for the project shall be made through the Plant Manager/CTR or his designee.

3.2 The Contractor shall designate a Project Manager for this contract by submitting in writing a letter to the Plant Manager/CTR. This letter shall be delivered within 10 days of notification of award by the City Council.

3.2.1 The Project Manager must be LOCALLY available at all times during the contract term.

3.2.2 The Project Manager shall have full authority to represent the Contractor in making decisions and in the execution of the services to be performed under the contract.

3.2.3 The Project Manager must be knowledgeable in operation and maintenance of dewatering process and equipment.

3.3 The City's water purification plants are operated 24-hours a day, 7-day a week. The Contractor shall be available to provide service on a 24-hour per day/7-day per week basis to meet the specifications of the sludge dewatering services per this Contract. The City shall not be charged an additional fee for the services outside of the normal working hours, including weekends or holidays. The Contractor shall make provisions to complete any and all scheduled work as quickly as possible after a delay caused by inclement weather, or other conditions.

3.4 The Contractor shall be responsible for all operations and maintenance functions of the existing on-site dewatering systems at the NEWPP.

3.4.1 The Contractor shall provide qualified personnel to operate the systems. The Contractor will ensure that all personnel are trained and meet the minimum regulatory requirements established by TCEQ.

3.4.2 The Contractor shall provide all preventive and corrective maintenance work on the City's dewatering system per manufacturer's recommendations specified in the Operations and Maintenance (O&M) manuals. The City will provide copies of all O&M manuals related to the NEWPP sludge dewatering system.

3.5 Documentation Required:

3.5.1 Maintenance Reports:

The Contractor shall provide montly maintenance reports upon submittal of the monthly invoice. The report shall include at a minimum, the following items, and may include more at the direction of the City:

3.5.1.2 Date of Preventative Maintenance (PM) or Corrective Maintenance (CM) performed.
3.5.1.3 Required frequency of PM.
3.5.1.4 Name of person performing PM/CM.
3.5.1.5 Time/hours associated with PM/CM.
3.5.1.6 Detailed description of the PM that is performed (i.e. products used, how they are used, procedures followed)
3.5.1.7 PM and CM scheduled for next reporting period.

3.5.2 Operations Report:

At a minimum, the Contractor shall furnish an operations report to the Plant Manager/ CTR or designee, upon submittal of the monthly invoice. The report shall include, but not be limited to the following:

3.5.2.1 All data required for federal, state, and local reports,
3.5.2.2 actual costs and percent of total invoice applicable for MWBE goal,
3.5.2.3 breakdown summary for all costs including, but not limited to, transportation, disposal, chemicals, maintenance of equipment, and operations of system,
3.5.2.4 monthly usage of sludge polymers,
3.5.2.5 daily sludge blanket readings and torque levels for each thickener,
3.5.2.6 number and size of trucks/bins hauled each day,
3.5.2.7 percent solids of sludge in each container that is disposed,
3.5.2.8 volume of solids disposed in wet tons and dry tons,
3.5.2.9 any operational issues during the reporting period that may include, but will not be limited to overflows of thickener weirs, exceedences of torque limits or sludge blanket levels,
3.5.2.10 analytical testing reports, if any, and
3.5.2.11 disposal manifests.
3.5.2.12 Daily operations status of each major piece of equipment (i.e. thickeners, belt presses, sludge transfer pumps, and sludge feed pumps.

3.6 Repairs: The Contractor is strickly and soley responsible for the cost of operating and maintaining Contractor equipment. However, regarding City-owned equipment the following aspects apply:

a. Any single repair or replacement that is less than $3,000 (i.e. cost of part or parts only) shall be paid for by the Contractor. All labor, supervision, consumables, equipment, tools, etc. required to perform this repair shall be paid for by the Contractor.

b. Any single repair or replacement that is greater than $3,000 *(i.e. cost of part or parts only) shall be paid for by the Cityin accordance with the Contract Fee Schedule)*, unless it is damaged due to the Contractor's actions or lack of actions. The City will pay all costs exceeding $3,000, including, parts, labor, supervision, consumables, equipment, tools, etc.

If the City elects to use the Contractor for repairs described herein, the work will be considered "Special City Directed Service and will be paid for in accordance with the Contract Fee Schedule.

For all work exceeding $3,000, a minimum of 3 bids shall be obtained by the Contractor. If three bids cannot be obtained, the Contractor shall provide documentation that a reasonable effort was made to attain 3 bids. The City also reserves the right to retain other entities to make the repair if the proposal is not acceptable to the City.

Any repair or replacement in excess of $3,000 per item shall require authorization from the Plant Manager/CTR or designee. The Contractor shall determine the extent and estimated cost of corrective repairs. A written recommendation for repair shall be submitted to the Plant Manager/CTR or designee for approval. The City will reimburse for the repairing costs if the Contractor demonstrates the damage is not preventable. All repairs will require written authorization from the Plant Manager/CTR or designee before commencing. If repair cost is greater than $5,000, three written quotes shall be obtained from independent third-party vendors.

ADDITIONAL/SPECIAL CITY DIRECTED SERVICES

3.7 For Special City Directed Services, the City will pay the entire cost of the directed service, including the Contractor's mark-up as submitted by the Contractor in the Contract Fee Schedule. may include the following tasks and shall be performed at the discretion of the City:

1. *Additional Services Group No. 2 – Line Item No. 1 - Sludge removal services at other locations of the facility, such as recycle ponds and/or sedimentation basins.*
2. *Additional Services Group No. 2 – Line Item No. 2 - Repairs to City-Owned equipment that exceed the $3,000 threshold as described in Section 3.6.b.*
3. *Additional Services Group No. 2 – Line Item No. 3 - Capital improvements that improve the operability and reliability of the system. An annual and joint inspection will be performed by the City and Contractor to assess the condition of the sludge dewatering system. One week after the inspection is complete; the Contractor will provide a list of items that is recommended for repair or improvement.*

The City reserves the right to use or not use monies appropriated under the Additional Services listed above. The City also reserves the right to utilize a different Contractor to complete the work listed under Additional Services.

The Contractor will use the existing City's owned belt filter presses at the NEWPP for processing the sludge onsite.The Contractor shall be solely responsible for the method of disposal of sludge and disposal fee(s). Contractor is responsible for finding and arranging for disposal site(s). The Contractor, at its own expenses, shall obtain and analyze sludge samples to ascertain the quality and characteristics of dewatered sludge for disposal, if required by disposal site(s).

3.8 The Contractor shall procure, supply and pay for all sludge polymer costs to be used for on-site dewatering service. The Contractor shall manage the disposal of unused polymer, and return polymer containers to the appropriate location. The Contractor shall provide containment for the totes staged on site.

3.9 The Contractor shall keep the sludge in the thickeners and torque readings at levels defined in paragraph 1.8 in order to minimize disruption of the plant operations at all times, including weekends, and holidays.

3.10 The Contractor shall provide a sufficient number of watertight containers and transporting vehicles at the plants to enable continuous operation of the described on-site water treatment sludge dewatering, hauling, and disposal service. All containers shall be covered with tarpaulins prior to leaving plants and en route to disposal site(s).

3.11 The Contractor shall sample each container for percent solids to determine the dry tonnage of hauled sludge at no additional cost to the City. The sample shall be analyzed in accordance with the City of Houston (COH) standard, Document ID #240, version 1.02. A copy is provided as an attachment to this document. Prior to commencing the work, the Contractor shall provide laboratory information to the Plant Manager/CTR or his designee for approval. The City reserves the rights to obtain a split sample for verification purposes. The sample results analyzed by the City will supersede the Contractor's. The Contractor shall be required to weigh, fill and empty all containers at the disposal facility and include documentation with submittal of invoice.

3.12 The Contractor shall perform all analyses as required by TCEQ for the disposal alternative selected. During the contract term, the Contractor shall also perform additional sampling, if required, at no additional cost to the City to comply with any changes made by federal, state, and local regulatory agencies. The City reserves the right to obtain copies of these analyses upon request.

3.13 The Contractor must be equipped to exchange information electronically with the City in a format that is compatible with Microsoft Office software. It shall be solely the Contractor's responsibility to facilitate this electronic exchange. The Contractor shall bear all costs for providing this interface with the City.

3.14 At a minimum, the Contractor shall furnish a monthly progress report to the Plant Manager/CTR or designee, by the 15th day of the following month. The report shall include, but not limited to:

3.14.1 All data required for federal, state and local reports,
3.14.2 monthly usages ans MSDS sheets of sludge polymers,
3.14.3 number of trucks/bins hauled,
3.14.4 volume of dry solids hauled in tons,
3.14.5 analytical testing reports, if any,
3.14.6 disposal manifests and
3.14.7 documentation of maintenance records on dewatered system.

3.15 The Contractor shall provide other reports as reasonably stipulated by the Plant Manager/CTR or designee, on a routine or as needed basis. The City shall not be charged an additional fee for these services.

3.16 The Contractor shall insure that copies of back-up documents and manifests are properly completed, fully and legibly executed with correct information and dates.

3.17 The Contractor shall remove debris and rubbish from the work site as frequently as necessary to avoid safety hazards and unsightliness, and at the end of each workday.

3.18 The Contractor shall be responsible for containing all spillage of product that includes dewatered solids, fuel and lubricants, and sludge polymers.

3.19 The Contractor shall be responsible to insure that all spills or damages caused by spills are corrected immediately at his own expense. Correction of spills or damages shall be executed in a manner approved by the Plant Manager/CTR or his designee.

3.20 The Contractor shall ensure its employee and/or subcontractors comply with the regulations governing the issuance of a Storm Water Discharge Permit by the EPA/TCEQ. The permit, in general, requires the City to eliminate or remedy any erosion of soil into the waterways and prevent any contaminants from reaching the waterways. The Contractor shall not disturb vegetated areas to the point where the soil may be exposed to erosion.

3.21 The Contractor shall not adjust or tamper with the caustic feed system in thickeners at any time. When the Contractor is not on-site, the NEWPP Plant Shift Supervisor will notify (call and/or email) the Contractor before flows from the sedimentation basins are diverted to an alternate thickener. When the Contractor is on-site, the Contractor shall notify (call) the Control Room before flows from the sedimentation basins are diverted to an alternate thickener.

4.0 SITE VISIT:

4.1 When deemed necessary an inspection may be made by the City to determine whether a bidder actually has a facility at the location they have listed in the bid document and determine if the bidder meets the bid requirements.

5.0 CONTRACT COMPLIANCE:

5.1 The City reserves the right to monitor this contract for compliance to ensure legal obligations are fulfilled and that acceptable level of service are provided.

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

5.2.1 Site visits
5.2.2 Testing and sampling of goods and services
5.2.3 Review of deliveries received for accuracy and timeliness
5.2.4 Review of permits, certifications and/or licenses
5.2.5 Review of contractor's invoices for accuracy

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

6.0 POST AWARD MEETING:

6.1 Once the contract has been approved by City Council, the City reserves the right to schedule a Post-Award meeting with the Contractor and City end users. The meeting will include representatives from the Strategic Purchaing Division, Public Works and Engineering Department Contact Management, Accounts Payable, and others as deemed appropriate.

7.0 ESTIMATED QUANTITIES NOT GUARANTEED:

The estimated quantities specified herein are not a guarantee of actual quantities, as the City does not guarantee any particular quantity of services provided 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.

8.0 ADDITIONS & DELETIONS:

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 therefor will then be the Contractor's normal and customary charges or rates for the equipment, supplies, locations and/or services classified in the Contract Fees and Costs schedule.

9.0 INTERLOCAL AGREEMENTS:

Under the same terms and conditions hereunder, the Contract may be expanded to other government entities through inter-local agreements between the City of Houston and the respective government entity that encompass all or part of the products/services provided under this contract. Separate contracts will be drawn to reflect the needs of each participating entity.

10. WARRANTY OF SERVICES:

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

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

10.2 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-confirming services at no additional cost to the City, or (2) that the City does not require correction or re-performance.

10.3 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.

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

END OF DOCUMENT

SECTION BB
EQUIPMENT ASSET CHECKLIST

NO.	EQUIPMENT NO.	ASSET NO.	DESCRIPTION	RESPONSIBILITY MATRIX	
				OPERATIONS	MAINTENANCE
1	09BP01	603092	BELT PRESS 1 BELT PRS	Contractor	Contractor
2	09BP202	603099	BELT PRESS 2 BELT PRS	Contractor	Contractor
3	09BP203	603100	BELT PRESS 3 BELT PRS	Contractor	Contractor
4	09SC01	603101	BELT PRESS 1 AND 2 CONVEYOR / AUGER	Contractor	Contractor
5	09SC62	603102	BELT PRESS 3 CONVEYOR / AUGER	Contractor	Contractor
6	09ME205	603140	POLYMER BLENDING UNIT 1 POLYBLND	Contractor	Contractor
7	09ME206	603104	POLYMER BLENDING UNIT 2 POLYBLND	Contractor	Contractor
8	09ME207	603103	POLYMER BLENDING UNIT 3 POLYBLND	Contractor	Contractor
9	09P06	-	WASH WATER PUMP BP1	Contractor	Contractor
10	09P206	-	WASH WATER PUMP BP3	Contractor	Contractor
11	09P207	-	WASH WATER PUMP BP2	Contractor	Contractor
12	09SP05	602828	SUMP PUMP	Contractor	Contractor
13	09SP06	602829	SUMP PUMP	Contractor	Contractor
14	09SP205	602837	SUMP PUMP	Contractor	Contractor
15	09SP206	602836	SUMP PUMP	Contractor	Contractor
16	09ME04	603153	THICKENER POLYMER BLENDING UNIT *	Contractor	Contractor
17	10BAS01	603281	RECYCLE BASIN 1	Contractor	Contractor
18	10BAS02	603288	RECYCLE BASIN 2	Contractor	Contractor

19	09FIT1002	602571	SLUDGE PUMP 1 DISCHARGE FLWMETR	COH	COH
20	09FIT1003	602820	SLUDGE PUMP 2 DISCHARGE FLWMETR	COH	COH
21	09FIT2002	602822	SLUDGE PUMP 3 DISCHARGE FLWMETR	COH	COH
22	09FIT2003	602823	SLUDGE PUMP 4 DISCHARGE FLWMETR	COH	COH
23	09FIT1000	602814	THICKENER 1 INLET FLOWMETER	COH	COH
24	09FIT1001	603454	THICKENER 2 INLET FLOWMETER	COH	COH
25	09FIT2001	602815	THICKENER 3 INLET FLOWMETER	COH	COH
26	09P01	602827	SLUDGE TRANSFER PUMP 1 (East Pit)	Contractor	Contractor
27	09P02	602824	SLUDGE TRANSFER PUMP 2 (East Pit)	Contractor	Contractor
28	09P03	602826	THICKENED SLUDGE FEED PUMP (West Pit)	Contractor	Contractor
29	-	-	VFD Controls for P03	Contractor	Contractor
30	09P04	602825	THICKENED SLUDGE FEED PUMP (West Pit)	Contractor	Contractor
31	-	-	VFD Controls for P04	Contractor	Contractor
32	09P201	602831	THICKENED SLUDGE TRANSFER PUMP	Contractor	Contractor
33	09P202	602834	THICKENED SLUDGE TRANSFER PUMP	Contractor	Contractor
34	09P203	602830	THICKENED SLUDGE FEED PUMP (East Pit)	Contractor	Contractor
35	-	-	VFD Controls for P203	Contractor	Contractor
36	09P204	602835	THICKENED SLUDGE FEED PUMP (East Pit)	Contractor	Contractor
37	-	-	VFD Controls for P204	Contractor	Contractor
38	09PH01	602816	THICKENER 1 PH METER PH	COH	COH
39	09PH02	602817	THICKENER 2 PH METER PH	COH	COH

40	09PH03	602818	THICKENER 3 PH METER PH	COH	COH
41	09RAKE01	602838	THICKENER 1 RAKE	Contractor	Contractor
42	09RAKE02	602839	THICKENER 2 RAKE	Contractor	Contractor
43	09RAKE03	602840	THICKENER 3 RAKE	Contractor	Contractor
44	09ME01	602841	THICKENER 1	Contractor	Contractor
45	09ME02	602842	THICKENER 2	Contractor	Contractor
46	09ME03	602965	THICKENER 3	Contractor	Contractor
47	09V01	602967	THICKENER 1 INLET VALVE	Contractor	Contractor
48	09V02	602968	THICKENER 2 INLET VALVE	Contractor	Contractor
49	09V203	603080	THICKENER 3 INLET VALVE	Contractor	Contractor
50	-	-	CAUSTIC FEED SYSTEM TO THICKENERS	COH	COH
51	-	-	31 FT. MULTILIFT CONVEYOR, STAND, ELEC. PARTS	Contractor	Contractor
52	-	-	21 FT. MULTILIFT CONVEYOR, STAND, ELEC. PARTS	Contractor	Contractor
53	-	-	CATWALK SYSTEM	Contractor	Contractor
54	-	-	12 CAMERA SYSTEM, FLAT SCREENS, DVR'S	Contractor	Contractor
55	-	-	% SOLID SCALES	Contractor	Contractor
56	-	-	OVEN	Contractor	Contractor
57	-	-	8" + 6" PVC FILTRATE PIPING DRAINAGE SYSTEM	Contractor	Contractor
58	-	-	OPERATORS/OFFICE/LAB STORAGE BUILDING	Contractor	Contractor
59	-	-	TRANSFORMER	Contractor	Contractor
60	-	-	PARKING ALIGNMENT CURBS	Contractor	Contractor

* Polymer costs are paid for by Contractor

SECTION C
GENERAL TERMS & CONDITIONS

THE STATE OF TEXAS **BID # _____**

ORDINANCE #_____

COUNTY OF HARRIS . **CONTRACT #_____**

I. PARTIES

1.0 ADDRESS:

THIS AGREEMENT FOR ONSITE WATER TREATMENT, SLUDGE DEWATERING AND DISPOSAL SERVICES ("Agreement") is made on the Countersignature Date between the **CITY OF HOUSTON, TEXAS** ("City"), a Texas Home-Rule City and **CONTRACTOR NAME** ("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	**Contractor**
City Purchasing Agent for Director(s)	_____
of Various Department(s)	_____
City of Houston	_____
P.O. Box 1562	Phone: _____
Houston, Texas 77251	Fax: _____

The Parties agree as follows:

2.0 TABLE OF CONTENTS:

2.1 This Agreement consists of the following sections:

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*B. SCOPE OF SERVICES
*BB. EQUIPMENT ASSET CHECKLIST
C. EQUAL EMPLOYMENT OPPORTUNITY
*D. MWBE SUBCONTRACT TERMS
E. DRUG POLICY COMPLIANCE AGREEMENT
F. CERTIFICATION OF NO SAFETY IMPACT POSITIONS
G. DRUG POLICY COMPLIANCE DECLARATION
*H FEES AND COSTS
*I CONTRACTOR PAY OR PLAY

* 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 a 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 labor, material, equipment, transportation and supervision necessary to perform the services described in Exhibit "B" titled Scope of Work/Specifications & "BB titled Equipment Asset Checklist."

2.0 INDEMNITY AND RELEASE:

2.1 RELEASE

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.

2.2 INDEMNIFICATION:

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:

2.2.1 PRIME CONTRACTOR/SUPPLIERS AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 2.1-2.3, "PRIME CONTRACTOR/SUPPLIER") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;

2.2.2 THE CITY'S AND PRIME CONTRACTOR/SUPPLIER'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER PRIME CONTRACTOR/SUPPLIER IS IMMUNE FROM LIABILITY OR NOT; AND

2.2.3 THE CITY'S AND PRIME CONTRACTOR/SUPPLIER'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER PRIME CONTRACTOR/SUPPLIER IS IMMUNE FROM LIABILITY OR NOT.

2.2.4 PRIME CONTRACTOR/SUPPLIER SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. PRIME CONTRACTOR/SUPPLIER'S INDEMNIFICATION IS LIMITED TO $500,000.00 PER

OCCURRENCE. PRIME CONTRACTOR/SUPPLIER SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

2.3 INDEMNIFICATION:

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

3.0 INDEMNIFICATION PROCEDURES:

3.1 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:

3.1.1 a description of the indemnification event in reasonable detail,

3.1.2 the basis on which indemnification may be due, and

3.1.3 the anticipated amount of the indemnified loss.

3.2 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.

3.3 Defense of Claims

3.3.1 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.

3.3.2 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.

4.0 INSURANCE:

4.1 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 coverages in the following amounts:

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

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

4.1.3 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.

4.1.4 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)

4.1.5 Polution Liability Insurance
$1,000,000 combined single limit per occurrence

4.2 All insurance polices must require on their face, or by endorsement, that the insurance carrier waives any rights of subrogation against the City, Contractor shall give 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:

4.2.1 immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default, or

4.2.2 purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Agreement.

5.0 WARRANTIES:

5.1 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.

5.2 With respect to any parts and goods furnished by it, Contractor warrants:

5.2.1 that all items are free of defects in title, material, and workmanship,

5.2.2 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,

5.2.3 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

5.2.4 that no item or its use infringes any patent, copyright, or proprietary right.

6.0 LICENSES AND PERMITS:

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

7.0 COMPLIANCE WITH EQUAL OPPORTUNITY ORDINANCE:

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

8.0 MWBE COMPLIANCE:

8.1 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 ***20%*** of the value of this Agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Office of Business Opportunities ("OBO"), and will comply with them.

8.2 Contractor shall require written subcontracts with all MWBE subcontractors and shall submit all disputes with MWBEs to binding arbitration to be conducted in Houston, Texas, if directed to do so by the OBO Director. MWBE subcontracts must contain the terms set out in Exhibit

9.0 DRUG ABUSE DETECTION AND DETERRENCE:

9.1 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.

9.2 Before the City signs this Agreement, Contractor shall file with the Contract Compliance Officer for Drug Testing ("CCODT"):

9.2.1 a copy of its drug-free workplace policy,

9.2.2 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,

9.2.3 if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "F."

9.3 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.

9.4 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.

9.5 Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection.

10.0 ENVIRONMENTAL LAWS:

10.1 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.

10.2 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.

11.0 CONTRACTOR’S PERFORMANCE:

11.1 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.

12.0 PAYMENT OF EMPLOYEES AND SUBCONTRACTORS:

12.1 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.

12.2 Failure of Contractor to pay it’s employees as required by law shall constitute a default under this contract for which the Contractor and it’s surety shall be liable on Contractor’s performance bond if Contractor fails to cure the default as provided under this Agreement.

12.3 Contractor shall defend and indemnify the City from any claims or liability arising out of Contractors 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.

13.0 CONTRACTOR PAY OR PLAY PROGRAM:

13.1 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. Exhibit "I".

13.2 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.

14.0 PERFORMANCE BOND:

The Contractor shall furnish and maintain a performance bond in the amount of ***50% of the annual contract amount, renewable annually***, which will be for a period not to exceed one year. If the City exercises its option to extend the agreement beyond the initial term of three years and the Contractor mutually agrees, the Contractor shall furnish a performance bond for each renewal year. However, the surety providing the performance bond for each year of the initial term of the agreement shall be under no obligation to provide the performance bond for any renewal year. The bond shall be conditioned upon the Contractor's full and timely performance of this agreement and must be issued by a corporate surety authorized to write surety bonds in the State of Texas and in the form set out in Exhibit "J".

If the City exercises any option years, the Contractor shall maintain a Performance Bond in the amount equal to 50% of the contract amount for the option year, as determined by the City Purchasing Agent or Director. The bond must be in substantially the form attached as Exhibit "J" and issued by a corporate surety authorized and admitted to write surety bonds in Texas. If the amount of the bond exceeds $100,000, the surety must be listed on the current list of accepted sureties on federal bonds published by the United States Treasury Department or reinsured for any liability in excess of $100,000 by a reinsurer listed on the U.S. Treasury list.

The Contractor must deliver the Performance Bond or Clean Irrevocable Letter of Credit to the City Purchasing Agent of the City on or before the tenth (10th) day following the day this Bidder receives notification from the City of a possible award.

III. DUTIES OF CITY

1.0 PAYMENT TERMS:

1.1 The City shall pay and Contractor shall accept fees at the unit prices 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.

1.2 Any quantities of services or Deliverables shown in any part of this contract or its exhibits are estimated only and are not any guarantee that the City will not purchase more or less of those services or Deliverables. The City will pay only for the services or Deliverables actually ordered and only at the unit prices set out.

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 **$_____** 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 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 of the City Department elects not to renew this Agreement, the City Purchasing 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 the 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 Article 1, Section 1.0 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 four (4) 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 therefor.

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.

“Contractor Administrator” means the representative of the Department who is responsible for the administration for the Contract.

“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.

“Contract Technical Representative (CTR)” means the City’s representative of the Director of the Department that oversees contractor’s performance and ensures that the performance is fulfilling contractual requirements based upon the Terms and Conditions of the Contract and delegates the day-to-day management of a contract to another individual. Both CTRs and UDRs evaluates performance, handles scheduling, approves good received and services performed, recommends payment and has the primary responsibility to ensure payment is made upon successful completion of the job.

“Director" mean the Directors of each of the Departments 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.

“Overflow” is defined as a visual observation of the sludge blanket flowing over the weir of the thickener. If this is observed, the COH reserves the right to collect a sample of the overflow stream and test for percent solids. Laboratory results that are equal or are less than 0.02% Suspended Solids (SS), or 200 mg/L of SS will be considered acceptable. Results greater than 0.02% SS or 200 mg/l will be considered unacceptable."

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

“Shutdown” is defined as the Contractor ceasing operation and maintenance functions for a period of time of at least 4 hours or greater.

“User Department Representative (UDR)” means the City’s representative of the Director of the Department that administers the day-to-day activities of the Contract. Both CTRs and UDRs evaluates performance, handles scheduling, approves good received and services performed, recommends payment and has the primary responsibility to ensure payment is made upon successful completion of the job.

EXHIBIT "B"
SCOPE OF WORK/SPECIFICATIONS
(To be inserted by the City at the time of Contract execution)

EXHIBIT "BB"
EQUIPMENT ASSET CHECKLIST
(To be inserted by the City at the time of Contract execution)

EXHIBIT "C"
EQUAL EMPLOYMENT OPPORTUNITY
(To be inserted by the City at the time of Contract execution)

EXHIBIT "D"
MWBE REQUIREMENTS
(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
(To be inserted by the City at the time of Contract execution)

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

EXIBIT "J"

PERFORMANCE BOND

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF HARRIS §

THAT WE, _____ as principal, hereinafter called "Contractor" and the other subscriber hereto as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of Houston, a municipal corporation in the sum of _____ __ DOLLARS. ($_____) for the payment of which sum, well and truly to be made to the City of Houston, and its successors, the said Contractor and surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the said Contractor has on or about this day entered into a contract in writing with the City of Houston, Texas, entitled _____ _____ which is made a part of this instrument as fully and completely as if set in full herein.

NOW, THEREFORE, if the said Contractor shall faithfully and strictly perform as set out in said contract in all its terms, provisions, and stipulations in accordance with its true meaning and effect, and shall comply strictly with each and every provision of said contract and with this bond, then this obligation shall become null and void and shall have no further force and effect; otherwise the same is to remain in full force and effect.

It is further understood and agreed that the Surety does hereby relieve the said City of Houston or its representatives from the exercise of any diligence whatever in securing compliance on the part of the said Contractor with the terms of the said contract, and the Surety hereby waives any notice to it of any default, or delay by the Contractor in the performance of his contract and agrees that it, the said Surety, shall be bound to take notice of and shall be held to have knowledge of all acts or omissions of the said Contractor in all matters pertaining to said contract.

It is further expressly agreed by said Surety that the City of Houston or its representatives are at liberty at any time, without notice to the Surety, to make any changes in said contract and in the work to be done thereunder, as provided in said contract, and in the terms and conditions thereof, or to make any changes in, addition to, or deduction from the work to be done thereunder; and that such changes, if made, shall not in any way vitiate the obligation in this bond and undertaking, or release said Surety therefrom.

It is expressly agreed and understood that the Contractor and surety will fully indemnify and save harmless the City of Houston from any liability, loss, cost, expense or damage arising out of or in connection with the work done by the Contractor under said Contract.

In the event that the City of Houston shall bring any suit or other proceeding at law on this bond, the Contractor and Surety agree to pay to the said City the sum of ten percent (10%) of whatever amount may be recovered by the City in said suit or legal proceeding, which sum of ten percent (10%) is agreed by all parties to be payment to the City of Houston for the expense of or time consumed by its City Attorney, his assistants and office force and other cost and damage occasioned to the City. This said amount of ten percent (10%) is fixed and liquidated by the parties, it being agreed by them that the exact damage to the City would be difficult to ascertain.

This bond and all obligations created hereunder shall be performable in Harris County, Texas.

IN TESTIMONY WHEREOF, witness our hands this _____ day of _____, A.D. 20_____.

ATTEST: (Corporate Seal)

_____
(Principal)

By:_____
Name: (Typed)
Title:

By:_____
Name: (Typed)
Title:

ATTEST/WITNESS: (Corporate Seal)

_____
(Full Name of Surety)

By: _____
Name: (Typed)
Title:

By: _____
Name: (Typed)
Title:

The foregoing bond is approved and accepted this _____ day of _____, A.D. 20_____.

REVIEWED:

_____
Legal Assistant

CITY OF HOUSTON -- BIDDER'S BOND

(Must be in an amount at least 10% of the bid. If the bid is upon alternates this bond must be for at least 10% of the highest amount for which the bidder offers to do any or all the work bid upon.)

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

THAT WE, _____ as principal and the other subscriber hereto as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of Houston, a municipal corporation in the sum of $_____ Dollars ($_____).

The condition of this obligation is that: ---

WHEREAS, the said principal is submitting to the City of Houston his or its bid for the doing for the City of Houston of certain work and construction of which the following is a brief description, to-wit: ---

Bid No. S50-L24020

Onsite Water Treatment, Sludge Dewatering and Disposal Services at the Northeast Water Purification Plant (NEWPP) for the Public Works & Engineering Department

in accordance with the plans and specifications for such work upon which such bid is made, to which plans and specifications reference is made for a more full description of the work and construction referred to.

NOW, THEREFORE, if the said bidder is awarded the contract for such work, the said bidder will, within the time provided in the specifications, enter into a contract with the City therefore upon the form and to the purpose and intent provided in the specifications, will furnish insurance as required in the specifications and will furnish a good and sufficient construction surety bond executed by said bidder and one corporate surety organized under the laws of the State of Texas or authorized to do business in the State of Texas and having a fully paid up capital stock of not less than $100,000.00 and duly licensed and qualified by the Board of Insurance Commissioners of the State of Texas, which bond shall be for an amount equal to 100 percent of the contract price and shall be conditioned in accordance with the requirements stated in the specifications upon which such bid is being submitted.

In the event said bidder is unable or fails to execute said contract for the work proposed to be done, is unable or fails to furnish insurance as specified or is unable or fails to furnish said construction bond in the amount and condition as aforesaid, the undersigned principal and surety shall be liable to said City of Houston for the full amount of this obligation which is here and now agreed upon and admitted as the amount of the damages which will be suffered by the City of Houston on account of the failure of such bidder to so comply with the terms of this bid.

Executed this _____day of _____, A.D. 2011.

RESPONSIVENESS & RESPONSIBLENESS EVALUATION ASSESSMENT
SOLICITATION NO.: S50-L24020

To simplify the review process and to obtain the maximum degree of comparability, the Offeror(s) must provide responses to the items set forth below and include this information as requested in their bid packet to allow the evaluation committee to conduct a thorough assessment of the Offeror(s) experience and capabilities. Moreover, Offeror(s) are encouraged to include additional relevant and supporting information to demonstrate their qualifications.

1.0 EXPERTISE/EXPERIENCE/QUALIFICATION STATEMENT: ***REVISED 9/2/2011***

1.1 Provide a brief statement as to whether the offeror has or has not received violations at any time in the past for failure to comply with Federal, State or Local Regulations.

1.2 Provide a brief narrative of the company's history and how long they have been doing business under this name.

1.3 The offeror must provide a brief narrative to demonstrate how and why they are knowledgeable in operations and maintenance of municipal sludge dewatering systems.

1.4 The offeror shall describe past similar work that includes, but is not limited to the following:

- ***1.4.1 Dates of service***
- ***1.4.2 Location of facility***
- ***1.4.3 Description of work performed***
- ***1.4.4 Production rates***
- ***1.4.5 Customer contact information***
- ***1.4.6 Safety record (List of all OSHA citations in the last 5 years)***

1.5 Provide resumes for the individuals anticipated to perform the work described in the scope of work/specifications. The offeror must indicate where these individuals are currently working and how they will be integrated into the Contract.

1.6 Provide an organizational chart of proposed team or staff for this project.

1.7 Provide resumes of key personnel whom will be responsible for the delivery of the services/project.

1.8 Provide copies of key personnel certifications and/or licenses.

2.0 PAST PERFORMANCE WITH THE CITY OF HOUSTON:

2.1 The offeror must describe any past work that it has performed for the City of Houston that includes, but is not limited to the following:

- ***2.1.1 Dates of service***
- ***2.1.2 Location of facility***
- ***2.1.3 Description of work performed***
- ***2.1.4 Customer contact information***
- ***2.1.5 Safety record***

2.2 If the offeror has never worked for the City of Houston, the offeror may substitute work performed at another Municipality of similar size.

3.0 TIMELINES AND RESPONSIVENESS:

3.1 The NEWPP is operated 24-hours/day; 365 days/year. It is imperative that the dewatering system is fully functional and operational-ready at all times. The offeror must describe how it

plans to ensure that this system will be sufficiently maintained and staffed to meet this requirement. The offeror must provide examples of how its firm has responded expeditiously to its clients needs in the past.

4.0 M/WBE UTILIZATION:

4.1 Provide a statement documenting how offeror intends to achieve the 20% M/WBE goal.

5.0 FINANCIAL STATEMENTS:

5.1 Submit your company's audited annual financial statements, in accordance with and as defined in the Financial Accounting Standards Board (FASB) regulation(s) for the past two years. In addition, include your and Dunn & Bradstreet Report or Federal Tax Forms Filed to the Internal Revenue Service (IRS) for the past two years.

6.0 SITE INSPECTION:

6.1 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.

7.0 QUALITY AND WORKMANSHIP:

7.1 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.

EVALUATION AND SELECTION PROCESS
SOLICITATION NO.: S50-L24020

1.0 EVALUATION SUMMARY:

1.1 An evaluation committee will develop a short list of Offeror(s) based upon the initial review of each Bid received. The short listed Offeror(s) may be scheduled for a structured oral presentation, demonstration, site visit and/or interview. Such presentations will be at no cost to the City of Houston. At the end of the oral presentation, demonstration and/or interview, the evaluation of the short listed Offeror(s) will be completed. However, the evaluation committee reserves the right to issue letter(s) of clarity when deemed necessary to any or all Offeror(s). The oral presentations, demonstrations, site visits and/or interview may be recorded and/or videotaped.

2.0 SELECTION PROCESS:

2.1 The award of this Contract(s) will be made to the respondent(s) offering the response which best meets the needs of the City. The City may make investigations, as it deems necessary, to determine the capabilities of the Offeror(s) to create, modify and implement the required application modules. The Offeror(s) shall furnish to the City such data as the City may request for this purpose. The City reserves the right to reject any offer if the evidence submitted by or the investigation of the Offeror(s) fails to satisfy the City or the Offeror(s) is deemed unqualified to provide the services contemplated. Each Offeror will be evaluated on the basis of the following evaluation criteria that are listed in order of importance below:

2.1.1 Cost:	***45%***
2.1.2 Expertise / Experience / Qualifications	***40%***
2.1.3 Demonstrated Timeliness and Responsiveness	***7%***
2.1.4 Past Performance with the City of Houston	***5%***
2.1.5 M/WBE Participation	***3%***

In order to receive bid award consideration, the bidder must be able to demonstrate and include the following information below:

1. The Bidder must provide a statement of qualifications that describes how they are knowledgable in operations and maintenance of municipal sludge dewatering systems (similar in size and scope to this Contract). The Bidder shall provide the proposed personnel involved in the work and their experience on previous projects similar in size and scope. The Bidder shall indicate where these individuals are currently working at the time of advertisement of this Contract and how and when they will be integrated into this Contract. The Bidder must also describe how they plan to incorporate local resources and MWBE participation into this Contract.

2. The Bidder must include at least one reference below that demonstrates they are currently providing or have provided onsite sludge dewatering and disposal services a 25 MGD or greater surface water treatment plant within the last year from the advertisement date of this Contract. The purpose of this requirement is to ensure that the Contractor has performed work that is similar in size and scope to this contract.

3. If the Bidder has previously performed work for the City of Houston, they must provide the information below. To be considered for award of this contract, the Bidder must have satisfactorily completed all work in previous City of Houston Contracts with no default, termination for cause, and contract compliance issues.

4. The Bidder must include 5 or more references below documenting management experience at municipal water or wastewater facilities where the Bidder was the prime Contractor providing sludge dewatering services and management of residual solids.

   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. Facility Name: _____

   Address: _____

   City & State: _____

   Name & Phone Number of Contact: _____ Dates of Services: _____Size of Facility (MGD) and Average Daily Dry Ton Production:_____

2. Facility Name: _____

   Address: _____

   City & State: _____

   Name & Phone Number of Contact: _____ Dates of Services: _____Size of Facility (MGD) and Average Daily Dry Ton Production:_____

3. Facility Name: _____

   Address: _____

   City & State: _____
   Name & Phone Number of Contact: _____ Dates of Services: _____Size of Facility (MGD) and Average Daily Dry Ton Production:_____

4. Facilty Name: _____

   Address: _____

   City & State: _____

   Name & Phone Number of Contact: _____ Dates of Services: _____Size of Facility (MGD) and Average Daily Dry Ton Production:_____

5. Facility Name: _____

   Address: _____

   City & State: _____

   Name & Phone Number of Contact: _____ Dates of Services: _____Size of Facility (MGD) and Average Daily Dry Ton Production:_____

6. Facility Name: _____

   Address: _____

   City & State: _____

   Name & Phone Number of Contact: _____ Dates of Services: _____Size of Facility (MGD) and Average Daily Dry Ton Production:_____

7. Facility Name: _____

   Address: _____

   City & State: _____

   Name & Phone Number of Contact: _____ Dates of Services: _____Size of Facility (MGD) and Average Daily Dry Ton Production:_____

The following is a list of Subcontractors we propose to engage on the following items of Work. Any item of Work which does not designate a Subcontractor will be done by the firm submitting the Proposal.

SEGREGATED PART OF WORK	SUBCONTRACTOR/SUPPLIER

EXHIBIT II – ATTACHMENT "A": SCHEDULE OF M/WBE PARTICIPATION
SOLICITATION NO.: S50-L24020

DATE OF REPORT: _____

BID NO.: _____

FORMAL BID TITLE: _____

NAME OF MINORITY/WOMEN SUBCONTRACTOR	AFFIRMATIVE ACTION DIVISION CERTIFICATION NO.	STREET ADDRESS AND CITY, STATE, ZIP CODE	TELEPHONE NO.	SCOPE OF WORK	AGREE PRICE

TOTAL. . . . . $_____

M/WBE PARTICIPATION AMOUNT. . . . . $_____%

TOTAL BID AMOUNT. . . . . .. $_____

IF YOU HAVE USED YOUR BEST EFFORTS TO CARRY OUT THE CITY'S M/WBE POLICY BY SEEKING SUBCONTRACTS AND SUPPLY AGREEMENTS WITH MINORITY AND WOMEN BUSINESS ENTERPRISES, YET FAILED TO MEET THE STATED PERCENTAGE GOAL OF THIS BID DOCUMENT, LIST BELOW YOUR GOOD FAITH EFFORTS FOR COMPLIANCE (DEFINITION OF REQUIREMENTS CAN BE OBTAINED THROUGH AFFIRMATIVE ACTION AT (713) 837-9000).
THE UNDERSIGNED WILL ENTER INTO A FORMAL AGREEMENT WITH THE MINORITY AND/OR WOMEN SUBCONTRACTORS AND SUPPLIERS LISTED IN THIS SCHEDULE CONDITIONED UPON AWARD OF A CONTRACT FROM THE CITY. **NOTE:** **ALL FIRMS LISTED ABOVE MUST BE CERTIFIED (OR ELIGIBLE FOR CERTIFICATION) BY THE AFFIRMATIVE ACTION DIVISION.** **THIS SCHEDULE OF M/WBE PARTICIPATION SHOULD BE RETURNED, IN DUPLICATE, WITH THE BID FORM.**

_____

BIDDER COMPANY NAME

_____

SIGNATURE OF AUTHORIZED OFFICER OR AGENT OF BIDDER

_____

NAME (TYPE OR PRINT)

_____

TITLE

EXHIBIT II – ATTACHMENT "B" (CONTINUED): SCHEDUL E OF M/WBE PARTICIPATION

SOLICITATION NO.: S50-L24020

THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERAL ARBITRATION ACT.

TO: **City of Houston**
City Purchasing Agent

MINORITY/WOMEN BUSINESS ENTERPRISE (M/WBE) AND SUPPLIER

LETTER OF INTENT

Contract Bid Number: _____

Bid Title: _____

Bid Amount: _____

M/WBE Participation Amount: $_____ **M/WBE GOAL** _____%

1. _____ agrees to perform work/supply goods and/or
(Name of Minority/Women Business Enterprise)
Services in connection with the above-named contract and _____ as:
Name of Prime Contractor

(a) _____ An Individual

(b) _____ A Partnership

(c) _____ A Corporation

(d) _____ A Joint Venture

2. _____ status is confirmed by M/WBE Directory made
(**Name of Minority/Women Business Enterprise)**
available through the City of Houston Affirmative Action Division. Certificate No.: _____.

3. _____ and _____
***(*Name of Prime Contractor(** **(Minority/Women Business Enterprise)**
intend to work on the above-named contract in accordance with the M/WBE Participation Section of the City of Houston Contract Bid Provision.

The Terms & Conditions of Attachment "C" attached hereto are incorporated into this Letter of Intent for all purposes.

_____	_____
(Signed -- Prime Contractor)	(Signed -- Minority/Women Business Enterprise)
_____	_____
(Title)	(Title)
_____	_____
(Date)	(Date)