



CITY OF HOUSTON, TEXAS

NOTICE OF BEST VALUE BID (BVB)
SOLICITATION NO.: S72-L25890

"PARTNERING TO BETTER
SERVE HOUSTON"

NIGP CODE: 939-84 & 939-73

SOLICITATION DUE DATE/TIME: September 29, 2016 at 10:00 A.M., CST

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

DESCRIPTION: Television Production Equipment Repairs & Routine
Maintenance Services

PRE-BID CONFERENCE:	<i>Date</i>	<i>Time</i>	<i>Location</i>
	Sept. 12, 2016	10:30 AM	SPD, 901 Bagby, Conference Rm. 2 (Lower Level), Houston, TX 77002

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.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION

Solicitation Contact Person:

Yvette Smith

Name

Yvette.smith@houstontx.gov

E-Mail Address

John J. Gillespie

Chief Procurement Officer

Date

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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 six (6) additional electronic flash drives 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, 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)
City of Houston Ownership Information Form
Conflict of Interest Questionnaire
Pay or Play Program Acknowledgement Form
Criminal Justice Information Services (CJIS) Compliance Addendum (Applicable to Houston Police Department (HPD) Occupied Facilities)
Contractor's Questionnaire
List of Subcontractor(s)
M/WBE Attachment A & B Forms
Experience/Qualifications Statement
Certifications/Licenses (If applicable) & Resumes of Key Personnel
Financial Statements
Six (6) Electronic Flash Drives

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* Documents/forms can be downloaded from the City's Website: <http://purchasing.houstontx.gov/index.shtml>

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
EEOC
Formal Instructions for Bid Terms
Sample Insurance Over \$50,000
Insurance Endorsements
Pay or Play Office of Business Opportunity & Contract Compliance Q & A
Pay or Play Office of Business Opportunity & Contract Compliance Requirements
Pay or Play Contractor/Subcontractor Payment Reporting Form
Pay or Play Contractor/Subcontractor Waiver Request
Pay or Play List of Participating Subcontractors

3.0 PRE-BID CONFERENCE:

3.1 A Pre-Bid Conference will be held at the date, time, and location as indicated on the first page of the BVB 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 Finance Department, Strategic Procurement Division, Procurement Specialist, Yvette Smith, telephone: (832) 393-8765, fax: (832) 393-8758, or e-mail (preferred method to): yvette.smith@houstontx.gov, no later than September 16, 2016 at 3:00 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. Offeror(s) shall be notified in writing of any changes in the specifications contained in this BVB.

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).

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

9.0 HIRE HOUSTON FIRST:

9.1 Designation as a City Business or Local Business

- 9.1.1 To be designated as a City or Local Business for the purposes of the Hire Houston First Program, as set out in Article XI of Chapter 15 of the Houston City Code, a bidder or proposer must submit the **Hire Houston First Application and Affidavit (“HHF Affidavit”)** to the Director of the Mayor’s Office of Business Opportunities and receive notice that the submission has been approved prior to award of a contract. Bidders are encouraged to secure a designation prior to submission of a bid or proposal if at all possible.

- 9.1.2 **Download the HHF Affidavit** from the Office of Business Opportunities Webpage at the City of Houston e-Government Website at the following location:

<http://www.houstontx.gov/hbsc/hirehoustonfirstaffidavit.pdf>

- 9.1.3 Submit the completed application forms to: Office of Business Opportunity, Houston Business Solutions Center, 611 Walker, Lobby Level, Houston, TX 77002 (832) 393-0954 or Applications may be submitted via e-mail to houstonBSC@houstontx.gov or faxed to 832.393.0650.

9.2 Award of Procurement Pursuant to a Request for Proposal, Best Value Solicitation or Alternative--- Pursuant to Chapter 15 of the City Code of Ordinances

- 9.2.1 IN EVALUATION OF A PROPOSAL SUBMITTED UNDER ANY OF THE ABOVE PROCUREMENT METHODS, THE CITY SHALL AWARD EXTRA POINTS EQUAL TO

- **THREE PERCENT** OF THE TOTAL EVALUATION POINTS AVAILABLE TO A “LOCAL BUSINESS,” AS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES, AND

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- **FIVE PERCENT OF THE TOTAL EVALUATION POINTS AVAILABLE TO A "CITY BUSINESS," AS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES**
- **UNLESS THE USER DEPARTMENT DETERMINES THAT AN AWARD TO THE LOCAL OR CITY BUSINESS WOULD UNDULY INTERFERE WITH CONTRACT NEEDS, AS PROVIDED IN SECTION 15-181 OF THE CODE.**

10.0 PROTEST

10.1 An interested party may file a protest on the basis that the City has failed to comply with applicable federal or state law or with City ordinances. The subject of the protest shall be limited to fraud, corruption, or illegal acts undermining the objectivity and integrity of the procurement process. A protest must be filed in accordance with the timing requirements set forth herein and must include:

10.1.1 The name, address, telephone number, and email address of the protestor.

10.1.2 The number of the solicitation.

10.1.3 Information confirming that the protestor is an interested party.

10.1.4 A written statement of the grounds for the protest and the law or ordinance alleged to have been violated. The statement shall be accompanied by relevant supporting documentation and the relief requested.

10.1.5 The signature of the protestor.

10.2 Protests shall be submitted to: Chief Procurement Officer, City of Houston, 901 Bagby B300, Houston, TX 77002.

10.3 The City recognizes three types of protests:

10.3.1 Protests regarding solicitation (Pre-Submission Protest)

10.3.2 Any Pre-Submission Protest regarding a solicitation published by the City shall be filed no later than five days before the opening of bids (if a competitive bid) or due date for submittals or proposals (if an RFP/RFQ), as applicable.

10.3.3 Protests regarding the evaluation or rejection of bids, qualifications, or proposals (Pre-Award Protest)

10.3.4 Any Pre-Award Protest regarding the evaluation of bids, qualifications, or proposals by the City must be filed no later than five business days prior to the City Council meeting at which the award appears on the agenda.

10.4 Protests made after City Council's decision to award a contract (Post-Award Protest)

10.4.1 Any protest regarding the award of a contract must be submitted no later than five calendar days after the date of the award.

10.5 Any protest received after the applicable deadline will not be considered.

11.0 NO CONTACT PERIOD:

11.1 Neither bidder(s) nor any person acting on bidder(s)'s behalf shall attempt to influence the outcome of the award by the offer, presentation or promise of gratuities, favors, or anything of value to any appointed or elected official or employee of the City of Houston, their families or staff members. All inquiries regarding the solicitation are to be directed to the designated City Representative identified on the first page of the solicitation. Upon issuance of the solicitation through the pre-award phase and up to the date the City Secretary publicly posts notice of any City Council agenda containing the applicable award, aside from bidder's formal response to the solicitation, through the pre-award phase, written requests for clarification during the period officially designated for such purpose by

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the City Representative, neither bidder(s) nor persons acting on their behalf shall communicate with any appointed or elected official or employee of the City of Houston, their families or staff through written or oral means in an attempt to persuade or influence the outcome of the award or to obtain or deliver information intended to or which could reasonably result in an advantage to any bidder. However, nothing in this paragraph shall prevent a bidder from making public statements to the City Council convened for a regularly scheduled session after the official selection has been made and placed on the City Council agenda for action, or to a City Council committee convened to discuss a recommendation regarding the solicitation."

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- 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 1, 2016** 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.

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- 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 Chief Procurement Officer.
- 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.

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SECTION B
SCOPE OF SERVICES

1.0 GENERAL:

1.1 The HTV Division of Cable Communications and the Mayor's Office of the City of Houston, invites prospective contractors to submit a response for Television Production Equipment Repairs and Routine Maintenance. Offers are solicited for this service for the City of Houston in accordance with terms, conditions and instructions as set forth in this Best Value Bid (BVB).

1.2 Background

1.2.1 The HTV Division of Cable Communications and the Mayor's Office are responsible for effectively communicating to the public relevant information concerning Municipal and related Governmental and Community Services.

1.2.2 Preventive and Routine Maintenance of Production, Post Production, Studio and Remote Studio equipment is currently being provided by a nationally recognized vendor.

2.0 SPECIFICATIONS:

2.1 Contractor shall provide all routine maintenance and repair work required for television production equipment, to include replacement parts and all minor component parts necessary to ensure optimum performance and minimize downtime. This maintenance and repair work is critical because the equipment is heavily used for recorded and live productions for the City of Houston.

2.2 It is the intent of this contract to meet the following four (4) objectives:

2.2.1 Provide routine maintenance and/or repair of the equipment listed herein, by brand name and model number.

2.2.2 Provide on-site maintenance and/or repair of the equipment listed herein, at the following locations:

2.2.2.1 901 Bagby

2.2.2.2 900 Bagby

2.2.3 Provide service /replacement parts as needed to repair, and maintain facility equipment in functional condition. The selected contractor shall have at their disposal the required test fixtures, tools, and service manuals to maintain the equipment to factory specifications.

2.2.4 Provide pick-up and delivery of the equipment to and from the repair facility, if necessary, as requested and approved by authorized personnel of the City of Houston - HTV.

2.2.5 The City shall maintain the right to limit access to areas of the facilities during Maintenance visits due to scheduling conflicts. Equipment inaccessible during these periods will remove the obligation of the contractor to provide the maintenance for that visit.

2.2.6 Printed revisions of scheduling updates and/or changes shall be provided at the request of authorized personnel of the City of Houston."

2.2.7 The Contractor shall create and maintain a database for the purpose of identifying the equipment serviced, location, dates/times, parts installed, useful life, suggested repairs or replacement and any other information deemed necessary for the purposes of the Contractor, Project Administrator, or other authorized City of Houston personnel.

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- 2.2.8 The Contractor shall provide a printed report from the updated database and deliver the report by hand, email or fax immediately following a routine maintenance service request of analog or computer based equipment but no later than 2-weeks from the invoice date. The Project Administrator must receive and approve the report before the invoice will be paid, at the following address:

City of Houston
901 Bagby St
Houston, Texas 77002
Attn: Project Administrator, HTV

2.3 Equipment Repair

- 2.3.1 Equipment repair shall commence within twenty-four hours following notification by the City that a fault, failure or trouble condition has been detected. At the time of notification, City will furnish any trouble condition detected. At the time of notification, The City will furnish the name(s) and telephone number(s) of person(s) authorized to grant the Contractor immediate access to the equipment. Equipment Repair Services are defined as those performed at any time as requested by the City representative. It is the intent that Equipment Repair Services be performed on-site.

- 2.3.2 The Contractor shall maintain an inventory of equipment (Loaners) suitable to produce broadcast quality audio and video of comparable and compatible nature to the existing installation. This equipment will replace the equipment removed from any of the two locations (901 Bagby and 900 Bagby) during repair, if requested by City of Houston Personnel.

- 2.3.3 The Contractor shall only perform Equipment Repair Services when authorized by the Project Administrator and /or the Director in writing, and conditioned on the City' allocating sufficient funds to pay for the repair services, but costs associated with travel, per-diem, and spare parts shall be incorporated in the service charges.

- 2.3.4 The Contractor shall also provide a local phone number, 24 hours per day, 7 days per week, on-line technical help desk. At the Department's discretion, it may also notify the Contractor of warranty situations via a normal voice telephone call or EMail transmission. This option shall be valid twenty-four hours seven days per week.

2.4 Contractor Staffing and Responsibilities

- 2.4.1 The Contractor shall provide and maintain a maintenance staff qualified for the repair/warranty work described herein. In the event any additional equipment is found to be in need of emergency repair the contractor shall immediately notify the Project Manager for the approval to precede with the emergency repair. The Project Manager will then arrange for immediate field service or bench service repair. The Contractor shall be responsible for furnishing all tools and equipment necessary to properly service and maintain the equipment in Exhibit BB - Equipment List.

2.5 Replacement and Service Parts

- 2.5.1 The Contractor shall maintain a fully stocked inventory of extender cards, test fixtures, and unique tools as required for electronic diagnosis and those spare parts likely to be required by each type of equipment included in the System. Spare components, when required shall be provided in accordance with the manufacturer's specifications and shall be furnished with documentation if so required by the manufacturer's specifications. The spare components shall be priced F.O.B. Jobsite; the price shall also include provisions for suitable packing for shipment and storage.

- 2.5.1.1 The Contractor shall estimate the cost of replacement components or spare parts to maintain operation of the equipment. These estimated costs should be based on the age and condition of the current equipment.

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- 2.5.1.2 The Contractor shall clearly define the cost associated with service of equipment within the prescribed visit.
- 2.5.1.3 The Contractor shall maintain a fully stocked inventory of spare parts for each piece of equipment. Such inventory shall be constantly replenished as parts are used in the course of performing routine maintenance.
- 2.5.1.4 All materials used to replace damaged and missing parts shall be new and equal in quality as OEM. The Department must approve all substitutions.
- 2.5.1.5 The Contractor shall acquire additional parts as needed to repair equipment purchased during the term of the contract.

2.6 CLIENT STAFFING and RESPONSIBILITIES

- 2.6.1 The City agrees to assign an appropriate member(s) of its staff to serve as the principal contact or project manager for this contract. The project manager will be responsible for monitoring the activities set forth in this contract, and for providing notification of the need for equipment repair and routine maintenance services, and providing unrestricted access, as allowed by facility scheduling, to the place(s) of work required by the Contractor for proper performance of this Contract. The City will make available to the Contractor, free and full access, as allowed by facility scheduling, to the equipment within the scheduled maintenance service period to provide services pursuant to this Contract. A City representative shall be present in the vicinity of the system when the system is being serviced.

2.7 FREQUENCY of SERVICE

2.8 EQUIPMENT RELEASE and RETURN AUTHORIZATION FORM

- 2.8.1 A City of Houston HTV Equipment Release and Return Authorization Form shall accompany any and all equipment removed from City property. The Project Manager shall authorize and provide this form to the Contractor when equipment is removed from the premises. At that time the Contractor shall remove the equipment, assess the problem, fill out the section marked "Report of Repairs" and fax or Email the form to the Project Manager. The Project Manager shall then authorize the repairs deemed necessary by signing the form in the "Repair Authorization" section, marked "Authorized Signature" and return Fax Email to the contractor. No charges for work shall be acceptable unless pre-approved by the project manager. Should discovery of additional work or materials be required after repair work has commenced a revised Report of Repairs shall be submitted for approval before commencing the additional work. A sample Equipment Release and Return Authorization Form is attached as Exhibit J.

2.9 PRE-PERFORMANCE CONFERENCE:

- 2.9.1 Subsequent to contract approval/execution, the Contractor(s) shall be required to attend a pre-performance conference. The Strategic Procurement Division or the primary user department will host the pre-performance conference. The purpose of the pre-performance conference is for the contractor to introduce his or her project manager to the City staff and for City staff to introduce the contract end-users, contract compliance and accounts payable representatives. Items to be addressed shall include, but are not limited to, the following:

Start-up and phase-in and performance schedule

Contract administration

Facilities utilization

Channels of communication

Procedures to be used to ensure Contract requirements are met to meet all the requirements of the Contract.

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2.10 ADDITIONS & DELETIONS:

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

2.11 ESTIMATED QUANTITIES NOT GUARANTEED:

2.11.1 The estimated quantities specified herein are not a guarantee of actual quantities, as the City does not guarantee any particular quantity of services during the term of this Contract. The quantities may vary depending upon the actual needs of the 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 all the quantities specified herein.

2.12 INTERLOCAL AGREEMENT:

2.12.1 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.

2.13 WARRANTY OF SERVICES:

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

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

2.13.3 Notwithstanding inspection and acceptance by the City or any provision concerning the conclusiveness thereof, the Contractor represents and warrants that all services performed under the Agreement will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of the Agreement. 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.

2.13.4 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.

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2.14 CRIMINAL JUSTICE INFORMATION SYSTEMS (CJIS) COMPLIANCE (Applicable to Houston Police Department (HPD) Occupied Facilities:

2.14.1 The Houston Police Department recognizes that by allowing physical or logical (electronic) access to HPD facilities or network resources, people may gain access to information or systems they are statutorily prohibited from accessing. To comply with state and federal regulations, the Houston Police Department is required to document and investigate access requests to be sure access is necessary and permitted. Bidders/Respondents, therefore, agree to review the Criminal Justice Information Systems (CJIS) process and related documents located at <http://www.houstontx.gov/police/cjis/hpdvendorcertification.htm> and shall comply with the terms and requirements therein.

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EXHIBIT "BB" EQUIPMENT LIST

MANUFACTURER	MODEL NUMBER	Asset description
Abekas	AirCIeaner	Profanity Delay
Acer	G226HQL	Monitor, Computer, 21 inch
ADC	BK2V-STS	Audio Patch Bay, Programmable Normals; OFE
AJA	D10A	VIDEO CONVERTER, COMPONENT TO SDI
AJA	FR-2	Card Frame, OFE
AJA	FS-1	processor, video, one channel
AJA	FS-2	processor, video, two channel, OFE
AJA	KI-Pro	Video Recorder, Hard Disk
AJA	KONA LHi BOX	INTERFACE BOX
AMX	AxCent3	Integrated Control System, OFE
AMX	AxCent3 Pro	Integrated Control System, OFE
AMX	AXT-PLV	Controller, Joystick, OFE
AMX	AXT-TM5	Television Controller
AMX	PS4.2	Power Supply; 12V 4.2A, OFE
AMX	PS6.5	Power Supply; 12V 6.5A, OFE
AMX		10.4" COLOR GRAPHIC VIDEO RACK MOUNT TOUCH PANEL
AMX Systems	AXF	Integrated Control System, OFE
AMX Systems	AXM-CG10/PB	Control System Touch Panel, 10" Nominal; Rack Mount
AMX Systems	NXD-435P	Control System Touch Panel, Wall Mount
AMX Systems	NXT-TPI	Display Adapter, OFE
Aphex	320 A	Audio Processor/AGC, OFE
Aphex	320 D	Audio Processor/AGC
Aphex	Dominator	Audio Limiter

SPECIFICATIONS / SCOPE OF WORK
SOLICITATION NO.: S72-L25890 (BVB)

Apple	#N/A	Flat Panel Display Monitor, 23/27"; OFE
Apple	Ipad	Control System Touch Panel, 8.4" Nominal; WiFi, [WITH AMX APP]
Apple	Ipad	Control System Touch Panel, 8.4" Nominal; WiFi, [WITH AMX APP]
Apple	PowerMac 800	VIDEO NON-LINEAR EDITING SYSTEM-MACPRO QUAD
Arrakis	ARC-15BPF	Broadcast Audio Console, (with New-Wave Software)
Arrakis	New Wave	Server, Audio, Monitor
Autopatch	Generic	Router, Component, W/Audio, 4x4
Behringer	MDX4600	Audio Processor, 4 Channel
Black Magic	ATEM Camera	Transceiver, Fiber,
Black Magic	ATEM Studio	Transceiver, Fiber,
Black Magic	OG SDI to ANALOG	Card, De-Embedder, HDSDI to Analog Audio
Black Magic	Ultra Scope PCI	Waveform Monitor
BlackMagic	CONVMBSH	SDI TO HDMI CONVERTER
BLACKMAGIC	DECKLINK DUO	CARD, VIDEO CAPTURE
BlackMagic	HDMI TO HDSDI	Converter, HDMI TO HDSDI, OFE
BLACKMAGIC	MicroQuad	Video Multiplexer, HDSDI, Quad
BLACKMAGIC DESIGN	CONVOPENAUDSDI	OpenGear Converter, Audio to SDI Embedder
BLACKMAGIC DESIGN	CONVOPENCSAUD	SDI TO COMPOSITE CONVERTER
BLACKMAGIC DESIGN	CONVOPENGAAS	OpenGear Converter Analog to SDI
BLACKMAGIC DESIGN	CONVOPENGUDC	Up Down Cross Converter
BLACKMAGIC DESIGN	SmartView Duo 8"	Duo Rackmountable Dual 8" LCD Monitors
BLACKMAGIC DESIGN	Teranex 2D	Up Down Cross Converter
Blonder-Tongue	AM-60-450 w/Option H	Frequency Agile Modulator
BroadcastPix	Granite	Production Switcher

SPECIFICATIONS / SCOPE OF WORK
SOLICITATION NO.: S72-L25890 (BVB)

Canon	HTS18X4.2BERM-M48	18X PROHD LENS WITH 2X EXTENDER
Chief Manufacturing	PST-2000, with PSB-2053 Interface	Data/Video Flat Panel Display Monitor, 50"; Wall-Mount
Chyron		WORKSTATION,GRAPHICS,CHYRON-7A00326 /
COMREX	Live Shot	IP VIDEO CODEC
Comrex	LIVE SHOT STUDIO	IP VIDEO CODEC
COMREX	STAC6	telephone hybrid
COMREX	STAC6 CONTROL	controller, telephone hybrid
Crestron Electronics	MM-DS-12	CATV Distribution Manifold
Dell	D300	Server, Rack Mount, 1RU
Delvcam	MLCD35	Monitor, Video, Composite, LCD, Quad
Delvcam	RCLCD	Monitor, Video, Composite, LCD, Dual
EditShare	ES10GIG-SFP+	Server, 1 Port 10 Gigabit SFP+ Card
EditShare	ES-ARK-2U-LTO6-SAS	Ark 2U Tape Library (24 Slots), LTO-6 SAS, Rack Rail Kit, Cleaning Tape, 5-Tape Pack
EditShare	ESARK-SASHBA	6 Gb/sec SAS Card and Cable
EditShare	ESEN3U-32TB-16	Server, Video, Rack Mount, 3RU, 32T, ENERGY
EditShare	ES-MIRROR	Server, Mirrored OS Drive
EditShare	ES-SFP+3	Server, 3 meter SFP+ copper
Electrovoice	RE-20	Microphone, Studio
Electrovoice	Sentry100	Program Audio Speaker; PAIR, OFE
ELO	1515	Control System Touch Panel, 15"; Rack Mount, OFE
Elo	MC1-TS	Touch Panel, MC Control
ESE	DV-321	sync generator, HD
ESE	ES- ANT	Clock, Master, GPS, Antenna
ESE	ES-185U/NTP	Clock, Master, GPS, NTP

SPECIFICATIONS / SCOPE OF WORK
SOLICITATION NO.: S72-L25890 (BVB)

ESE	ES-943U/Red	Clock, Slave, 4", Red
Extron	MDA-3	Distribution amplifier, video, 1x3, dual, OFE
EXtron Electronics	ISS 506 DI/HDSDI	Presentation Switcher
EXtron Electronics	MAV 3232 VA	router, analog video, audio, 32X32, OFE
Extron Electronics	MAV Plus 1616 VA	Audiovisual Matrix Switcher, with Stereo Audio; 16x16, OFE
EXtron Electronics	SW6A	Switcher, Audio, 6x1, OFE
Gefen	EXT-VGA-AUDIO-141	VGA +Audio Extender
Gefen	GTV-HDBT-CAT5	HDMI Extener, CAT 5, HDBase T
Gefen		Extender, HDMI CAT5
Generic	Generic	Flat Panel Display Monitor, 22", Component/HDMI/VGA, OFE
HP	2920al-24G	HP ProCurve Switch 2920al-24G - Switch -24 ports - EN, Fast EN, Gigabit EN
HP	Prolient	Server, Rack Mount, 1RU
IFS	5016	IFS VAR71630-R3-DeMultiplexer-16Ch. Video/Aud CH C
Ikan	iLED6	Lamp, Camera
Ikan	PT3100e	Teleprompter, Field
InFocus		PROJECTOR, LCD WITH SHORT THROW LENS 3500 LUMEN
Inlet	3080	ENCODER-INLET SPINNAKERS3005
JVC	BR-HVR250	RECORDER/PLAYER -JVC-BRHD50
JVC	DT-E17L4G	Monitor, Video, HD, OFE
JVC	GY-HD250U	CAMCORDER-JVC-GY-HD250CHUAB
JVC	GY-HM650U	Field Camera, HD, Flash Card
JVC	HZ-FM13U	Camera, Studio, Focus Control
JVC	KA-250HH	Camera, Handheld Adapter, OFE
JVC	KA-HD250U	Camera, Studio, Sled, OFE

SPECIFICATIONS / SCOPE OF WORK
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JVC	LP-25U	Camera Remote Control
JVC	RM-P210U	Camera Control Unit
JVC	SR-HD1250US	Recorder, BluRay
JVC	VF-HP840U	Camera, Studio, Viewfinder, 8.4", OFE
Kramer	VS-848	Matrix Router, Composite, 8x8
Leightronics	E-HD2	Video HD-Server; Rack Mounted, 2/2 CH
Leitch	VEA-683	Card, Video DA Distribution 3
Leitch	#N/A	Card Frame, 10 SLOT, AUDIO/VIDEO
Leitch	#N/A	Card Frame, 20 SLOT, AUDIO
Leitch	#N/A	Card Frame, 20 SLOT, VIDEO
Leitch	ASD-880	Card Lo Z DA's
Leitch	VDA-680	Card, Video DA Distribution 2
LG	22LD350C	Flat Panel Display Monitor, 22", Component/HDMI
LG	37LV555H	Data/Video Flat Panel Display Monitor, 37"; 1080p Resolution
LG	55LV355B	Data/Video Flat Panel Display Monitor, 55"; 1080p Resolution
LG	E2442TC	Monitor, Computer, 24 inch
Link Electronics	HDE-3000	HD SD SDI Closed Caption Encoder, Charater Gen. Dual
Listec		TELEPROMPTER STUDIO
Logitek		Quad Illuminated VU & Phase 2U Rackmount Balanced
MACKIE	3204-VLZ3	Audio Mixer, 32x4
Magnavox	ZV427MG9	Video Recorder, DVD, OFE
Marantz	#N/A	Audio Compact Disk Player, OFE
Marantz	PMD-560	Audio Recorder, Digital, OFE
Marantz	PMD-580	Audio Recorder, Digital, OFE

SPECIFICATIONS / SCOPE OF WORK
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MATROX	CONVERT DVI+	Converter, DVI TO HDSDI, OFE
M-Audio	BX-5A	Program Audio Speaker; with Integral Amplifier
Panasonic	AW-HE130	Camera, PTX, IP
RDL	EZ-SX4	Switcher, Audio, 4x1
RDL	HR-DDA4	Distribution Amplifier, AES, 1x4
RDL	RU-AFC2	Stereo Audio Format Converter
RDL	RU-SH1	Audio Amplifier, Headphone
Rose Electronics	Orion	Switcher, KVM, 32x16
ROSS VIDEO	ADC-8732B-SC	Card, Analog to SDI/Audio Embedder
ROSS VIDEO	BVS-102P-10	Server, Video, Rack Mount, 1RU
Ross Video	C2X-24	Production Switcher, Control Panel, 24 Input
Ross Video	Carbonite+ 24	Production Switcher, 24 Input
Ross Video	CF-FRAMEREDPSU-	Redundant Power Supply
ROSS VIDEO	DEA-8205	Card, distribution amplifier, HD SDI, dual
ROSS VIDEO	DFR-8321CN	Card Frame, Dual Power Supply
Ross Video	MC-1-DB-CLN	Master Control Controller
Ross Video	MC1-MK	Master Control Switcher
ROSS VIDEO	NK-3G72	router, digital 64X64
ROSS VIDEO	NK-IPS	NK Network IP Configuration Device
ROSS VIDEO	PS-OG3	450 Watt Universal Power Supply for OG3 Frame
Ross Video	RCP-NKM	Router Control, X/Y Panel
Ross Video	RCP-NKQ	Router Control, X/Y Panel, w/Display
ROSS VIDEO	XPression NLE Gateway	NLE Gateway
ROSS VIDEO	Xpression Studio	CG Workstation, Hardware/Software

SPECIFICATIONS / SCOPE OF WORK
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RTS	848	SERIES 800 INTERCOM SYSTEM Station
RTS	4001	IFB Controller
RTS	4003	IFB Controller
RTS	4003	IFB Controller
RTS	4010	IFB Controller
RTS	RM-1000	Intercom Station, Rack Mount
Seismic Audio	ARCTIC 10	Speaker, 10", PAIR
Seismic Audio	LE-2000	Program Audio Amplifier; 2 channels, 250 Watts/ch
Sennheiser	EM 100	Microphone, Wireless Receiver , OFE
Sennheiser	EW-100E ENG G3	Wireless Microphone System, ENG
SHURE	SCM-262	Stereo Microphone Mixer
Shure	SCM-810	Audio Mixer
Sierra Video Systems	Tahoe	router, analog video, 24x16, OFE
Sony	#N/A	Audio Compact Disk Player, OFE
Sony	ECM-55B	Microphone, Lavalier
Sony	ECM-77B	Microphone, Lavalier
Sony	HDR-1500U	RECORDER, HIGH DEFINITION-SDI DV
Sony	PVM14M2U	Monitor, Video, Composite, 14", OFE
Sony	PVM-9080	Video ; 9", Color
Sony	PVW-2800	Betacam SP Editing Recorder, OFE
Sony	PVW-2850	Betacam SP Editing Recorder, OFE
Sony	TN-950	SONY 3CCD VIDEO CAMERA - ANNEX
Sony	UVW-1200	VIDEO CASSETTE PLAYER
Sony	UVW-1400	Betacam SP Editing Recorder, OFE

SPECIFICATIONS / SCOPE OF WORK
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Sony	UVW-1800	RECORDER VIDEO CASSETTE EDIT C 3P SONY VIDEO CAS
Sony		Audio Compact Disk Player, OFE
Stanton	C502	Audio Compact Disk Player, Controller
Stanton	C502	Audio Compact Disk Player, Dual Deck
Tascam	122 MKIII	Audio Cassette Recorder, 3 head, OFE
TEKTRONIX	SPG422	sync generator, SD, OFE
Telex	MCE-325	Intercom System; Master Station & Power Supply, OFE
Telex	PS-20	Intercom Station, Power Supply
Telex	SSA-324	Intercom, 4W to 2W to 4W Adapter, OFE
Telos	Link	IC Telco Adapter
Telvue	B1400	server, audio/video, 4 CH, SD, OFE
Telvue	T4080E	MISCELLANEOUS (TPC)TRANSCODE WORKSTATION
VIDEO TEK	VIS-1201	Video Switcher, 12x1, OFE
VideoTek	APM800	Stereo Audio Program Monitor APM800
VideoTek	VTM	Waveform Monirtor
Viewcast	Niagra 4100	WORKSTATION,VIEWCAST NIAGRA 4100 HD
Vinten	Pro-Ped	Camera Studio Pedestal, OFE
Vinten	Vision Blue5	Field Tripod
Vinten	Vision-Ped	Camera Studio Pedestal,
Wohler	MSM-2/DTV1	Audio Monitor, 16Ch
		Professional 16-Channel Video Mixer PIP Video Proc

**GENERAL TERMS & CONDITIONS/HTV CONTRACT
SOLICITATION NO.: S72-25890 (BVB)**

THE STATE OF TEXAS

BID # _____

COUNTY OF HARRIS

ORDINANCE # _____

CONTRACT # _____

I. PARTIES

1.0 ADDRESS:

THIS AGREEMENT FOR TELEVISION PRODUCTION EQUIPMENT REPAIRS & ROUTINE MAINTENANCE 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

Chief Procurement Officer for Director(s)
of Mayor's Office
City of Houston
P.O. Box 1562
Houston, Texas 77251

Phone: _____
Fax: _____

The Parties agree as follows:

2.0 TABLE OF CONTENTS:

2.1 This Agreement consists of the following sections:

GENERAL TERMS & CONDITIONS/HTV CONTRACT SOLICITATION NO.: S72-25890 (BVB)
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- 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
- J. EQUIPMENT RELEASE AND RETURN FORM

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".

**GENERAL TERMS & CONDITIONS/HTV CONTRACT
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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:

Chief Procurement Officer

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

GENERAL TERMS & CONDITIONS/HTV CONTRACT
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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" & "BB."

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

GENERAL TERMS & CONDITIONS/HTV CONTRACT

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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.

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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)

4.2 All insurance policies must require 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.

4.2.3 All certificates of insurance submitted by Contractor shall be accompanied by endorsements for additional insured coverage in favor of the City for Commercial General Liability and Automobile Liability policies; and waivers of subrogation in favor of the City for Commercial General Liability, Automobile Liability, and Worker's Compensation/Employers' Liability policies. For a list of pre-approved endorsement forms see <http://purchasing.houstontx.gov/forms.shtml>. The Director will consider all other forms on a case-by-case basis.

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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 **24%** 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 Opportunity (OBO) and will comply with them.
- 8.2 MWBE subcontracts must contain the terms set out in Exhibit "D."

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"):

**GENERAL TERMS & CONDITIONS/HTV CONTRACT
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- 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.

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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 its employees as required by law shall constitute a default under this contract for which the Contractor and its surety shall be liable on Contractor's performance bond if Contractor fails to cure the default as provided under this Agreement.
- 12.3 Contractor shall defend and indemnify the City from any claims or liability arising out of Contractor's failure to pay its subcontractors as required by law. Contractor shall submit disputes relating to payment of M/WBE subcontractors to arbitration in the same manner as any other disputes under the M/WBE subcontract.

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 Office of Business Opportunity designee and for a Department specific contract; the Department's designated contract administrator will administer the Pay or Play Program.

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

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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 Chief Procurement Officer 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.

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- 6.2 The Chief Procurement Officer 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 Chief Procurement Officer or Director]

- 6.3 The Chief Procurement Officer or Director may issue more than one Change Order, subject to the following limitations:
- 6.3.1 Council expressly authorizes the Chief Procurement Officer 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 Chief Procurement Officer'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.

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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 Chief Procurement Officer.

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 Chief Procurement Officer may, in his or her sole discretion, extend the time so long as the extension does not exceed 180 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 Chief Procurement Officer 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.

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6.0 TERMINATION FOR CAUSE BY CITY:

- 6.1 If Contractor defaults under this Agreement, the City Chief Procurement Officer 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 Chief Procurement Officer or Director may, but is not obligated to, deliver a written notice to Contractor describing the default and the termination date. The Chief Procurement Officer or Director at his or her sole option may extend the termination date to a later date. If the Chief Procurement Officer or Director allows Contractor to cure the default and Contractor does so to the Chief Procurement Officer'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 Chief Procurement Officer or Director may terminate this Agreement on the termination date, at no further obligation of the City.
- 6.3 To effect final termination, the Chief Procurement Officer 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

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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 Chief Procurement Officer 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.

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5.0 WRITTEN AMENDMENT:

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

6.0 APPLICABLE LAWS:

6.1 This Agreement is subject to the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction.

6.2 Venue for any litigation relating to this Agreement is Harris County, Texas.

7.0 NOTICES:

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

8.0 NON-WAIVER:

8.1 If either party fails to require the other to perform a term of this Agreement, that failure does not prevent the party from later enforcing that term and all other terms. If either party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.

8.2 An approval by the Director, or by any other employee or agent of the City, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard of performance other than that required by this Agreement and by law. The Director is not authorized to vary the terms of this Agreement.

9.0 INSPECTIONS AND AUDITS:

9.1 City representatives may perform, or have performed, (1) audits of Contractor's books and records, and (2) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least 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.

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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 Chief Procurement Officer'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 Chief Procurement Officer'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

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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.

18.0 DISQUALIFICATION OF BIDDERS:

Any one or more of the following causes may be considered as sufficient for the disqualification of a bidder and the rejection of its bid response(s):

- 18.1 More than one bid response for the same contract from an individual, firm or corporation under the same or different names.
- 18.2 Evidence of collusion among bidders.
- 18.3 Unsatisfactory performance record as evidenced by past experience.
- 18.4 If the unit prices are obviously unbalanced either in excess or below reasonable cost analysis values.
- 18.5 If there are any unauthorized additions, interlineations, conditional or alternate bids or irregularities of any kind which may tend to make the bid response incomplete, indefinite, or ambiguous as to its meaning.

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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.

"Chief Procurement Officer" 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 Chief Procurement Officer 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 Chief Procurement Officer to the Contractor.

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

"Contract Term" is defined in Article IV.

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

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

"Director" mean the Directors/Chiefs of each of the Departments or the Chief Procurement Officer 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 Chief Procurement Officer to Contractor instructing Contractor to begin performance.

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

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EXHIBIT "B"
SCOPE OF WORK

(Will Be Inserted In Original Contract)

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EXHIBIT "C"
EQUAL EMPLOYMENT OPPORTUNITY

(Will Be Inserted In Original Contract)

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EXHIBIT "D"
MWBE REQUIREMENTS

(Will Be Inserted In Original Contract)

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EXHIBIT "E"
DRUG POLICY COMPLIANCE AGREEMENT

(Will Be Inserted In Original Contract)

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

(Will Be Inserted In Original Contract)

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EXHIBIT "G"
DRUG POLICY COMPLIANCE DECLARATION

(Will Be Inserted In Original Contract)

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EXHIBIT "H"
FEES AND COSTS

(Will Be Inserted In Original Contract)

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EXHIBIT "I"
PAY OR PLAY PROGRAM

(Will Be Inserted In Original Contract)

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EXHIBIT "J"

No. _____
Please Show
Return/Release

Number on all
Correspondance

The City of Houston – HTV
Equipment Release And Return Authorization Form

Released By _____ **Date** _____

Item _____ **Make and Model #** _____

Location From _____ **Serial #** _____

Reason for outside repair

Released to _____ **Date** _____

Company Name _____ **Phone** _____

Municipal Channel Authorized Signature _____

Report of Repairs

Problem Observed _____

Action Taken:

Parts Required:

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QTY	U/M	Description	Cost
1		LABOR	
Total Cost:			

Total Hours _____

Repair Authorization:

Return UnRepaired _____ **Date** _____

Authorized to Proceed

_____ **Date** _____

Return Authorization:

Authorized Signature _____ **Date** _____

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To simplify the review process and to obtain the maximum degree of comparability, the Offeror(s) must provide the responses to the items set forth below and include this information as requested in their bid packet; to allow for 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 EXPERIENCE AND QUALIFICATIONS STATEMENT:

- 1.1 Provide a brief statement describing the Offeror's background information, history, resources and/or track record. Please limit to three (3) pages.
- 1.2 Provide an organizational chart of proposed team or staff for this project.
- 1.3 Provide resumes of key personnel whom will be responsible for the delivery of the services/project.
- 1.4 Provide copies of key personnel certifications and/or licenses.

2.0 FINANCIAL STATEMENTS:

- 2.1 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.

3.0 SITE INSPECTION:

- 3.1 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.

4.0 QUALITY AND WORKMANSHIP:

- 4.1 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.

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EVALUATION AND SELECTION PROCESS
SOLICITATION NO.: S72-L25890 (BVB)

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	35%
2.1.2	Experience/Qualifications	40%
2.1.3	Financial Strength of Offeror	15%
2.1.4	M/WBE Participation	5%
2.1.5	Conformance to BVB Requirements	5%

* Hire Houston First Preference Points (City Business = five (5) extra percentage points or Local Business = three (3) extra percentage points and Non-City and Non-Local Business will receive zero (0) extra percentage points).

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EXHIBIT I – CONTRACTOR’S QUESTIONNAIRE
SOLICITATION NO.: S72-L25890 (BVB)

In order to receive bid award consideration, the bidder must be able to demonstrate that they are currently providing or have had at least one contract, as a prime contractor, for the required Services that is similar in size and scope to this BVB requirements. Bidder must have references documenting that it has performed the required BVB services. The reference(s) should be included in the space provided below. Please attach another piece of paper if necessary. **Bidder’s capability and experience shall be evaluated and a factor in determining the Contractor’s responsibility.**

LIST OF PREVIOUS CUSTOMERS

1. Name: _____ Phone No.: _____
Address: _____
Contract Award Date: _____ Contract Completion Date: _____
Contract Name/Title: _____
Project Description: _____

2. Name: _____ Phone No.: _____
Address: _____
Contract Award Date: _____ Contract Completion Date: _____
Contract Name/Title: _____
Project Description: _____

3. Name: _____ Phone No.: _____
Address: _____
Contract Award Date: _____ Contract Completion Date: _____
Contract Name/Title: _____
Project Description: _____

EXHIBIT I – LIST OF SUBCONTRACTOR(S)
SOLICITATION NO.: S72-L25890 (BVB)

**EXHIBIT II – MINORITY/WOMEN BUSINESS ENTERPRISES
CONTRACT REQUIREMENTS
SOLICITATION NO.: S72-L25890 (BVB)**

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EXHIBIT II – ATTACHMENT “A”: SCHEDULE OF M/WBE PARTICIPATION
SOLICITATION NO.: S72-L25890 (BVB)

DATE OF REPORT: _____

BID NO.: _____

FORMAL BID TITLE: _____

NAME OF MINORITY/WOMEN SUBCONTRACTOR	OFFICE OF BUSINESS OPPORTUNITY CERTIFICATION NO.	STREET ADDRESS AND CITY, STATE, ZIP CODE	TELEPHONE NO.	SCOPE OF WORK	AGREE PRICE
TOTAL.....					\$ _____
M/WBE PARTICIPATION AMOUNT.....					\$ _____ %
TOTAL BID AMOUNT.....					\$ _____

**EXHIBIT II – ATTACHMENT ‘A’: SCHEDULE OF M/WBE PARTICIPATION
SOLICITATION NO.: S72-L25890 (BVB)**

**EXHIBIT II – ATTACHMENT “A” (CONTINUED): SCHEDULE OF M/WBE PARTICIPATION
SOLICITATION NO.: S72-L25890 (BVB)**

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 OFFICE OF BUSINESS OPPORTUNITY 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 OFFICE OF BUSINESS OPPORTUNITY.
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”: OFFICE OF BUSINESS OPPORTUNITY AND
CONTRACT COMPLIANCE M/WBE UTILIZATION REPORT
SOLICITATION NO. S72-L25890 (BVB)

Notice of Intent

**THIS AGREEMENT IS SUBJECT TO MEDIATION AND CAN BE INITIATED BY THE COMPANIES
SIGNED BELOW OR THE OFFICE OF BUSINESS OPPORTUNITY.**

To: City of Houston
Administering Department

Date: _____

Project Name and Number _____

Bid Amount: _____ M/W/SBE Goal: _____

_____, agrees to enter into a contractual agreement with

Prime Contractor
MWSBE Subcontractor

who will provide the following goods/services in connection with the above-referenced contract:

for an estimated amount of \$ _____ or _____ % of the total contract value.

_____ is currently certified with the City of Houston’s Office of
Business Opportunity to function in the _____
(M/W/SBE Subcontractor) _____
aforementioned capacity.

_____ Intend to
work on the above-named contract in _____
Prime Contractor M/W/SBE Subcontractor
accordance with the M/W/DBE Participation Section of the City of Houston Bid Provisions, contingent upon
award of the contract to the aforementioned Prime Contractor.

Signed (Prime Contactor)

Signed (M/W/SBE Subcontractor)

Printed Signature

Printed Signature

Title

Date

Title

EXHIBIT II – ATTACHMENT “C”: OFFICE OF BUSINESS OPPORTUNITY AND
CONTRACT COMPLIANCE M/WBE UTILIZATION REPORT
SOLICITATION NO. S72-L25890 (BVB)

CITY OF HOUSTON CERTIFIED MWSBE SUBCONTRACT TERMS

Contractor shall ensure that all subcontracts with M/WSBE subcontractors and suppliers are clearly labeled **“THIS CONTRACT IS SUBJECT TO MEDIATION”** and contain the following terms:

1. _____(M/WSBE subcontractor) shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston’s Office of Business Opportunity Director (“the Director”).
2. _____(M/WSBE subcontractor) shall permit representatives of the City of Houston, at all reasonable times, to perform 1) audits of the books and records of the subcontractor, and 2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for such purpose for at least four (4) years after the end of its performance under this subcontract. Nothing in this provision shall affect the time for bringing a cause of action or the applicable statute of limitations.
3. Within five (5) business days of execution of this subcontract, Contractor (prime contractor) and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of such agent.

These provisions apply to goal-oriented contracts. A goal-oriented contract means any contract for the supply of goods or non-professional services in excess of \$100,000.00 for which competitive proposals are required by law; not within the scope of the MBE/WBE/SBE program of the United States Environmental Protection Agency or the United States Department of Transportation; and which the Chief Procurement Officer has determined to have significant MWSBE subcontracting potential in fields which there are an adequate number of known MBEs , WBE’s, and or SBE’s (if applicable) to compete for City contracts.

The MWSBE policy of the City of Houston will be discussed during the pre-proposal conference. For information, assistance, and/or to receive a copy of the City’s Affirmative Action Policy and/or Ordinance, contact the Office of Business Opportunity Division at 832.393.0600, 611 Walker Street, 7th Floor, Houston, Texas 77002.

**EXHIBIT II – ATTACHMENT “D”: OFFICE OF BUSINESS OPPORTUNITY AND
 CONTRACT COMPLIANCE M/WBE UTILIZATION REPORT
 SOLICITATION NO. S72-L25890 (BVB)**

Report Period: _____

PROJECT NAME & NUMBER: _____

AWARD DATE: _____

PRIME CONTRACTOR: _____

CONTRACT NO.: _____

ADDRESS: _____

CONTRACT AMOUNT: _____

LIAISON/PHONE NO.: _____

M/WBE GOAL: _____

M/WBE SUB/VENDOR NAME	DATE OF OBO CERTIFICATION	DATE OF SUBCONTRACT	SUBCONTRACT AMOUNT	% OF TOTAL CONTRACT	AMOUNT PAID TO DATE	% OF CONTRACT TO DATE

Use additional pages if needed. Submit by the 15th day of the following month.
 Provide support documentation on all revenues paid to end of the report period to:
 M/WBE's to reflect up/down variances on Contract amount.

Office of Business Opportunity
 ATTN: Carlecia Wright 713-837-9000
 611 Walker, 7th Floor
 Houston, Texas 77002