

THE STATE OF TEXAS

BID # L23811

COUNTY OF HARRIS

ORDINANCE # 2011-252  
CONTRACT # 4600010816

**I. PARTIES**

**1.0 ADDRESS:**

**THIS AGREEMENT FOR CALIBRATION & REPAIR OF TRUCK PLATFORM SCALES** ("Agreement") is made on the Countersignature Date between the **CITY OF HOUSTON, TEXAS** ("City"), a Texas Home-Rule City and **AABBOTT- MICHELLI TECHNOLOGIES, INC.** ("Contractor or Vendor"), a corporation doing business in Texas.

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

**City**

City Purchasing Agent for Director  
of Public Works & Engineering  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251

**AABBOTT-MICHELLI TECHNOLOGIES, INC.**

Leon G. Tullos, Jr.  
5050 West Drive  
Houston, Texas, 77053  
Phone: 281-437-2005  
Fax: 281-437-1774  
Email: gtullos@aabbott-michelli.com

The Parties agree as follows:

**2.0 TABLE OF CONTENTS:**

2.1 This Agreement consists of the following sections:

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**EXHIBITS**

- A. DEFINITIONS
- B. SCOPE OF SERVICES
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- D. MWBE SUBCONTRACT TERMS
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- F. DRUG POLICY COMPLIANCE DECLARATION
- G. CERTIFICATION OF NO SAFETY IMPACT POSITIONS
- H. FEES AND COSTS
- I. CONTRACTOR PAY OR PLAY

**3.0 PARTS INCORPORATED:**

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

**4.0 CONTROLLING PARTS:**

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

**5.0 DEFINITIONS:**

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

**6.0 SIGNATURES:**

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

ATTEST/SEAL (if a corporation):

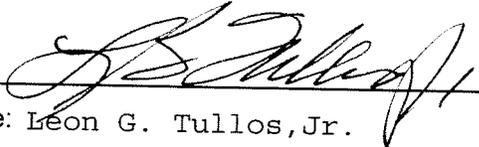
**AABBOTT-MICHELLI TECHNOLOGIES, INC.**

WITNESS (if not a corporation):

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

Name:

Title:

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

Name: Leon G. Tullos, Jr.

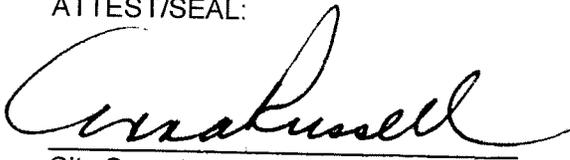
Title: General Manager

Federal Tax ID Number: 76-0691302

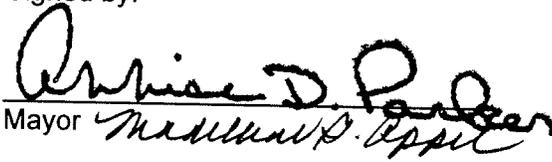
ATTEST/SEAL:

CITY OF HOUSTON, TEXAS

Signed by:



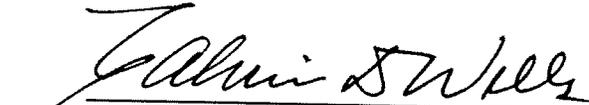
City Secretary



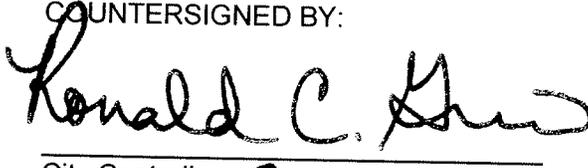
Mayor

APPROVED:

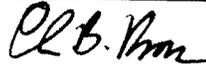
COUNTERSIGNED BY:



City Purchasing Agent



City Controller



DATE COUNTERSIGNED:

4-12-11

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.

3-15-11

Date



Legal Assistant

## II. DUTIES OF CONTRACTOR

### 1.0 SCOPE OF SERVICES:

- 1.1 In consideration of the payments specified in this Agreement, Contractor shall provide all labor, material, equipment, transportation and supervision necessary to perform the services described in Exhibit "B" & "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 OCCURRENCE. PRIME CONTRACTOR/SUPPLIER SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

## **2.3 INDEMNIFICATION:**

**CONTRACTOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY**

## **3.0 INDEMNIFICATION PROCEDURES:**

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

3.1.1 a description of the indemnification event in reasonable detail,

3.1.2 the basis on which indemnification may be due, and

3.1.3 the anticipated amount of the indemnified loss.

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

3.3 Defense of Claims

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

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

## **4.0 INSURANCE:**

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

or better, according to the most current edition Best's Key Rating Guide. Contractor shall maintain the following insurance coverages in the following amounts:

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

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

4.1.3 Automobile Liability insurance  
\$1,000,000 combined single limit per occurrence  
Defense costs are excluded from the face amount of the policy.  
Aggregate Limits are per 12-month policy period unless otherwise indicated.

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

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

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

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

## **5.0 WARRANTIES:**

5.1 Contractor represents and warrants that it shall perform all work in a good and workmanlike manner, meeting the standards of quality prevailing in Harris County, Texas for work of this kind. Contractor shall perform all work using trained and skilled persons having substantial experience performing the work required under this Agreement.

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

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

5.2.2 that each item meets or exceeds the manufacturer's specifications and requirements for the equipment, structure, or other improvement in which the item is installed,

5.2.3 that each replacement item is new in accordance with original equipment manufacturer's specifications, and of a quality at least as good as the quality of the item which it replaces (when the replaced item was new), and

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

## **6.0 LICENSES AND PERMITS:**

6.1 Contractor shall obtain and pay for all licenses, permits, and certificates required by any statute,

ordinance, rule, or regulation.

**7.0 COMPLIANCE WITH EQUAL OPPORTUNITY ORDINANCE:**

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

**8.0 MWBE COMPLIANCE:**

8.1 Contractor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts or supply agreements in at least 2% 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 Affirmative Action Division and will comply with them.

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

**9.0 DRUG ABUSE DETECTION AND DETERRENCE:**

9.1 It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.

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

9.2.1 a copy of its drug-free workplace policy,

9.2.2 the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "E," together with a written designation of all safety impact positions and,

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

9.3 If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "G." Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed or if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.

9.4 Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.

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

**10.0 ENVIRONMENTAL LAWS:**

- 10.1 Contractor shall comply with all rules, regulations, statutes, or orders of the Environmental Protection Agency ("EPA"), the Texas Commission on Environmental Quality ("TCEQ"), and any other governmental agency with the authority to promulgate environmental rules and regulations ("Environmental Laws"). Contractor shall promptly reimburse the City for any fines or penalties levied against the City because of Contractor's failure to comply.
- 10.2 Contractor shall not possess, use, generate, release, discharge, store, dispose of, or transport any Hazardous Materials on, under, in, above, to, or from the site except in strict compliance with the Environmental Regulations. "Hazardous Materials" means any substances, materials, or wastes that are or become regulated as hazardous or toxic substances under any applicable federal, state, or local laws, regulations, ordinances, or orders. Contractor shall not deposit oil, gasoline, grease, lubricants or any ignitable or hazardous liquids, materials, or substances in the City's storm sewer system or sanitary sewer system or elsewhere on City Property in violation of the Environmental Laws.

**11.0 CONTRACTOR'S PERFORMANCE:**

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

**12.0 PAYMENT OF EMPLOYEES AND SUBCONTRACTORS:**

- 12.1 Contractor shall make timely payments in accordance with applicable state and federal law to all persons and entities supplying labor, materials or equipment for the performance of this Agreement including Contractor's employees.
- 12.2 Failure of Contractor to pay 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 Affirmative Action Division's 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 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 **\$0.00** to pay money due under this Agreement (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies:
- 5.3 The City makes a Supplemental Allocation by issuing to Contractor a Service Release Order, or similar form approved by the City Controller, containing the language set out below. When necessary, the Supplemental Allocation shall be approved by motion or ordinance of City Council.

"NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS"

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

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

**6.0 CHANGES:**

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

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

**CHANGE ORDER**

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

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

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

Signed:  
[Signature of City Purchasing Agent or Director]

- 6.3 The City Purchasing Agent or Director may issue more than one Change Order, subject to the following limitations:
- 6.3.1 Council expressly authorizes the City Purchasing Agent or Director to approve a Change Order of up to \$25,000. A Change Order of more than \$25,000 over the approved contract amount must be approved by the City Council.
- 6.3.2 If a Change Order describes items that Contractor is otherwise required to provide under this Agreement, the City is not obligated to pay any additional money to Contractor.
- 6.3.3 The Total of all Change Orders issued under this section may not increase the Original Agreement amount by more than 25%.

- 6.4 Whenever Contractor receives a Change Order, Contractor shall furnish all material, equipment, and personnel necessary to perform the work described in the Change Order. Contractor shall complete the work within the time prescribed. If no time for completion is prescribed, Contractor shall complete the work within a reasonable time. If the work described in any Change Order causes an unavoidable delay in any other work Contractor is required to perform under this Agreement, Contractor may request a time extension for the completion of the work. The City Purchasing Agent's or Director's decision regarding a time extension is final.
- 6.5 A product or service provided under a Change Order is subject to inspection, acceptance, or rejection in the same manner as the work described in the Original Agreement, and is subject to the terms and conditions of the Original Agreement as if it had originally been a part of the Agreement.
- 6.6 Change Orders are subject to the Allocated Funds provisions of this Agreement.

#### **IV. TERM AND TERMINATION**

##### **1.0 CONTRACT TERM:**

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

##### **2.0 NOTICE TO PROCEED:**

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

##### **3.0 RENEWALS:**

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

##### **4.0 TIME EXTENSIONS:**

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

##### **5.0 TERMINATION FOR CONVENIENCE BY THE CITY:**

- 5.1 The City Purchasing Agent or Director may terminate this Agreement at any time by giving 30 days written notice to Contractor. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies which exist now or in the future.
- 5.2 On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. The City shall then pay the fees to Contractor for

services actually performed, but not already paid for, in the same manner as prescribed in Section III unless the fees exceed the allocated funds remaining under this Agreement.

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

## **6.0 TERMINATION FOR CAUSE BY CITY:**

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

## **7.0 TERMINATION FOR CAUSE BY CONTRACTOR:**

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

**8.0 REMOVAL OF CONTRACTOR OWNED EQUIPMENT AND MATERIALS:**

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

**V. MISCELLANEOUS**

**1.0 INDEPENDENT CONTRACTOR:**

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

**2.0 FORCE MAJEURE:**

2.1 Timely performance by both parties is essential to this Agreement. However, neither party is liable for delays or other failures to perform its obligations under this Agreement to the extent the delay or failure is caused by Force Majeure. Force Majeure means fires, floods, explosions, and other acts of God, war, terrorist acts, riots, court orders, and the acts of superior governmental or military authority.

2.2 This relief is not applicable unless the affected party does the following:

2.2.1 uses due diligence to remove the Force Majeure as quickly as possible; and

2.2.2 provides the other party with prompt written notice of the cause and its anticipated effect.

2.3 The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance does not constitute a default or breach of this Agreement by the City.

2.4 If the Force Majeure continues for more than 30 days, the City Purchasing Agent or Director may terminate this Agreement by giving 30 days' written notice to Contractor. This termination is not a default or breach of this Agreement. CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT AT THE TIME OF THE TERMINATION.

**3.0 SEVERABILITY:**

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

**4.0 ENTIRE AGREEMENT:**

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

**5.0 WRITTEN AMENDMENT:**

5.1 Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only

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

**6.0 APPLICABLE LAWS:**

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

**7.0 NOTICES:**

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

**8.0 NON-WAIVER:**

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

**9.0 INSPECTIONS AND AUDITS:**

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

**10.0 ENFORCEMENT:**

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

**11.0 AMBIGUITIES:**

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

**12.0 SURVIVAL:**

12.1 Contractor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, the indemnity provisions.

**13.0 PARTIES IN INTEREST:**

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

**14.0 SUCCESSORS AND ASSIGNS:**

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

**15.0 BUSINESS STRUCTURE AND ASSIGNMENTS:**

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

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

**16.0 REMEDIES CUMULATIVE:**

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

**17.0 CONTRACTOR DEBT:**

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

## **EXHIBIT "A"** **DEFINITIONS**

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

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

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

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

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

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

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

"Contract Term" is defined in Article IV.

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

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

"Director" mean the Directors/Chiefs of each of the Departments or the City Purchasing Agent for the City, or the person he or she designates.

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

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

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

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

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

**EXHIBIT "B"**  
**SCOPE OF WORK**

**1.0 Scope of Work:**

- 1.1 The Contractor shall furnish all labor, materials, equipment, tools, parts and supervision necessary to efficiently provide quarterly preventive maintenance audits, annual inspections (including adjustment and calibration), certifications (Compliance and Inspection), and repair service (including emergency repair services as needed) for Truck Platform Scales for the Department of Public Works and Engineering.
- 1.2 The Contractor shall be responsible for providing all preventive maintenance as specified in the manufacturers' manuals, and in accordance with current industry standards as set by National Institute of Standards and Technology (NIST) Handbook 44 (2010).

**2.0 Scope of Work: General**

- 2.1 The Contractor shall take full responsibility for the accurate operation of all scales referenced herein, for a fixed monthly fee. **All labor and parts necessary to perform the scheduled preventive maintenance are included in the monthly fee. No additional payments will be made for any preventive maintenance repairs.**
- 2.2 The Contractor shall schedule regular maintenance in order to maintain these scales in **First Class** operating condition and to provide optimum operating efficiency. The Contractor shall provide all labor, parts, materials or equipment required to restore a failed, or malfunctioning part of existing equipment to **First Class** operating and maintained condition.
- 2.3 From an equipment and parts viewpoint, **First Class** condition shall mean "of equal" or "better" quality than installed during the original construction. From a condition of wear viewpoint, **First Class** condition shall mean "of equal" or "better" quality than that installed during the original construction. Additionally, from a condition of wear viewpoint, **First Class** shall refer to wear within manufacturer's tolerances for safe, reliable operation and that the entire scale system(s) operates in accordance with required conditions, and performs the functions intended within manufacturer's tolerances or required practices for close, predictable, dependable performance.
- 2.4 In the event of an emergency failure, the Contractor shall provide repair and/or replacement parts associated with the standard and routine preventive maintenance and repair program for the scales described herein. Contractor shall exercise expedience as well as quality in all repairs.
- 2.5 Contractor shall not be responsible for excess costs incurred in restoring the scales to first class operation, by replacement of major components in the event of failure, i.e. printed circuit boards or load cells, or replacement of any component **not** associated with service and care through a normal

preventive maintenance program. Such components shall mean any primary or major component of the scale(s), without which a particular scale would be rendered inoperable and useless. Consequently, it is incumbent upon the Contractor to exercise due diligence in inspections and preventive maintenance. Care must be taken to document the condition of all major components at each scheduled inspection. **The Contractor's failure to properly maintain such components shall not justify and additional payment to the Contractor should such a component fail.** The Contractor shall be responsible for notifying the project manager and obtaining written authorization to make any part(s) purchase(s) **prior to proceeding** with any purchase and/or installation of a repair of replacement part **not** associated with the routine preventive maintenance and service program. The Contractor shall document diligence in his efforts to properly maintain all equipment components and mechanisms. Such written documentation shall be presented to the Project Manager for review along with invoice for the additional replacement part(s) and labor. **These services shall not be invoiced as routine service calls, whether emergency or not.** The charges for this additional service shall be invoiced according to the Fee Schedule in Exhibit "H".

### **3.0 Maintenance and Repairs:**

- 3.1 Commencing on a mutually agreeable date no later than **seven (7)** calendar days after receipt of the **Notice To Proceed** by the Contractor, the Contractor and the on-site project manager(s) or (CTR) shall **together** make a complete and systematic initial inspection of all mechanical and operational features, the maintenance and repair of which is covered by this contract.
- 3.2 The purpose of this inspection shall be to discover and list all deficiencies that may exist in the equipment covered by this contract prior to contract start date. A **deficiency is defined** as "any condition, not correctable through normal preventive maintenance or service calls that prohibits/inhibits the normal operation of an equipment item." If, during the inspection, the Contractor wishes to disassemble a piece of equipment in order to inspect its internal condition, the project manager or (CTR) shall be notified and arrangements made in order to accommodate the Contractor. Any such internal inspection of equipment items shall be accomplished solely at the Contractor's expense.
- 3.3 If, during the disassembly or re-assembly of such and equipment item, any damage is done to the equipment or auxiliary equipment/controls/printers/etc., such damage shall be repaired at the Contractor's expense and the item returned to its original condition.
- 3.4 If any deficiencies are noted during the performance of such an internal inspection, the deficiencies shall be appropriately annotated and the equipment item reassembled to its original condition, at the Contractor's expense.

- 3.5 The Contractor and the project Manager or (CTR) shall prepare an Existing Deficiency Report (Report) while the inspection is being conducted, listing all deficiencies noted during the inspection. **Each deficiency shall be signed when completed by the aforesated representative of both parties and each party shall retain one (1) completely executed copy.** The deficiency report shall **not** contain any items that would be replaced, repaired, or adjusted during the performance of normal preventive maintenance or service calls. The Report shall also **not** contain any conditions, findings, and/or recommendations that could be considered as **enhancements** to the existing equipment/system design or operation.
- 3.6 Within **10** working days after contract start date, the Contractor shall prepare and submit to the Project Manager or (CTR) a copy of the deficiency report with an attached listing of the repairs needed to correct each deficiency and the Contractor's price, (including, but not limited to, labor, materials, overhead and profit), for correcting each deficiency. All prices shall remain firm for a period of **180** days after submission.
- 3.7 **Contractor not be the responsible for the additional expense to correct deficiencies noted on the above report under the terms of this contract.**
- 3.8 All deficiencies noted in the Report will be corrected as the Department resources become available, using such means as the Project Manager deems appropriate. The Department may elect to have any or all of this work performed by this Contractor (at the price or prices quoted) or by other means. **The Contractor shall not correct any listed existing deficiency without the express written permission of the Project Manager. The cost to perform such repairs shall be invoiced and paid under additional services.**
- 3.9 When the Department has corrected an existing deficiency in an item, the Contractor shall assume full responsibility for normal operation, maintenance, and repairs to the equipment (except those repairs which may be covered under warranty or guarantee agreement), **at no additional cost to the Department.**
- 3.10 The Contractor shall assume full responsibility for all equipment inspected and determined to have no deficiencies prior to the contract start date.
- 3.11 Any and all deficiencies that are discovered after the contract start date shall be assumed to be conditions that developed after the contract start date and, therefore, shall not be termed "pre-existing" and the repair thereof shall be the full responsibility of the Contractor.
- 3.12 Emergency Repair: All unscheduled repairs shall be made by the Contractor within 24 hours after notification during normal working hours. Normal working hours are defined as Monday through

Friday, 7:30 a.m. to 4:30 p.m., excluding City holidays. The contract monthly fee shall include all labor and materials necessary to perform this service. **No additional payments will be made.** Repeated failure to respond in a timely manner to requests by the City for emergency repair service shall be grounds for the termination of this contract for default; this being solely based upon the discretion of the Department Director.

- 3.13 Any and all equipment removed from City property shall be accompanied by a **City of Houston Return Authorization Form**. The Return Authorization Form shall be provided by the Division requesting services. The form shall be adjusted by the user division to reflect the contract and ordinance numbers pertaining to this contract.
- 3.14 Contractor's personnel shall present a clean and neat appearance. Contractor's personnel shall wear a Contractor furnished photo badge, and uniform with Contractor's company name and employee's name clearly displayed

#### **4.0 Other Terms and Conditions:**

- 4.1 Within ten (10) working days after issuance of the **Notice to Proceed** by the City Purchasing Agent, the Contractor shall coordinate a schedule for the initial preventive maintenance service, of all equipment listed in Exhibit "BB".
- 4.2 The Contractor shall develop and implement a simple preventive Maintenance (PM) checklist (based on specifications included herein) for approval by City Project Manger or (CTR). Examples of PM Checklists will be provided with bid documents. All equipment shall be listed accordingly and maintained at an acceptable level as previously defined.
- 4.3 The Contractor shall maintain a service call log in sufficient detail to enable the Contract Administrator to determine whether repair services are completed in accordance with the terms and conditions of this contract. The service call log shall be available for inspection by the Public Works and Engineering Director or a Designee.
- 4.5 All **PM** records shall be turned over to the City of Houston, Department of Public Works and Engineering, within seven (7) working days of contract termination.
- 4.6 Ten (10) working days after the end of each month, the Contractor shall submit to the Accounts Payable, Department of Public Works and Engineering, an invoice indicating any repairs completed during the previous month. All invoicing must be submitted in triplicate, itemized as to the total man hours worked during any emergency repair service call or scheduled routine preventive maintenance, labor rate, material/parts cost, total cost, and should identify the equipment serviced. In addition, on all invoices please reference the City of Houston Ordinance Number and Contract

Number. Please mail invoices to the following address, unless otherwise specified:

The City of Houston  
Accounts Payable  
Financial Management Division  
P.O. Box 61449  
Houston, TX 77208-1449

## **5.0 Warranties:**

- 5.1 The Contractor shall observe the highest standard of diligence and care in the performance of the preventive maintenance and repair responsibilities, and shall meticulously follow the standards and procedures required by the manufacturer (including all service bulletins) for overhaul, preventive maintenance and repair services.
- 5.2 The Contractor shall further warrant the following, with respect to any truck weighing scales equipment components and goods furnished:
  - 5.2.1 that such items shall be free of defects in title, material and workmanship
  - 5.2.2 that each item meets or exceeds the specifications and requirements of the manufacturer,
  - 5.2.3 that each replaced component part is new, and
  - 5.2.4 that no such item or use thereof infringes any patent, copyright or proprietary right.
- 5.3 The Contractor further warrants that all services and parts it provides shall be in strict conformity with all applicable regulations.

## **6.0 Quality Assurance and Acceptance:**

- 6.1 In addition to any insurance requirements by statute or City Ordinance, the Contractor shall be liable to the City for any damages to City equipment caused by the Contractor's failure to perform, or for any **latent** defects identified.
- 6.2 The Contractor is responsible for monitoring all work performed to ensure compliance with the contract requirements.
- 6.3 If any of the services do not conform to the contract requirements, the City may require the Contractor to perform the services again in conformity with contract requirements, and at no expense to the City or increase in contract amount. When defects in service cannot be corrected by re-performance, the City shall invoke such liability as stated in 6.1 above.
- 6.4 The Contractor's technician who performs the work under this scope of services shall be certified by

the Texas Department of Agriculture. A copy of this certificate indicating the Registration Number shall be submitted to Materials Management, 319 St. Emanuel, prior to issuance of the Notice to Proceed by the City Purchasing Agent.

- 6.5 For some of the facilities, the Contractor's field technicians shall be required to obtain a swipe card for access to the scales prior to performing services. They shall be required, among other things, to go to the ID office at 611 Walker, provide personal information for a security check, and have a photo ID taken.

**7.0 Contractor shall repair or replace any part that is defective or that may impair the proper operation of the scales in 7.1, 7.2 and 7.3**

**7.1 Preventive Maintenance Audit -- Quarterly**

- 7.1.1 Scales - Check scale height and position
- 7.1.2 Check scale zero - perform zero adjustment if required
- 7.1.3 Test scale with approved test weights - record test weight readings
- 7.1.4 Perform weight shift test - perform section test with 9,000 lb. and 25,000 lb.
- 7.1.5 Perform weight load test - perform strain-load test utilizing the heavy duty test truck and certified 25,000 lb. weight cart
- 7.1.6 Perform decrease weight load test
- 7.1.7 Perform return to zero test
- 7.1.8 Perform visual inspection
- 7.1.9 Appraise scale performance for area environmental conditions
- 7.1.10 Test keyboard/indicator operational functions
- 7.1.11 **Printers (include the following where applicable):**
  - 7.1.11.1 Visual inspection:
    - 7.1.11.1.1 printer condition
    - 7.1.11.1.2 printer operation
    - 7.1.11.1.3 initiate test print
    - 7.1.11.1.4 carriage and ribbon assembly
    - 7.1.11.1.5 print head assembly
  - 7.1.11.2 Check Lubrication Points
  - 7.1.11.3 Perform Printer Diagnostics
  - 7.1.11.4 Check and Record Voltages -
    - 7.1.11.4.1 Internal power supplies voltages and test points
  - 7.1.11.5 Examine cables and connections:
    - 7.1.11.5.1 Check exposed cables for nicks, cuts and abrasions.
    - 7.1.11.5.2 Check connections for proper fit, corrosion and contamination.

- 7.1.11.6 Test keyboard/indicator operational functions
- 7.1.11.7 Produce a scale condition and test report to include:
  - 7.1.11.7.1 Weight test results
  - 7.1.11.7.2 Scale Condition Report
  - 7.1.11.7.3 Service recommendations
- 7.1.11.8 Affix service/calibration stickers
- 7.1.11.9 Customer review of service performed including scale condition and reports
- 7.1.11.10 Submit Contractor recommendations

**7.2 Preventive Maintenance Inspection -- Annually**

- 7.2.1 Check scale height and position
- 7.2.2 Check scale zero - perform zero adjustment if required
- 7.2.3 Test scale with approved test weights:
  - 7.2.3.1 Perform calibration if required
  - 7.2.3.2 Record test weight readings
- 7.2.4 Perform weight shift test
- 7.2.5 Perform increase weight load test
- 7.2.6 Perform visual inspection

**7.3 Electronic Scales (include the following where applicable):**

- 7.3.1 Inspect load cell assembly
- 7.3.2 Inspect scale platform:
  - 7.3.2.1 Mechanical obstructions and critical clearances
  - 7.3.2.2 Linkage for wear and damage
- 7.3.3 Check and record voltages:
  - 7.3.3.1 External power supplies and ground
  - 7.3.3.2 Internal power supplies:
    - 7.3.3.2.1 Test points
    - 7.3.3.2.2 Systems ground
    - 7.3.3.2.3 Neutral to ground potentials
- 7.3.4 Perform scale diagnostics tests
- 7.3.5 Examine cables and connections:
  - 7.3.5.1 Check exposed cables for nicks, cuts and abrasions
  - 7.3.5.2 Check connections for proper fit, corrosion and contamination
- 7.3.6 Examine junction boxes, including the conditions of enclosure gaskets
- 7.3.7 Test keyboard/indicator operational functions

## **8.0 Certified Test Weights - Required Documentation**

- 8.1 Periodic certification as required by state weights and measures law, traceable to NIST.
- 8.2 Calibration interval may vary depending on the stability of the weight value. Control chart data may indicate the need to shorten, or the possibility for lengthening, the calibration interval. Under no circumstances may the interval established by Weights and Measure be exceeded.
- 8.3 The Weights and Measures authorities require certification on an annual or biannual basis but this will not satisfy the ISO requirements unless it can be supported by some form of statistical data. The Contractor shall follow the ISO requirements.

Each test weight must be identified by a serial number or other unique code (Alpha/Numeric). Test weight kits shall be identified by kit and not by individual weights.

- 8.4 Prior to any cleaning, painting or adjustment, a weight must be tested for its "as found" value. The "as found" value must be recorded.
- 8.5 If the "as found" value is out of tolerance, the weight shall be cleaned, painted and adjusted. The "as adjusted" value shall be determined and recorded.
- 8.6 If the weight is within Class F tolerance (NIST Handbook 105-1), then normally no adjustment would be made; however, if the state policy recommends, or local policy requires, periodic cleaning or painting then a new "as adjusted" value must be determined and recorded. Adjustments shall also be made if the value is near or at the extreme of the tolerance band and may not remain within the band until the next test interval is due.
- 8.7 Records must be maintained for each weight showing its value prior to adjustment ("as found") and following adjustment ("as adjusted").
- 8.8 The State laboratory certifies the weight as traceable to NIST. Each certificate must identify each weight, by its unique identifier, covered under the certification.

## **9.0 Scale Test Procedure Using Certified Weights**

- 9.1 Scale certification required testing using certified weights and utilization of procedures are as specified by Handbook 44 Field Manual (2010 or current year).
- 9.2 All test weights utilized to conduct audits and inspection certifications shall be serialized, documented, and certified by standards that are traceable to national standards semiannually. These weights and reference standards shall be sent to a state weight and measures laboratory yearly for certification that is directly traceable to the NIST.

9.3 All service technicians shall be state certified scale technicians. Their certification shall be kept current by annual renewal. All service technicians shall be highly trained and experienced having undergone specific and periodic training on scale maintenance, and shall observe strict adherence to industry scale testing and certification procedures and standards.

9.3.1 The actual recording of the test weight information may be accomplished by the site scale operator under the supervision of a technician.

9.4 The Contractor shall submit appropriate documentation of calibration activities and traceability of standards utilized. Deficiencies in scale performance shall be reported on the audit test report. Upon completion of testing, Contractor shall issue traceable certificates of calibration where applicable.

9.5 Calibration service shall include, but is not limited to:

9.5.1 Certified test weights traceable to the NIST.

9.5.2 Documented scale testing procedures recognized by the National Conference on Weights and Measures (NIST Handbook 44).

9.5.3 All statistical data and calibration records.

## **10.0 Control Charts**

10.1 Control charts must be maintained for certified weights and scales.

10.2 For weights and scales, **each** "as found" and "as adjusted" value shall be plotted and dated on a control chart.

## **11.0 Calibration Records - Customer Reports**

11.1 The Contractor shall provide and maintain all statistical data used to determine the calibration interval.

11.2 Test Reports -

The Contractor shall provide test report forms completely filled out and showing test results for the increasing - load test, decreasing - load test, shift test, and return to zero balance.

## **12.0 Contract Compliance**

12.1 The Department of Public Works and Engineering reserves the right to monitor this contract for compliance to ensure legal obligations are fulfilled and that acceptable levels of service are provided.

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

12.1.1.1 Site visits

12.1.1.2 Review of deliveries received for accuracy and timeliness

12.1.1.3 Review of contractor's invoices for accuracy

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

**13.0 Post Award Meeting:**

13.1 Once the contract has been approved by City Council, PW&E will schedule a Post Award Meeting with the Contractor and PW&E End Users. This meeting will include PW&E contracts personnel, vendor invoicing, vendor payment and all other matters related to contract administration.

**14.0 Additions & Deletions**

14.1 The City, by written notice from the Director or City Purchasing Agent to the Contractor, at anytime during the term of this contract, may add or delete like or similar equipment, locations and/or services to the list of equipment, 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.

**15.0 Estimated Quantities Not Guaranteed**

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

**16.0 Warranty Of Services**

16.1 *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.

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

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

16.4 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.

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

**EXHIBIT “BB”  
EQUIPMENT TYPE AND LOCATION**

**Public Utilities Division Quadrants:**

- 5900 Teague - Weight-Tronix Electric 100 Ton, Model FCTS 70-11/with Weight-Tronix 127 Meter.
- 7101 Renwick - Weigh-Tronix Electric 100 ton, Model FCTS 70-11 with Weigh-Tronix WI 127 Meter.
- 802 E. Burress - Weigh-Tronix Electric 100 Ton, Model FCTS 70-11 with Weigh-Tronix WI 130 Meter.
- 2700 Dalton - Weigh-Tronix Electric 100 Ton, Model FCTS 70-11 (Pit Scale)/ with Weigh-Tronix WI-130 Meter.

**Right-Of-Way Fleet Maintenance:**

- 1700 Crosstimbers - Weigh--Fairbanks scale with Weigh-Tronix WI-127 Meter.
- 8002 Airline/Canino - Sooner Low Pro with Weigh-Tronix WI-127 Meter.
- 5500 McCarty Road - Weigh Tronix 100 Ton (Pit Scale) with Weigh-Tronix WI-130 Meter.
- 747 Evergreen - Toledo DigiTol Truckmate 100 Ton (Pit less Scale) Model #7560 with 8530 Meter.

**Wastewater Division:**

- 12335 Alameda Road - B-Tek CT-12010, B-Tek model D-410 Weigh-Tronix, Model 1310 (Pit Scale)
- 12319-1/2 Alameda Rd - Alameda Sims Wastewater Treatment Complex – Sooner Low Pro Platform Truck Scale with Weigh-Tronix WI-130 Meter.
- 2525 S. Sgt. Macario Garcia - 69<sup>th</sup> St. WWTP, Houston, TX; Sooner Low-Pro Truck Scale with Weigh-Tronix WI-130 Meter.
- 5900 Teague - Pennsylvania Portable Truck Scales – General Electrodynamics MD700218291 - A&B, with WI-150 Weigh & Count Meter.

**Water Production:**

- 2300 Federal Road - Toledo 100 Truck Model #8530 with Jag Max Instrument.
- 3100 Genoa-Red Bluff- 777 Cardinal, Capacity: 120,000 lbs X 20 with Weigh-Tronix WI 130 Meter.

**EXHIBIT "C"**  
**EQUAL EMPLOYMENT OPPORTUNITY**

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier or lessee agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.
2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.
3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.
5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.
6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.
7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
8. The contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.

**EXHIBIT "D"**  
**MWBE REQUIREMENTS**

**ATTACHMENT "C"**  
**CITY OF HOUSTON CERTIFIED M/WBE SUBCONTRACT TERMS**

Contractor shall insure that all subcontracts with M/WBE subcontractors and suppliers are clearly labeled "**THIS CONTRACT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERAL ARBITRATION ACT**" and contain the following terms:

1. \_\_\_\_\_ (M/WBE 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 Affirmative Action Director ("the Director")
2. \_\_\_\_\_ (M/WBE 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 nor 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.
4. As conclude by the parties to this subcontract, and as evidenced by their signatures hereto, any controversy between the parties involving the construction or application of any of the terms, covenants or conditions of this subcontract shall, on the written request of one party served upon the other or upon notice by Director served on both parties, be submitted to binding arbitration, under the Texas General Arbitration Act (Tex. Civ. Prac. & Rem. Code Ann., Ch. 171 – "the Act"). Arbitration shall be conducted according to the following procedures:
  - a. Upon the decision of the Director or upon written notice to the Director from either party that a dispute has arisen, the Director shall notify all parties that they must resolve the dispute within thirty (30) days or the matter may be referred to arbitration.
  - b. If the dispute is not resolved within the time specified, any party or the Director may submit the matter to arbitration conducted by the American Arbitration Association under the rules of the American Arbitration Association, except as otherwise required by the City's contract with American Arbitration Association on file in the Office of the City's Affirmative Action Division.
  - c. Each party shall pay all fees required by the American Arbitration Association and sign a form releasing the American Arbitration Association and its arbitrators from liability for decisions reached in the arbitration.
  - d. In the event the American Arbitration Association no longer administers Affirmative Action arbitration for the City, the Director shall prescribe alternate procedures as necessary to provide arbitration by neutrals in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances.

These provisions apply to goal-oriented contracts. A goal oriented contract means any contract for the supply of goods or non-personal or non-professional services in excess of \$100,000.00 for which competitive bids are required by law; not within the scope of the MBE/WBE program of the United States Environmental Protection Agency on the United States Department of Transportation; and ;, which the City Purchasing Agent has determined to have significant M/WBE subcontracting potential in fields which there are an adequate number on known MBEs and/or WBE's to compete for City contract.

The M/WBE policy of the City of Houston will be discussed during the pre-bid. For information assistance, and/or to receive a copy of the City's Affirmative action policy and/or ordinance contact the Affirmative Action Division at (713) 837-9000, 611 Walker, 20<sup>th</sup> Floor, Houston, Texas.

**ATTACHMENT "D"**

**CITY OF HOUSTON  
AFFIRMATIVE ACTION & CONTRACT COMPLIANCE  
M/WBE UTILIZATION REPORT**

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 AA 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/WBEs to reflect up/down variances on contract amount						
Affirmative Action Division ATTN: Velma Laws 713-837-9018 611 Walker, 20 <sup>th</sup> Floor Houston, Texas 77002						

**Exhibit E**  
**DRUG POLICY COMPLIANCE AGREEMENT**

I, Leon G. Tullus, Jr. \_\_\_\_\_ as an owner or officer of  
(Name) (Print/Type)(Title)  
Abbott-Michelli Technologies, Inc. \_\_\_\_\_ (Contractor)  
(Name of Company)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed.

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.
4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

02/08/11 \_\_\_\_\_  
Date

Abbott-Michelli Technologies, Inc. \_\_\_\_\_  
Contractor Name

Leon G. Tullus, Jr.  
Signature

Leon G. Tullus, Jr., General Manager  
Title

**EXHIBIT "F"**  
**DRUG POLICY COMPLIANCE DECLARATION**

I, \_\_\_\_\_ as an owner or officer of  
 \_\_\_\_\_  
 (Name) (Print/Type) (Title) (Contractor or Vendor)  
 \_\_\_\_\_  
 (Name of Company)

have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from \_\_\_\_\_ to \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_ A written Drug Free Workplace Policy has been implemented and employees notified.  
 Initials The policy meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Policy).

\_\_\_\_\_ Written drug testing procedures have been implemented in conformity with the Mayor's  
 Initials Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31. Employees have been notified of such procedures.

\_\_\_\_\_ Collection/testing has been conducted in compliance with federal Health and Human  
 Initials Services (HHS) guidelines.

\_\_\_\_\_ Appropriate safety impact positions have been designated for employee positions  
 Initials performing on the City of Houston contract. The number of employees in safety impact positions during this reporting period is \_\_\_\_\_.

\_\_\_\_\_ From \_\_\_\_\_ to \_\_\_\_\_ the following test has occurred  
 Initials (Start date) (End date)

	Random	Reasonable Suspicion	Post Accident	Total
Number Employees Tested				
Number Employees Positive				
Percent Employees Positive				

\_\_\_\_\_ Any employee who tested positive was immediately removed from the City worksite  
 Initials consistent with the Mayor's Policy and Executive Order No. 1-31.

\_\_\_\_\_ I affirm that falsification or failure to submit this declaration timely in accordance with  
 Initials established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration are within my personal knowledge and are true and correct.

\_\_\_\_\_  
 (Date)

\_\_\_\_\_  
 (Typed or Printed Name)

\_\_\_\_\_  
 (Signature)

\_\_\_\_\_  
 (Title)

**Exhibit G**

**Contractor's Certification Of No Safety Impact Positions In Performance Of A City Contract**

I, Leon G. Tullios, Jr. \_\_\_\_\_ General Manager \_\_\_\_\_  
(Name) (Print/Type) (Title)

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

02/08/11 \_\_\_\_\_  
Date

Abbott-Michelli Technologies, Inc. \_\_\_\_\_  
Contractor Name

[Signature] \_\_\_\_\_  
Signature

Leon G. Tullios, Jr. General Manager \_\_\_\_\_  
Title

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

I, Leon G. Tullios, Jr. \_\_\_\_\_ as an owner or officer of  
(NAME) (PRINT/TYPE)

Abbott-Michelli Technologies, Inc. \_\_\_\_\_ (Contractor) have authority to bind the Contractor with respect to its bid, and I hereby certify that Contractor has fewer than fifty (50) employees during any 20-week period during a calendar year and also certify that Contractor has no employee safety impact positions as defined in 5.18 of Executive Order No. 1-31 that will be involved in performing this City Contract. Safety impact position means a Contractor's employment position involving job duties that if performed with inattentiveness, errors in judgment, or diminished coordination, dexterity, or composure may result in mistakes that could present a real and/or imminent threat to the personal health or safety of the employee, co-workers, and/or the public.

02/08/11 \_\_\_\_\_  
DATE

Abbott-Michelli Technologies, Inc. \_\_\_\_\_  
CONTRACTOR'S NAME

[Signature] \_\_\_\_\_  
SIGNATURE

Leon G. Tullios, Jr. General Manager \_\_\_\_\_  
TITLE

**EXHIBIT "H"  
FEES AND COSTS**

**Year One Service will be quarterly except for items 4,5,8 and 9.**

<b>Item #</b>	<b>Description</b>	<b>Unit of Measure</b>	<b>Unit Price</b>
1	Calibration and Repair of Weigh-Tronix Electric, 100 Ton Model FCTS 70-11 with Weigh-Tronix instrument WI-130 or WI-127 Meter	Each	\$200.00
2	Calibration and Repair of Pennsylvania Portable Truck Scales Model 5600, General Electrodynamics MD700218291-A & MD700218291-B With WI-150 Weigh & Counter Meter	Each	\$200.00
3	Calibration and Repair of Sooner Low Pro Truck Scales with Weigh-Tronix WI-130 or WI-127 Meter	Each	\$200.00
4	Calibration & Repair of Sooner Low Pro Truck Scales with Weigh-Tronix WI-127 Or WI-130 Meter	Each	\$200.00
5	Calibration & Repair of Avery Weigh Tronix Truck Scale, Model #1310, and SN 0704066789.	Each	\$300.00
6	Calibration and Repair of Fairbanks Scale with Weigh-Tronix Instrument WI-127 Meter	Each	\$200.00
7	Calibration and Repair of Toledo DigiTol Truckmate (Pit less scale)7560 with 8530 Meter	Each	\$200.00
8	Calibration & Repair of Toledo 100 Truck Scales, Model #8530, with Jag Max Instrument	Each	\$200.00
9	Calibration & Repair of Cardinal 777 Truck Scale, Capacity: 120,000 lbs. x 20 with Weigh-Tronix WI-127 or WI-130 Meter.	Each	\$200.00

**Year One Additional Services**

<b>Item #</b>	<b>Description</b>	<b>Unit of Measure</b>	<b>Unit Price</b>
1	Additional Services Labor-Mechanic STRAIGHT TIME	Per Hour	\$50.00
2	Additional Services Labor-Helper STRAIGHT TIME	Per Hour	\$25.00
3	Additional Services Labor-Mechanic OVER TIME	Per Hour	\$60.00
4	Additional Services Labor-Helper OVER TIME	Per Hour	\$30.00

**Year One Repair Parts**

Discount 20%

<b>Item #</b>	<b>Description</b>	<b>Line Total</b>
1	Repair Parts for Additional Services Meter is considered a part in this contract.	\$13,770.40

**Year Two Service will be quarterly except for items 4,5,8 and 9.**

Item #	Description	Unit of Measure	Unit Price
1	Calibration and Repair of Weigh-Tronix Electric, 100 Ton Model FCTS 70-11 with Weigh-Tronix instrument WI-130 or WI-127 Meter	Each	\$205.00
2	Calibration and Repair of Pennsylvania Portable Truck Scales Model 5600, General Electrodynamics MD700218291-A & MD700218291-B With WI-150 Weigh & Counter Meter	Each	\$205.00
3	Calibration and Repair of Sooner Low Pro Truck Scales with Weigh-Tronix WI-130 or WI-127 Meter	Each	\$205.00
4	Calibration & Repair of Sooner Low Pro Truck Scales with Weigh-Tronix WI-127 Or WI-130 Meter	Each	\$205.00
5	Calibration & Repair of Avery Weigh Tronix Truck Scale, Model #1310, and SN 0704066789.	Each	\$300.00
6	Calibration and Repair of Fairbanks Scale with Weigh-Tronix Instrument WI-127 Meter	Each	\$205.00
7	Calibration and Repair of Toledo DigiTol Truckmate (Pit less scale)7560 with 8530 Meter	Each	\$205.00
8	Calibration & Repair of Toledo 100 Truck Scales, Model #8530, with Jag Max Instrument	Each	\$205.00
9	Calibration & Repair of Cardinal 777 Truck Scale, Capacity: 120,000 lbs. x 20 with Weigh-Tronix WI-127 or WI-130 Meter.	Each	\$205.00

**Year Two Additional Services**

Item #	Description	Unit of Measure	Unit Price
1	Additional Services Labor-Mechanic STRAIGHT TIME	Per Hour	\$50.00
2	Additional Services Labor-Helper STRAIGHT TIME	Per Hour	\$25.00
3	Additional Services Labor-Mechanic OVER TIME	Per Hour	\$60.00
4	Additional Services Labor-Helper OVER TIME	Per Hour	\$30.00

**Year Two Repair Parts**

Discount 20%

Item #	Description	Line Total
1	Repair Parts for Additional Services Meter is considered a part in this contract.	\$13,770.40

**Year Three Service will be quarterly except for items 4,5,8 and 9.**

Item #	Description	Unit of Measure	Unit Price
1	Calibration and Repair of Weigh-Tronix Electric, 100 Ton Model FCTS 70-11 with Weigh-Tronix instrument WI-130 or WI-127 Meter	Each	\$205.00
2	Calibration and Repair of Pennsylvania Portable Truck Scales Model 5600, General Electrodynamics MD700218291-A & MD700218291-B With WI-150 Weigh & Counter Meter	Each	\$205.00
3	Calibration and Repair of Sooner Low Pro Truck Scales with Weigh-Tronix WI-130 or WI-127 Meter	Each	\$205.00
4	Calibration & Repair of Sooner Low Pro Truck Scales with Weigh-Tronix WI-127 Or WI-130 Meter	Each	\$205.00
5	Calibration & Repair of Avery Weigh Tronix Truck Scale, Model #1310, and SN 0704066789.	Each	\$300.00
6	Calibration and Repair of Fairbanks Scale with Weigh-Tronix Instrument WI-127 Meter	Each	\$205.00
7	Calibration and Repair of Toledo DigiTol Truckmate (Pit less scale)7560 with 8530 Meter	Each	\$205.00
8	Calibration & Repair of Toledo 100 Truck Scales, Model #8530, with Jag Max Instrument	Each	\$205.00
9	Calibration & Repair of Cardinal 777 Truck Scale, Capacity: 120,000 lbs. x 20 with Weigh-Tronix WI-127 or WI-130 Meter.	Each	\$205.00

**Year Three Additional Services**

Item #	Description	Unit of Measure	Unit Price
1	Additional Services Labor-Mechanic STRAIGHT TIME	Per Hour	\$51.00
2	Additional Services Labor-Helper STRAIGHT TIME	Per Hour	\$25.00
3	Additional Services Labor-Mechanic OVER TIME	Per Hour	\$61.00
4	Additional Services Labor-Helper OVER TIME	Per hour	\$30.00

**Year Three Repair Parts**

Discount 20%

Item #	Description	Line Total
11	Repair Parts for Additional Services Meter is considered a part in this contract.	\$13,770.40

**Year Four (Option Year One) Service will be quarterly except for items 4,5,8 and 9.**

Item #	Description	Unit of Measure	Unit Price
1	Calibration and Repair of Weigh-Tronix Electric, 100 Ton Model FCTS 70-11 with Weigh-Tronix instrument WI-130 or WI-127 Meter	Each	\$210.00
2	Calibration and Repair of Pennsylvania Portable Truck Scales Model 5600, General Electrodynamics MD700218291-A & MD700218291-B With WI-150 Weigh & Counter Meter	Each	\$210.00
3	Calibration and Repair of Sooner Low Pro Truck Scales with Weigh-Tronix WI-130 or WI-127 Meter	Each	\$210.00
4	Calibration & Repair of Sooner Low Pro Truck Scales with Weigh-Tronix WI-127 Or WI-130 Meter	Each	\$210.00
5	Calibration & Repair of Avery Weigh Tronix Truck Scale, Model #1310, and SN 0704066789.	Each	\$300.00
6	Calibration and Repair of Fairbanks Scale with Weigh-Tronix Instrument WI-127 Meter	Each	\$210.00
7	Calibration and Repair of Toledo DigiTol Truckmate (Pit less scale)7560 with 8530 Meter	Each	\$210.00
8	Calibration & Repair of Toledo 100 Truck Scales, Model #8530, with Jag Max Instrument	Each	\$210.00
9	Calibration & Repair of Cardinal 777 Truck Scale, Capacity: 120,000 lbs. x 20 with Weigh-Tronix WI-127 or WI-130 Meter.	Each	\$210.00

**Year Four (Option Year One)Additional Services**

Item #	Description	Unit of Measure	Unit Price
1	Additional Services Labor-Mechanic STRAIGHT TIME	Per Hour	\$52.00
2	Additional Services Labor-Helper STRAIGHT TIME	Per Hour	\$25.00
3	Additional Services Labor-Mechanic OVER TIME	Per Hour	\$62.00
4	Additional Services Labor-Helper OVER TIME	Per hour	\$30.00

**Year Four (Option Year One)Repair Parts**

Discount 20%

Item #	Description	Line Total
11	Repair Parts for Additional Services Meter is considered a part in this contract.	\$13,770.40

**Year Five (Option Year Two) Service will be quarterly except for items 4,5,8 and 9.**

Item #	Description	Unit of Measure	Unit Price
1	Calibration and Repair of Weigh-Tronix Electric, 100 Ton Model FCTS 70-11 with Weigh-Tronix instrument WI-130 or WI-127 Meter	Each	\$210.00
2	Calibration and Repair of Pennsylvania Portable Truck Scales Model 5600, General Electrodynamics MD700218291-A & MD700218291-B With WI-150 Weigh & Counter Meter	Each	\$210.00
3	Calibration and Repair of Sooner Low Pro Truck Scales with Weigh-Tronix WI-130 or WI-127 Meter	Each	\$210.00
4	Calibration & Repair of Sooner Low Pro Truck Scales with Weigh-Tronix WI-127 Or WI-130 Meter	Each	\$210.00
5	Calibration & Repair of Avery Weigh Tronix Truck Scale, Model #1310, and SN 0704066789.	Each	\$300.00
6	Calibration and Repair of Fairbanks Scale with Weigh-Tronix Instrument WI-127 Meter	Each	\$210.00
7	Calibration and Repair of Toledo DigiTol Truckmate (Pit less scale)7560 with 8530 Meter	Each	\$210.00
8	Calibration & Repair of Toledo 100 Truck Scales, Model #8530, with Jag Max Instrument	Each	\$210.00
9	Calibration & Repair of Cardinal 777 Truck Scale, Capacity: 120,000 lbs. x 20 with Weigh-Tronix WI-127 or WI-130 Meter.	Each	\$210.00

**Year Five (Option Year Two)Additional Services**

Item #	Description	Unit of Measure	Unit Price
1	Additional Services Labor-Mechanic STRAIGHT TIME	Per Hour	\$52.00
2	Additional Services Labor-Helper STRAIGHT TIME	Per Hour	\$25.00
3	Additional Services Labor-Mechanic OVER TIME	Per Hour	\$62.00
4	Additional Services Labor-Helper OVER TIME	Per hour	\$30.00

**Year Five (Option Year Two)Repair Parts**

Discount 20%

Item #	Description	Line Total
11	Repair Parts for Additional Services Meter is considered a part in this contract.	\$13,770.40

**EXHIBIT "I"**  
**PAY OR PLAY PROGRAM**



City of Houston  
Pay or Play Program  
Acknowledgement Form

**What this form does.** This form acknowledges your awareness of the Pay or Play program. Your signature affirms that you will comply with the requirements of the program if you are the successful bidder/proposer, and ensure the same on behalf of subcontracts subject to the Pay or Play Program.

**For more information, contact the Contract Administrator.**

**Routing.** Return this form with your bid or proposal.

I declare under penalty of perjury under the laws of the State of Texas that if awarded a contract, I will comply with the requirements of the Pay or Play Program.

  
Signature

02/21/11  
Date

Leon B. Cullis, Jr  
Print Name

109040  
City Vendor ID

Abbott-Michelli Technologies, Inc.  
Company Name

281-437-2005  
Phone Number

tonya@abbott-michelli.com  
Email Address

Tonya Larson  
Office Administrator



**CERTIFICATION OF AGREEMENT TO  
 COMPLY WITH PAY OR PLAY PROGRAM**

Contractor Name: Ashbolt-Michael Technologies, Inc.  
(Contractor/Subcontractor) (Amount of Contract)

Contractor Address: 15450 West Drive, Houston, Texas 77053

Project No: [GFS/CIP/AIP/FE No.] Bid L23911

Project Name: [Legal Project Name] Calibration and Repair of Truck Platform Scales

In accordance with the City of Houston Pay or Play Program authorized by Ordinance 2007-534, Contractor agrees to abide by the terms of this Program. This certification is required of all contractors for contracts subject to the program. You must agree EITHER to PAY or to PLAY for each covered employee, including those of subcontractors subject to the program.

- Yes  No Contractor agrees to Pay \$1.00 per hour for work performed by covered employees under the contract with the City and to ensure compliance by covered subcontractors and contract labor to the terms of the Pay or Play Program.
- Yes  No Contractor agrees to provide health benefits to each covered employee and ensure compliance by the covered subcontractors. The health benefits must meet the following criteria:
  - (1) the employer will contribute no less than \$150 per employee per month toward the total premium cost; and
  - (2) the employee contribution, if any amount, will be no greater than 50% of the total premium cost and no more than \$150 per month
- Yes  No Contractor agrees to pay on behalf of some covered employees and contract labor and play on behalf of other covered employees, in accordance with program requirements, including subcontractors' employees, if applicable.
- Yes  No If contract labor is utilized the Contractor agrees to report hours worked by the contract laborer and Pay \$1.00 per hour for work performed.
- Yes  No Contractor will comply with all provisions of the Pay or Play Program and will furnish all information and reports requested to determine compliance with program provisions.
- Yes  No For Prime Contractors Only: Contractor will file compliance reports with the City, which will include activity for subcontractors subject to the program, in the form and to the extent requested by the administering department or the Affirmative Action and Contract Compliance Office. Compliance reports shall contain information including, but not limited to, documentation showing employee health coverage and employee work records

Estimated Number of:	Prime Contractor	Sub-Contractor
Total Employees on City Job	5	0
Covered Employees	7	0
Non-Covered Employees	0	0
Exempt Employees	3	0
Required		

I hereby certify that the above information is true and correct.

[Signature]  
 CONTRACTOR (Signature) 02/08/11  
DATE

Leon G. Willis, Jr. General Manager  
 NAME AND TITLE (Print or type)