

THE STATE OF TEXAS

BID # L24291

COUNTY OF HARRIS

ORDINANCE # 2013-0726

CONTRACT # 4600002253

I. PARTIES

1.0 ADDRESS:

THIS AGREEMENT FOR SOLID WASTE DISPOSAL AND EQUIPMENT SERVICES ("Agreement") is made on the Countersignature Date between the **CITY OF HOUSTON, TEXAS** ("City"), a Texas Home-Rule City and **BFI WASTE SERVICES OF TEXAS LP, DBA REPUBLIC SERVICES OF HOUSTON** ("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:

<u>City</u>	<u>Contractor</u>
City Purchasing Agent for Director of HOUSTON AIRPORT SYSTEM City of Houston P.O. Box 1562 Houston, Texas 77251	BFI Waste Services of Texas LP, dba Republic Services of Houston 8101 Little York Houston, Texas 77016 Phone: (713) 726-7501 Fax: (713) 551-2393

The Parties agree as follows:

2.0 TABLE OF CONTENTS:

2.1 This Agreement consists of the following sections:

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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):

BFI Waste Services of Texas LP, dba Republic Services of Houston

WITNESS (if not a corporation):

By: [Signature]
Name: Derek C. Hampton
Title: Area Municipal Services Manager

By: [Signature]
Name: Greg Rutherford
Title: Vice President
Federal Tax ID Number: 41-1696636

ATTEST/SEAL:

CITY OF HOUSTON, TEXAS

[Signature]
City Secretary

Signed by: [Signature]
Mayor Madeline B. Apple

APPROVED:

COUNTERSIGNED BY:

[Signature]
City Purchasing Agent

[Signature]
City Controller Ch. B. [Signature]

DATE COUNTERSIGNED:

8-19-13

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.

8-2-13
Date

[Signature]
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" & "B1."

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 by endorsement, that the insurance carrier waives any rights of subrogation against the City, Contractor shall give written notice to the Director if any of its insurance policies are cancelled, materially changed or non-renewed. Within the 30 day period, Contractor shall provide other suitable policies in lieu of those about to be canceled, materially changed, or non-renewed so as to maintain in effect the required coverage. If Contractor does not comply with this requirement, the Director, at his or sole discretion, may:
 - 4.2.1 immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default, or
 - 4.2.2 purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Agreement.
 - 4.2.3 All certificates of insurance submitted by Contractor shall be accompanied by endorsements for additional insured coverage in favor of the City for Commercial General Liability and Automobile Liability policies; and waivers of subrogation in favor of the City for Commercial General Liability, Automobile Liability, and Worker's Compensation/Employers' Liability policies. For a list of pre-approved endorsement forms see <http://purchasing.houstontx.gov/forms.shtml>. The Director will consider all other forms on a case-by-case basis.

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 **15%** of the value of this Agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Office of Business Opportunity ("OBO"), and will comply with them.

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

9.0 DRUG ABUSE DETECTION AND DETERRENCE:

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

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

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 **\$655,300.00** to pay money due under this Agreement (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies:
- 5.3 The City makes a Supplemental Allocation by issuing to Contractor a Service Release Order, or similar form approved by the City Controller, containing the language set out below. When

necessary, the Supplemental Allocation shall be approved by motion or ordinance of City Council.

NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS

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

\$ _____

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

6.0 CHANGES:

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

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

CHANGE ORDER

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

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

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

Signed:
[Signature of City Purchasing Agent or Director]

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

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

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

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

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

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

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

IV. TERM AND TERMINATION

1.0 **CONTRACT TERM:**

1.1 This Agreement is effective on the Countersignature Date and expires three (3) years after the 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 180 days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for delay(s) regardless of the cause of the delay(s).

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

5.1 The 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 4 years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

10.0 ENFORCEMENT:

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

11.0 AMBIGUITIES:

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

12.0 SURVIVAL:

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

13.0 PARTIES IN INTEREST:

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

14.0 SUCCESSORS AND ASSIGNS:

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

15.0 BUSINESS STRUCTURE AND ASSIGNMENTS:

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

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

16.0 REMEDIES CUMULATIVE:

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

17.0 CONTRACTOR DEBT:

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

EXHIBIT "A" **DEFINITIONS**

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

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

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

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

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

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

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

"Contract Term" is defined in Article IV.

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

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

"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"
Part 1
SCOPE OF WORK
FOR

SOLID WASTE DISPOSAL & EQUIPMENT SERVICES FOR HOUSTON AIRPORT SYSTEM

1.0 SCOPE OF SERVICES

1.1 Services In General

1.1.1 Contractor shall provide solid waste disposal and waste stream management services to the City's Houston Airport System (HAS). The Contractor shall provide all management, supervision, tools, equipment, vehicles, licenses, permits, and incidentals required for the performance of services as defined hereunder, i.e. "The Work" at George Bush Intercontinental Airport/Houston (IAH), William P. Hobby Airport (HOU) and Ellington Field (EFD) referenced herein.

1.1.2 All Work shall be in accordance with the highest standards prevailing in the industry, as well as applicable codes, rules, regulations, laws, and practices governing the Work. These standards will be achieved by continuous improvement through open communications with HAS, regular management reviews and industry guidelines.

1.1.3 Contractor shall respond immediately to a request from the Director for emergency service to perform all steps reasonably necessary to protect persons and property from risk of harm. Contractor shall give first priority to requests for emergency service.

1.2 Scope of Basic Services

1.2.1 When requested by the Director, Contractor shall provide solid waste disposal, and waste stream management services at IAH, HOU, and EFD to include, but not be limited to, the following:

1.2.1.1 Contractor shall provide all solid waste containers/compactors for collection, transport, and disposal of solid waste.

1.2.1.2 Contractor shall collect, transport, and dispose of solid waste collected in containers/compactors.

1.2.1.3 Contractor shall ensure that access to all containers/compactors complies with OSHA requirements. The cost for any material(s) required for complying with safe access to containers/compactors shall be at contractors cost.

1.2.1.4 Contractor shall relocate solid waste containers/compactors.

1.2.1.5 Contractor shall steam clean and disinfect containers/compactors.

1.2.1.6 Contractor shall develop and maintain a waste stream management system.

1.2.1.7 Contractor shall provide Other Basic Services including, but not limited to:

- 1.2.1.7.1 General Contractor's Requirements
- 1.2.1.7.2 Personnel Requirements
- 1.2.1.7.3 Data, Records, and Reports
- 1.2.1.7.4 Plans
- 1.2.1.7.5 Coordinate Performance
- 1.2.1.7.6 Phase-in/Phase-out Services
- 1.2.1.7.7 Miscellaneous Other Requirements

2.0 SOLID WASTE CONTAINERS/COMPACTORS (Basic Services)

- 2.1 Contractor shall provide open-top "roll-off" and closed "front-end loader" type solid waste containers and compactors on-site, of the size and type, as requested by the Director. Container/Compactor cost, provided by the contractor, must be included in the waste disposal cost, as indicated in the contract fee schedule (Exhibit "H").
- 2.2 Contractor shall repair or replace containers/compactors, within industry standards, as requested by the Director.
- 2.3 Containers/compactors shall be:
 - 2.3.1 No older than 10 years and maintained in a serviceable, clean, and freshly painted condition at all times.
 - 2.3.2 Constructed of steel and maintained to avoid loss of liquid and solid waste materials.
 - 2.3.3 Constructed to withstand severe service duty, severe weather conditions, and transporting.
 - 2.3.4 Painted prior to installation and repainted as needed, or as requested by the Director, to maintain the appearance and standards acceptable to the Director.
 - 2.3.5 Clearly marked as property of Contractor with Contractor's name and telephone number placed in visible location on container.
 - 2.3.6 Leak resistant and free from defects.
- 2.4 Closed-top containers must be constructed with closeable lids to prevent Infiltration of insects, snakes, rodents, or other animals.
- 2.5 Contractor shall maintain the interior and exterior of all containers/compactors.
- 2.6 Contractor shall maintain container lids in good working order and comply with Applicable codes.
- 2.7 Containers/compactors provided by Contractor must be clearly labeled "Do Not Block".

3.0 COLLECT / TRANSPORT / DISPOSAL (Basic Services)

- 3.1 Contractor shall collect, transport, and dispose of solid waste collected in containers/ compactors located at the collection sites designated and at the frequencies specified in

Exhibit "B-1" Solid Waste Disposal and Equipment Services Location or as otherwise requested by the Director at the disposal cost as outlined in the Fee Schedule (Exhibit "H"). Pick-Up receipts will be provided as proof of services rendered at each site serviced.

- 3.2 Contractor shall only be paid for waste disposal services specified or requested by the Director and transported from IAH, HOU, and EFD to the disposal site.
- 3.3 Contractor shall inspect all the designated solid waste collection sites and determine the requirements to facilitate the installation of solid waste containers/compactor units.
- 3.4 Contractor shall comply with all standards established by the City's Health & Human Services Department in regard to the waste container/compactor units and maintenance of the areas immediately adjacent to them.
- 3.5 Contractor shall pick-up and remove waste which may collect around containers /compactors.
- 3.6 Contractor shall remove waste or clean areas that become contaminated from spillage from waste or liquids deposited by the Contractor's truck while at the Airport(s) location(s).
- 3.7 Contractor shall tighten closures on containers/compactors when returning or emptying the unit to prevent leakage or spillage.
- 3.8 Contractor shall notify HAS Facilities of any maintenance and/or repairs needed on containers /compactors.
- 3.9 Contractor/HAS shall monitor and inspect each disposal load to ensure that hazardous wastes are not commingled with the solid wastes.
- 3.10 Contractor shall be responsible for disposal of all waste or materials (including water recovery) resulting from the Work under this agreement. Handling, transport, and disposal of waste or materials must be done in such a manner as to insure the highest level of safety to the environment and to public health. Contractor shall perform final clean up of the work area prior to requesting a final inspection of the completed Work
- 3.11 Contractor shall record every delivery to a disposal site of all solid wastes collected from any of HAS collection site and retain such records for a period of four (4) years after the date the waste was delivered to the disposal site. Records shall include, but not be limited to, the identity of the specific collection site from which the solid waste was collected, the disposal site, the location on the disposal site and the date the solid waste was delivered. The Contractor shall make these records available to the Director upon the request of the Director.
- 3.12 The Contractor warrants that it will transport and dispose of all solid wastes collected, pursuant to the Agreement, safely and in the manner prescribed by law, that each disposal site has been approved by all governing authorities with jurisdiction over the disposal of solid wastes, that it shall not dispose of solid wastes at any disposal site which has had its

permit revoked, and that the vehicles used to transport the solid waste meet or exceed the operating standards established by all regulatory authorities with jurisdiction over the transporting of solid wastes.

4.0 EMERGENCY SERVICE HAUL (Basic Services)

4.1 Contractor shall remove solid waste within four (4) hours after receiving a request for "Emergency Service" from the Director at percentage rate, as indicated in the Fee Schedule. (Exhibit "H").

5.0 STEAM CLEAN AND DISINFECT (Basic Services)

5.1 When requested by the Director, Contractor shall steam clean the interior and exterior of containers/compactors to remove all foreign material and disinfect the units. Contractor shall ensure appropriate cleaning/disinfecting products are used that preclude odors and insect breeding.

6.0 RELOCATION (Basic Services)

6.1 Contractor shall relocate containers/compactors when requested by the Director at the relocation cost, as indicated in the Fee Schedule (Exhibit "H"). Containers/compactors relocated in conjunction with disposal will not be subject to a relocation cost.

7.0 WASTE STREAM MANAGEMENT (Basic Services)

7.1 Contractor shall provide a waste stream management system to include the preparation of a written waste management audit report, by collection site. The initial report is due within the first ninety (90) days after receipt of the Notice-to-Proceed. Future audits will be on an "as requested" basis but will not be requested more often than once a year.

7.1.1 Each audit must contain the minimum:

7.1.1.1 Actual volume of solid waste collected from each container or compactor unit.

7.1.1.2 Suggested changes in container or compactor unit sizes, frequency of collection, number and types of containers/compactors, etc. service levels based on the actual needs for solid waste collection and disposal services.

7.1.1.3 Analysis identifying HAS facilities that may benefit from recycling, and an explanation of the type of recycling program recommended.

7.2 The audit shall be a determining factor in assessing the waste stream services needed. A goal is to provide sufficient capacity and collection frequency to assure waste containment at each collection site 95% of the time. The Director may increase or decrease service as a result of the audit.

7.3 In the event Basic Services are reduced and the resulting service level for a container is unsatisfactory in the opinion of the Director, the service level shall be returned to its original Basic Service level. Unsatisfactory level of service shall mean the quantity of solid waste generated at a collection site exceeds the reduced capacity for three (3) consecutive pickups or excessive odor or unsanitary conditions prevail, in the opinion of the Director.

8.0 COLLECTION SITES (Basic Services)

8.1 The Director may change collection sites by notifying the Contractor in writing.

However, if, by making such changes, the Director increases the number of collection sites, the number or capacities of the containers/compactors units or the frequency of services to be provided, then such changes will be made pursuant to the addition/delete provisions of the Agreement.

- 8.2 Installation of containers/compactors and training will be accomplished by the Contractor within 48 hours from the date of the Notice to Proceed.

9.0 GENERAL SCHEDULING RESPONSIBILITIES (Basic Services)

- 9.1 Contractor shall ensure qualified personnel and necessary equipment are available to meet the solid waste disposal and equipment renting requirements as specified. Contractor shall communicate the scheduling of personnel and equipment to meet the requirements defined hereunder to HAS.

9.2 Response Time - Non-Scheduled Hauls

- 9.2.1 (IAH & EFD) - Contractor shall remove solid waste within twenty-four (24) hours after receiving request for service from HAS, on an "as needed basis".

- 9.2.2 (HOU) - Contractor shall remove solid waste on a same-day pick up on a non-emergency basis for calls for pickup made before 10:00 AM.

- 9.2.3 (IAH), (HOU), and (EFD) - Contractor shall provide confirmation numbers for hauls. Daily haul confirmation numbers are to be submitted electronically to Airport Maintenance Group (AMG) – IAH; Facilities Maintenance – HOU; Facilities Administration - EFD Administration by the end of each business day.

9.3 Scheduling Delivery/Removal of Leased Equipment

- 9.3.1 Contractor shall deliver or remove equipment on an "as needed basis", usually between midnight and 6:00 a.m., or at any other time requested by the Director.

10.0 WORK VERIFICATION (Basic Services)

- 10.1 When scheduled for work, HAS – IAH AMG, HOU Facilities Administration, or EFD Administration (Respective Group) will email a work order schedule to contractor by 3:00 pm. The daily schedule will indicate the containers/compactors scheduled for the following workday. At that time, additional instructions, if required, will be provided by the respective group. Each day the contractor shall submit via email, confirmation numbers to the respective group before the close of normal business hours. These confirmation numbers acknowledge a work schedule agreement between the Director and the Contractor. Contractor shall submit a completed haul verification sheet to each respective group after each day's scheduled route. The respective groups will verify and approve Contractor's work. Contractor shall submit a copy of the approved work orders with the Contractor's invoice for payment. Invoices must be submitted with the approved and completed schedule requests. Invoices submitted without approval will not be processed for payment until proper approval is received. Each invoice must list the work orders completed during the month

11.0 GENERAL CONTRACTOR'S REQUIREMENTS (Basic Services)

11.1 Office

- 11.1.1 Contractor shall provide the address of its office located in Houston, Texas, along with a 24-hour telephone number and list of personnel that can be contacted 24-hours a day, seven (7) days per week during the term of Agreement.

11.2 Procedures

- 11.2.1 Contractor shall develop procedures/checklists to ensure personnel are familiar with the services to be accomplished at each location. These procedures must include the required equipment for each job, and safety procedures for all Work to be performed.

11.3 Transportation

- 11.3.1 Contractor shall provide all transportation necessary to perform under the Agreement. Contractor's vehicles shall be clearly marked with identification indicating Contractor's name. Such identification must be placed on both sides of each vehicle and may be removable, e.g., magnetic.

11.4 Two-way Communication

- 11.4.1 Contractor shall provide, at its expense, all two-way communication equipment necessary for the performance of the Work. Driver shall have the ability to communicate with each respective Airport Facilities section while performing the Work.

12.0 RESPONSE REQUIREMENT

- 12.1 Any container/compactor reported as out of service due to mechanical malfunction or physical damage must be repaired and returned or replaced within 24 hours after notification by HAS.
- 12.2 Service Credits will be invoked if the contractor does not repair/return or replace a reported "out of service" compactor/container within the allotted time as indicated above. A fee of \$50.00 for each 24 hours until the unit is back in service or replaced. Monthly service credits will be an agenda item at each monthly meeting and will be deducted from the following monthly invoice.

13.0 SILENCE OF THESE SPECIFICATIONS

- 13.1 The specifications set forth herein covers the minimum requirements for Non Hazardous Solid Waste Collection, Transportation and Disposal Services. The descriptions contained in these specifications shall be considered as instructive to the Contractor as to the type and quality of containers/compactor units desired. The apparent silence of these specifications as to any detail, or the apparent omission from them of a detailed description concerning any point, shall be regarded as meaning that only the industry best practice standards shall prevail. All interpretations of these specifications shall be made based upon this statement.

14.0 PERSONNEL REQUIREMENTS (Basic Services)

14.1 Project Manager

14.1.1 Contractor shall designate in writing to the Director a Project Manager, subject to approval by the Director, prior to the start of the Agreement. The Project Manager shall have full authority to represent the Contractor in making decisions and in the execution of the Work to be performed under the Agreement. Contractor shall provide the Director with business and after-hours telephone numbers of the Project Manager. Contractor shall provide a toll-free telephone number if the Project Manager resides outside of the local Houston toll-free area codes.

14.1.2 The Project Manager shall be skilled and experienced in the solid waste disposal and equipment leasing services identified hereunder and shall serve as the main point of contact for the Contractor. The Project Manager shall be available to be on-site at all times needed during the performance of Work, and shall provide the level of supervision necessary to ensure full compliance with the Agreement. Project Manager shall be the primary contact.

14.2 Control of Employees

14.2.1 The selection, assignment, supervision, management, and control of the Contractor's employees in performance of the work will be the responsibility and prerogative of the Contractor; provided, however, that the Contractor shall comply with the general intent and specific policies set forth in the Agreement and in the regulations and directives issued by the Director concerning the conduct of employees that pertains to security, safety, traffic, fire, malfeasance, and personnel clearances, insofar as they apply to the Contractor's activities.

14.3 Qualifications

14.3.1 Only skilled and trained personnel shall be utilized for services performed under this Agreement.

14.4 Security and Badging

14.4.1 Contractor shall provide security and badging fees as part of Basic Services.

14.4.2 Contractor shall comply with all applicable Federal rules governing security at the Airport(s), as may be amended from time to time.

14.4.3 All on-site personnel of Contractor, including sub-contractor's, who perform services under the Agreement, are required to undergo a fingerprint-based criminal history records check. Fingerprints are collected at the Airport Badging Office and submitted electronically for investigation. The Project Manager shall have additional training at HAS to approve badging requests for Contractor personnel.

14.4.3.1 Contractor shall obtain HAS security badges for its personnel performing services on-site, including its sub-contractor's personnel. On-site personnel shall wear identification badges at all times while on Airport property. The cost of badges, which is subject to change, is currently \$55.00 each at (IAH)/ (HOU) and \$16.00 each at (EFD). Costs for the fingerprint-based criminal history records check are reflected in the cost of the badges. Contractor is responsible for the

cost of badges, including replacements thereof. Contractor personnel losing badges will be charged for replacement badges at the then current rate. Badge yearly renewal cost is \$16.00.

14.4.3.2 All fines or penalties associated with non-compliance with security regulations must be reimbursed to HAS.

14.4.3.3 Note: Airport Customs Security Area Bond:

14.4.3.3.1 An Airport Customs Security Area Bond must be obtained in order to have access to the Federal Inspection Station (FIS) located at the Airports. The bond amount is determined by calculating \$1,000.00 times the number of employees needed to provide the service.

14.5 Uniforms

14.5.1 Contractor's personnel shall present a clean and neat appearance. Contractor's personnel shall wear a Contractor furnished identification badge and Contractor furnished uniforms with Contractor's name clearly displayed on the front of the shirt and seasonal outerwear.

14.6 Texas Driver's License

14.6.1 All Contractor employees transporting solid waste and related equipment under the agreement shall have a valid State of Texas driver's license appropriate for the type of vehicle/equipment operated.

15.0 DATA, RECORDS, AND REPORTS (Basic Services)

15.1 Contractor's record keeping system shall be subject to approval of the Director, and all records required hereunder may be inspected by the Director at any time. The intended format of all reports will be submitted by the Contractor for approval by the Director.

15.2 Upon expiration or termination of the Agreement, all records produced and maintained on file shall become the property of HAS.

15.3 All reports must be submitted electronically within fifteen (15) days following the end of the calendar month in which services were performed, unless otherwise agreed upon.

15.4 As part of the organization/planning task, Contractor shall maintain records of services provided under the Agreement to include, but not be limited to, the following:

15.4.1 Monthly Report - Contractor shall provide a Monthly Operation report. The report must provide essentially the following information in a format acceptable to the Director. The Monthly Operation & Maintenance Report must include, but is not limited to:

15.4.1.1 Daily Haul Log

15.4.1.1.1 Report detailing scheduled hauls for each compactor /container serviced. Information to include dates scheduled, service completed and corresponding confirmation numbers.

15.4.1.2 Tonnage Report

15.4.1.2.1 Report of disposal weight for each container /compactor hauled. Contractor to provide summary statistics detailing individual and monthly totals, average haul weights, monthly trends, etc.

15.4.1.3 Quality Control Plan Summary

15.4.1.3.1 Contractor shall submit results of inspections to the Director and any recommendations from those results. Contractor shall submit a projected schedule for the following month's inspections. Reference Quality Control Plan (QCP).

15.5 Annual Report - Contractor shall provide an Annual Operation and Maintenance report. The report must provide essentially the following information in a format acceptable to the Director. The Annual Operation Report must include, but is not limited to:

15.5.1 Summary Haul Report

15.5.1.1 Contract shall create a cumulative report including number of hauls, weight totals categorized by compactor/container and itemized monthly. Contractor shall include summary statistics to include average hauls per month, average weight being hauled from each compactor/container, etc.

15.5.2 Trend Analysis

15.5.2.1 Contractor shall monitor trends in scheduling and service, and note any service recommendations. Trends should focus on cost saving measures.

15.5.3 Overall Analysis

15.5.3.1 Contractor shall provide an overall analysis detailing the past year's work performance, any benchmarks that were reached, and where improvement can be made. Contractor shall provide recommendations/feedback on how to improve service at HAS.

16.0 MATERIAL SAFETY DATA SHEETS (MSDS) (Basic Services)

16.1 The Director shall approve all chemicals used in cleaning/disinfecting containers/compactors on the Airport property. The Contractor shall provide a complete MSDS for each chemical product used prior to its use.

17.0 COORDINATE PERFORMANCE (Basic Services)

17.1 Contractor shall Coordinate Performance as follows:

17.1.1 HAS Contact

17.1.1.1 Contractor shall coordinate its performance with the Director and shall keep the designated employee(s) advised of developments relating to the

performance of the Agreement.

17.1.2 Pre-performance Conference

17.1.2.1 Prior to commencing performance on the Agreement, Contractor shall attend a pre-performance conference with the Director. The Director will specify the time and place of such meeting in writing to the Contractor. Representatives of Contractor attending the pre-performance conference shall include key personnel whom Contractor has assigned to the Agreement together with the Contractor's Project Manager who shall be authorized to bind the Contractor's matters relating to the following pre-performance conference items. In the above-mentioned notice, the Director will have the right to further designate other representatives of the Contractor who must attend the pre-performance conference and such designated representatives shall attend. Items to be addressed at the pre-performance conference include the following:

- 17.1.2.1.1 Phase-in and Start-up schedules
- 17.1.2.1.2 Contract administration
- 17.1.2.1.3 Facilities utilization
- 17.1.2.1.4 Channels of communication
- 17.1.2.1.4.1 Organization and function charts reflecting the line of management authority
- 17.1.2.1.5 Procedures to be used to ensure Agreement requirements are met (Quality Control Program)

17.1.3 Coordination of Meetings

17.1.3.1 Throughout the term of the Agreement and any extensions thereto, the Contractor shall meet with the Director, on a frequency determined by the Director, to identify/resolve performance issues etc. Notice of any such performance meeting may be given by the Director to the Contractor either orally or in writing and will designate the time, date, location, Contractors attendees, and general purpose. The Contractor's designated attendees shall be present at any such performance meeting for its duration and shall prepare minutes. The meeting minutes must be transcribed by Contractor in typewritten form and must be submitted to the Director for approval within five (5) days of any such meeting. Once approved, the original will be retained by the Director and a copy thereof submitted to the Contractor.

17.1.4 Schedule of Performance

17.1.4.1 Contractor shall commence performance of the Agreement on the date specified in a written Notice to Proceed signed by the Director, and shall diligently perform Work activities in strict compliance with the Agreement.

17.1.5 Contract Administration

17.1.5.1 Overall contract administration for HAS will be provided by Airport Maintenance Group (AMG) – IAH; Facilities Maintenance – HOU; Facilities Administration - EFD. Each airport will be responsible for day-to-day field compliance and will be the primary contact for the Contractor.

18.0 PLANS (Basic Services)

18.1 Contractor shall submit updates to the Quality Control and Contingency Plans as requested by the Director.

18.2 Quality Control Plan (QCP)

18.2.1 Contractor shall develop and maintain a QCP to ensure the requirements of the Agreement are provided as specified. Contractor shall provide the QCP to the Director in writing within 30 days of notice to proceed.

18.2.2 Contractor's QCP shall describe specific monitoring techniques for all services hereunder. The QCP shall specify how inspections will be conducted, frequency of inspections, and who will perform the inspections. The QCP shall include a method of identifying and correcting deficiencies.

18.2.3 Contractor's QCP shall include an inspection sheet approved in form by the Director. Contractor shall provide a copy of each QCP inspection to the Director by the next business day following the inspection. Contractor shall maintain a file of all inspections and the corrective actions taken.

18.3 Contingency Plan

18.3.1 Contractor shall submit a plan within 30 days of Notice to Proceed to the Director in order to accommodate and maintain service during emergencies i.e. inclement weather, catastrophes, equipment failure. The contingency plan is subject to review and approval of the Director.

19.0 QUALITY ASSURANCE (QA) (Basic Services)

19.1 The Director may conduct QA to ensure the provisions of the Agreement are being met. The QA shall include, but not be limited to, the following:

- Scheduled Inspections
- Unscheduled Inspections
- Random Sampling
- 100% Inspection
- Customer Complaints

Should the work performed by the Contractor be found, in the opinion of the Director, to be deficient and requiring correction, or modification, it shall be corrected by the Contractor. All costs for corrections shall be at the expense of the Contractor.

20.0 ADDITIONS & DELETIONS

20.1 At any time during the term of the Agreement, by written notice from the City, the Contractor shall add or delete like or similar equipment, locations and/or services to the

list of equipment, locations and/or services to be performed. Any such written notice shall take effect on the date stated in the notice from the City Purchasing Agent or his designee. Equipment, locations and/or services added will be subject to the contract services and charges or rates as an item specified in the Bid Form. If the additional equipment, locations and/or service is not identical to any item already under contract, the charges therefore will then be the Contractor's normal and customary charges or rates for the equipment, locations and/or services classified in the contract fee schedule.

21.0 PHASE-IN / PHASE-OUT SERVICES (Basic Services)

21.1 Contractor shall provide phase-in and phase-out services as follows:

21.1.1 Contractor (Successor) Phase-In

21.1.1.1 In order to accomplish a smooth and successful transition of services and at no extra charge to the City, the Contractor shall provide Phase-in services for up to thirty (30) days prior to Agreement expiration.

21.1.1.2 Contractor Phase-In period begins upon receipt of a "Start Phase-in Notice" from the City and continues until receipt of "Official Notice to Proceed" (Start Date of the Contract). The "Start Phase-in Notice" is different than the official Notice to Proceed. Contractor shall have no responsibilities in providing services during the Phase-in period.

21.1.1.3 During the phase-in period, the Contractor shall have access to the facilities and areas covered by the Agreement.

21.1.1.4 The Contractor shall perform the duties and services listed in its contract during the Contractor Phase-In period and will be accessible during the phase in period to answer questions and resolve issues or any misunderstandings.

21.1.1.5 The Contractor shall provide during Phase-in period the following deliverables, including but not limited to:

21.1.1.5.1 Review of services, locations, etc.

21.1.1.5.2 Arrange for security approval, access, badging, etc.

21.1.1.5.3 Establish management procedures, set up records

21.1.1.5.4 Prepare for providing services without disruption of operations

21.1.1.5.5 Coordinate Contractor's activities with Airport Maintenance Group (AMG) – IAH; Facilities Maintenance – HOU; Facilities Administration - EFD

21.1.1.5.6 Provide City departments with contact names, phone numbers, emergency phone numbers, etc.

21.1.1.5.7 Listing of Contractor equipment, personnel, and training

21.1.1.5.8 Reporting and approach plans

21.1.1.5.9 Obtain any required permits, licenses, and certifications

21.1.1.6 The Phase-in period will end at issuance of the official Notice to Proceed, at which time Contractor shall assume full responsibility for providing specified services. The Contractor shall be prepared to perform fully all Work services upon receipt of notification to precede document from the City.

21.1.2 Contractor Phase-Out

21.1.2.1 Two (2) months prior to expiration of the Agreement, the Contractor shall submit a comprehensive close-out plan which will include a complete list of current containers/compactors, projected activities scheduled, and a summary of the last 12 months of monthly reports.

21.1.2.2 The services provided by the Agreement are vital to the City's overall efforts to provide efficient operations. Contractor shall maintain continuity of services at a consistently high level without interruption. Within 30 days of the expiration of the Agreement contractor shall work with a successor regarding phase-in training. Contractor shall cooperate fully with the successor in order to effect an orderly and efficient transition.

21.1.2.3 Accordingly, Contractor shall provide phase-out services to its successor for up to thirty (30) days prior to Agreement expiration, at no extra charge to City. Orientation must include service procedures, record keeping, reports, etc.

21.1.2.3.1 Contractor shall be responsible for providing the services under the Agreement during the phase-out period.

22.0 USE OF FACILITIES (BasicServices)

22.1 Utilities

22.1.1 HAS shall provide utilities required for the performance of the work/service specified.

22.2 AOA Policy

22.2.1 Contractor's personnel and vehicles shall comply with each airport's Air Operation Areas (AOA) policy for entrance within the AOA areas.

22.3 Emergency

22.3.1 In case of emergency, the Director may order Contractor to terminate work and clear the area of personnel and equipment. Contractor shall comply with such an order with all possible haste.

23.0 DAMAGE TO HAS PROPERTY

23.1 Contractor shall repair, at its expense, all damages to HAS property caused by carelessness or neglect on the part of the Contractor, its agents or employees.

24.0 MISCELLANEOUS OTHER REQUIREMENTS (BasicServices)

24.1 Safety

24.1.1 Contractor shall develop, implement, and maintain an on-going safety program. Contractor shall post safety warnings on equipment as necessary to ensure safe operations.

24.1.2 Rules and Regulations

24.1.2.1 The Director may establish rules and regulations as deems necessary to govern the Airport facilities. Contractor shall follow all rules and regulations of or imposed on HAS by City, State, Federal agencies etc.

25.0 HOURS OF OPERATION (BasicServices)

25.1 Contractor shall be available to provide services 24 hours per day, 7 days per week.

26.0 INVOICING

26.1 Contractor shall submit its invoices for work completed on a form(s) approved in advance by the Director; invoices must be accompanied by support documents requested by the Director.

26.2 Each invoice submitted must be in duplicate and each copy must include required attachments. The invoice must be identified by the Agreement name and Agreement number. All invoices are to be delivered or mailed to the following location:

City of Houston
Houston Airport System
Finance Division/Accounts Payable
Houston, Texas 77205-0106

26.3 Contractor shall provide separate invoices for each Airport and participating departments.

26.4 Invoices must be submitted with applicable copies of Contractor's work orders attached that have been approved by Airport Maintenance Group (AMG) – IAH; Facilities Maintenance – HOU; Facilities Administration - EFD.

26.5 Invoices submitted for services performed as the result of change orders require that copies of the applicable change order also be attached to the original and each of the two (2) invoice copies.

26.6 The Houston Airport system will accept invoices submitted electronically along with required support information; such as Outline Agreement Number(s), Service Release Orders (SRO) Numbers, and etc. Each invoice should be in a TIFF format. Multiple invoices can be submitted in a single email.

26.6.1 Requirements are as follows:

- 26.6.1.1 Submit invoices in "TIFF" format
- 26.6.1.2 Submit to has.accountspayable@houstontx.gov
- 26.6.1.3 Contractor shall provide separate invoices for each Airport.
- 26.6.1.4 Invoices must be submitted with applicable copies of Contractor's daily work orders attached that have been approved by the Director.
- 26.6.1.5 Invoices submitted for services performed as the result of change orders require copies of the applicable change order to be attached to the original and each of the two (2) invoice copies.

27.0 ESTIMATED QUANTITIES NOT GUARANTEED

27.1 The estimated quantities specified herein are not a guarantee of actual quantities, as the City does not guarantee any particular quantity of solid waste disposal and equipment rental services during the term of the Agreement. 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 the Agreement. Therefore, the City shall not be liable for any contractual agreements/obligations the Contractor enters into based on the City requiring all of the quantities specified herein. Contractor shall be compensated only for actual Work performed.

28.0 WARRANTY OF SERVICES

28.1 Definitions: "Acceptance" as used in this clause, shall be determined by the City and be established when the City determines that the unit of Work specified under the Agreement is complete and acceptable "Work Approval".

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

28.2 Contractor warrants that services performed under the Agreement will, at the time of Work Approval, be free from defects in workmanship and conform to the requirements of the Agreement. The City will give written notice of any defect or nonconformance to the Contractor within 45 days from Work Approval date 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 City does not require correction or re-performance.

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

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

29.0 INTERLOCAL AGREEMENT:

- 29.1 Under the same terms and conditions hereunder, the Contract may be expanded to other government entities through inter-local agreements between the City of Houston and the respective government entity that encompass all or part of the products/services provided under this contract. Separate contracts will be drawn to reflect the needs of each participating entity.
- 29.2 If the Contractor is required to correct or re-perform, it shall be at no cost to the City, and any services corrected or re-performed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or re-perform, the City may, by contract or otherwise correct or replace with similar services and charge to the Contractor the cost occasioned to the City thereby, or make an equitable adjustment in the Contract price.

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SECTION B-1
Part 1
FOR
SOLID WASTE DISPOSAL & EQUIPMENT SERVICES FOR HOUSTON AIRPORT SYSTEM
LOCATIONS

A. (IAH)

Est. Qty	Current Unit No.	Equipment Description / Container Capacity	Collection Sites - Street Address / Facility Location	Estimated Service Frequency
1	1	Compactor, 30 cubic yard container	Terminal A North	Call in - as needed
1	2	Compactor, 42 cubic yard container	Terminal A-South Loading Dock	Call in - as needed
1	5	Container, Open-Top, 40 cubic yard	Terminal A-West Side	Call in - as needed
1	6	Compactor, 42 cubic yard container	Lay-Down Yard – On Standby, will now replace #2 if needed	Call in - as needed
1	7	Compactor, 30 cubic yard container	Terminal C-North Loading Dock	Call in - as needed
1	8	Compactor, 30 cubic yard container	Terminal C-South Loading Dock	Call in - as needed
1	9	Compactor, 30 cubic yard container	Terminal C-North Ramp	Call in - as needed
1	10	Compactor, 30 cubic yard container	Terminal C-South Ramp	Call in - as needed
1	11	Compactor, 42 cubic yard container	Terminal D East-Loading Dock	Call in - as needed
1	12	Compactor, 35 cubic yard container	FIS Bldg. NE Loading Dock	Call in - as needed
1	Customs One Stop / 13	Compactor, 30 cubic yard container	19581 Lee Road	Call in - as needed
1	Fleet / 14	Container, Open-Top, 40 cubic yard	18845 Colonel Fischer Road	Call in - as needed
1	Container A	Container, Open-Top, 40 cubic yard	A&G Yard- 18103 Lee Road	Call in - as needed
1	Container B	Container, Open-Top, 40 cubic yard	A&G Yard- 18103 Lee Road	Call in - as needed
1	Container C	Container, Open-Top, 40 cubic yard	A&G Yard- 18103 Lee Road	Call in - as needed
1	Container D	Container, Open-Top, 40 cubic yard	Tech Svc., 4500 Will Clayton	Call in - as needed
1	Container E	Container, Open-Top, 40 cubic yard	A&G Yard- 18103 Lee Road	Call in - as needed

1	Container F	Container, Open-Top, 40 cubic yard	PPM, 4500 Will Clayton	Call in - as needed
1	Container G-1	Container, Open-Top, 20 cubic yard	A&G Yard- 18103 Lee Road	Call in - as needed
1	Container G-2	Container, Open-Top, 20 cubic yard	A&G Yard- 18103 Lee Road	Call in - as needed
1	Container G-3	Container, Open-Top, 40 cubic yard	A&G Yard- 18103 Lee Road	Call in - as needed
1	Container J	Container, Open-Top, 40 cubic yard	18500 B Lee Road	Call in - as needed
1	N/A	Container, Open-Top, 30 cubic yard	18600 B Lee Road (Panalpina)	Call in - as needed
1	N/A	Container, with lid, 6 cubic yard	Taxi Staging Area	Twice per week
1	N/A	Container, with lid, 8 cubic yard	Fire Station 54	Once per week
1	N/A	Container, with lid, 8 cubic yard	Fire Station 92	Once per week
1	N/A	Container, with lid, 8 cubic yard	Fire Station 99	Once per week
1	N/A	Container, with lid, 8 cubic yard	Terminal C-South Behind Wall at Taxi Pick-Up area.	Six per week
1	N/A	Container, Closed-Top, 10 cubic yard	IAH Admin. Bldg.	Twice per week
1	N/A	Container, with lid, 8 cubic yard	4775 Will Clayton	Once per week
2	FEL Containers A&B	Container, Closed-Top, 2 cubic yard	Farrell Rd. & 1960	Once per Wee,
1		Hand washing Station	Taxi Staging Area	7 X Per Week

B. (HOU)

Est. Qty	Current Unit No.	Equipment Description / Container Capacity	Collection Sites - Street Address / Facility Location	Estimated Service Frequency
1	N/A	Compactor, 30 cubic yard container	Adjacent to Gate N-36	2 x per week
1	N/A	Compactor, 30 cubic yard container	Adjacent to Gate N-7	2 x per week
1	N/A	Container, Closed Top, 6 cubic yard	Fire Station 81	1 x per month
1	N/A	Container, Open-Top, 30 cubic yard	Randolph - Airfield	Call in - as needed
1	N/A	Container, Open-Top,	9014Randolph – A&G	Call in - as

		30 cubic yard	Yard	needed
1	N/A	Compactor, 30 cubic yard container	Central Concourse	3 x per week
1	N/A	Compactor, 30 cubic yard container	Central Concourse	3 x per week
1	N/A	Compactor, 30 cubic yard container	East side	1 x per week

C. (EFD)

Est. Qty	Current Unit No.	Equipment Description / Container Capacity	Collection Sites - Street Address / Facility Location	Estimated Service Frequency
1	N/A	Container, Open-Top, 20 cubic yard	6011 Farley RD/ASC	Call in - as needed
2	N/A	Container, Closed Top, 4 cubic yard	T-Hanger	2 x per week
1	N/A	Container, Closed Top, 4 cubic yard	Bldg 510	1 x per week

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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. Oil Products Distributors (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 Mayor's Office of Business Opportunity (MOBO) Director ("the Director")
2. Oil Products Distributors (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 MOBO.
 - 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 MOBO 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 MOBO policy and/or ordinance contact MOBO at (832) 393-0600, 611 Walker, 7th Floor, Houston, Texas 77002.

EXHIBIT "E"
DRUG POLICY COMPLIANCE AGREEMENT

I, GREG RUTHERFORD VICE PRESIDENT as an owner or officer of
(Name) (Print/Type) (Title)
Republic Services of Houston (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.

Date 6/27/13

Contractor Name GREG RUTHERFORD

Signature 

Title VICE PRESIDENT

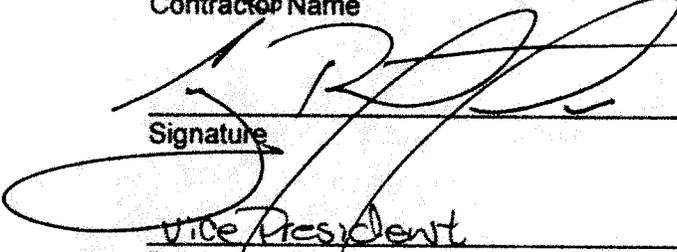
EXHIBIT "F"
CONTRACTOR'S CERTIFICATION OF NO SAFETY IMPACT POSITIONS
IN PERFORMANCE OF A CITY CONTRACT

1. GREG RUTHERFORD Vice President
(Name)(Print/Type) (Title)

as an owner or officer of Republic Services of Houston (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.

6/27/13
Date

GREG RUTHERFORD
Contractor Name


Signature

Vice President
Title

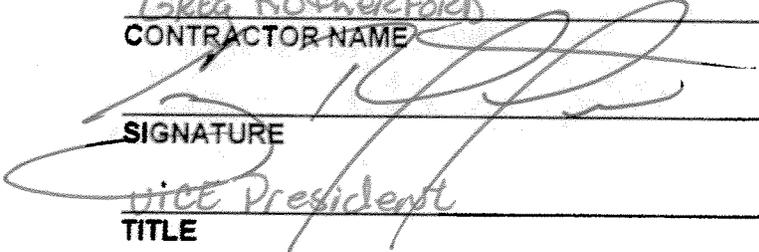
CONTRACTOR'S CERTIFICATION OF NON-APPLICATION OF
CITY OF HOUSTON DRUG DETECTION AND DETERRENCE PROCEDURES
FOR CONTRACTORS

1. GREG RUTHERFORD
(NAME) (PRINT/TYPER)

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

6/27/13
DATE

GREG RUTHERFORD
CONTRACTOR NAME


SIGNATURE

Vice President
TITLE

**EXHIBIT "G"
DRUG POLICY COMPLIANCE DECLARATION**

I, David Rojas Area Manager Senior Services as an owner or officer of
 (Name) (Print/Type) (Title)
Republic Services of Houston (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 Jan 1 to Dec 31, 2012.

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

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

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

DR Initials Appropriate safety impact positions have been designated for employee positions performing on the City of Houston contract. The number of employees in safety impact positions during this reporting period is 145.

DR Initials From Jan 1 to Dec 31, 2012 the following test has occurred
 (Start date) (End date)

	Random	Reasonable Suspicion	Post Accident	Total
Number Employees Tested	103	0	1	104
Number Employees Positive	0	0	0	0
Percent Employees Positive	0%	0%	0%	0%

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

DR Initials I affirm that falsification or failure to submit this declaration timely in accordance with 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.

6/26/13
 (Date)

David Rojas
 (Typed or Printed Name)
[Signature]
 (Signature)
Area Manager Senior Services
 (Title)

**EXHIBIT "H"
FEES AND COSTS**

BID ITEM	DESCRIPTION	UNIT	UNIT PRICE				
			Yr. 1	Yr. 2	Yr. 3	Yr. 4, Opt. 1	Yr. 5, Opt. 2
1 PART 1 - GROUP 1 COLLECT, TRANSPORT, & DISPOSAL OF NON-HAZARDOUS WASTE FOR THE HOUSTON AIRPORT SYSTEM							
1	42 Cubic Yard (Compactor)	EA	\$390.00	\$401.66	\$413.67	\$426.04	\$438.78
2	40 cubic yard (Open)	EA	\$300.00	\$308.97	\$318.21	\$327.72	\$337.52
3	35 Cubic Yard (Compactor)	EA	\$385.00	\$396.51	\$408.37	\$420.58	\$433.15
4	30 Cubic Yard (Compactor)	EA	\$380.00	\$391.36	\$403.06	\$415.12	\$427.53
5	30 cubic yard (Open)	EA	\$295.00	\$303.82	\$312.90	\$322.26	\$331.90
6	20 cubic yard (Open)	EA	\$290.00	\$298.67	\$307.60	\$316.80	\$326.27
7	10 cubic yard (Closed)	EA	\$25.72	\$26.49	\$27.28	\$28.10	\$28.94
8	8 cubic yard (Closed)	EA	\$20.02	\$20.62	\$21.23	\$21.87	\$22.52
9	6 cubic yard (Closed)	EA	\$23.51	\$24.22	\$24.94	\$25.69	\$26.45
10	4 cubic yard (Closed)	EA	\$25.60	\$26.37	\$27.16	\$27.97	\$28.80
11	2 cubic yard (Closed)	EA	\$15.05	\$15.50	\$15.96	\$16.44	\$16.93
PART 1 - GROUP 2 PERCENTAGE TO BE APPLIED TO ABOVE COST FOR EMERGENCY HAULS AND PICKUPS FOR ITEMS 1 THROUGH 11							
1	Percentage to be applied to the costs for items 1-11 for Emergency pickups		25%	25%	25%	25%	25%
PART 1 - GROUP 3 RELOCATION OF CONTAINERS & COMPACTORS FOR THE HOUSTON AIRPORT SYSTEM (QUOTE PER RELOCATION)							
1	Container/Compactor	EA	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00

EXHIBIT "I"
PAY OR PLAY PROGRAM

Form POP - 1



City of Houston
Pay or Play Program
Acknowledgement Form



It has been determined that the project currently open for bidding meets the criteria of the City of Houston Pay or Play program. This form acknowledges your awareness of the Pay or Play program which is authorized by Ordinance 2007-534. Your signature below 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.

I declare under penalty of perjury under the laws of the State of Texas that if awarded this contract which meets the criteria for the City of Houston's Pay or Play Program, I will comply with all requirements of the Pay or Play Program in accordance with Executive Order 1-7.

*Fill out all information below and submit this form with your bid/proposal packet.

L24291

Solicitation Number

Signature

Greg Rutherford

Print Name

03/20/2013

Date

101277

City Vendor ID

BFI Waste Services of Texas LP, DBA Republic Services

Company Name

713-635-6666

Phone Number

GRutherford@republicservices.com

Email Address

Note: For more information contact your POP Liaison or the POP Contract Administrator. All contact information can be found on www.houstontx.gov → Departments → Office of Business Opportunity → Pay or Play.



FORM POP 2 (DOCUMENT 00630)

CERTIFICATION OF AGREEMENT TO COMPLY WITH PAY OR PLAY PROGRAM

Contractor Name: Republic Services of Houston (Contractor/Subcontractor) \$ (Amount of Contract)

Contractor Address: 8101 Little York Houston TX 77016

Project No.: [GFS/CIP/AIP/File No.] Solicitation # L24291

Project Name: [Legal Project Name] Solid Waste & Equipment Services

POP Liaison Name: Darlene Kurusky

In accordance with the City of Houston Pay or Play Program authorized by Ordinance 2007-534 and Executive Order 1-7, Contractor/Subcontractor 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 all covered employees. The Contractor/Subcontractor may also Pay on behalf of some covered employees and Play on behalf of other covered employees.

The Contractor/Subcontractor will comply with all provisions of the Pay or Play Program and will furnish all information and reports requested to determine compliance with program requirements of the Pay or Play Program (See Executive Order 1-7 for the terms of the Pay or Play program) The criteria of the program is as follows:

The Contractor/Subcontractor agrees to "Pay" \$1.00 per hour for work performed by covered employees under the contract with the City. If independent contract labor is utilized the Contractor/Subcontractor agrees to report hours worked by the independent contract laborer and pay \$1.00 per hour for work performed.

Otherwise the Contractor/Subcontractor agrees to "Play" by providing health benefits to each covered employee. 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 for single coverage only; 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.
3. Pursuant to E.O. 1-7 section 4.04 a contractor is deemed to have complied with respect to a covered employee who is not provided health benefits if the employee refuses the benefits and the employee's contribution to the premium is no more than \$40 per month.

Table with 4 columns: Pay, Play, Both. A checkmark is in the Play column.

The Contractor/Subcontractor will file compliance reports with the City, which will include activity for covered employees subject to the program, in the form and to the extent requested by the administering department. Compliance reports shall contain information including, but not limited to, documentation showing employee health coverage and employee work records. Note: The Contractor is responsible to the City for the compliance of covered employees of covered subcontractors and only forms that are accurate and complete will be accepted.

Table with 3 columns: *Estimated Number of, Prime Contractor, Sub-Contractor. Rows include Total Employees on City Job, Covered Employees, Non-Covered Employees, Exempt Employees.

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

CONTRACTOR (Signature) [Signature] DATE 6/24/13
NAME AND TITLE (Print or Type) Gene Brown Area Manager Solid Waste & Equipment Services



ADDITIONAL REMARKS SCHEDULE

AGENCY		NAMED INSURED	
POLICY NUMBER See First Page		REPUBLIC SERVICES, INC. 18500 N. ALLIED WAY PHOENIX, AZ 85054	
CARRIER See First Page	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM.

FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

The following provisions apply when required by written contract. As used below, the term certificate holder also includes any person or organization that the insured has become obligated to include as a result of an executed contract or agreement.

GENERAL LIABILITY:

Certificate holder is Additional Insured when required by written contract.
 Coverage is primary and non-contributory when required by written contract.
 Waiver of Subrogation in favor of the certificate holder is included when required by written contract.

AUTO LIABILITY:

Certificate holder is Additional Insured when required by written contract.
 Waiver of Subrogation in favor of the certificate holder is included when required by written contract.

WORKERS COMPENSATION AND EMPLOYERS LIABILITY:

Waiver of Subrogation in favor of the certificate holder is included when required by written contract where allowed by state law.

TEXAS EXCESS INDEMNITY AND EMPLOYERS LIABILITY:

Republic Services, Inc. and its subsidiaries are registered non-subscribers to the Texas Workers Compensation Act. Republic Services, Inc. has filed an approved Indemnity Plan with the Texas Department of Insurance which offers an alternative in benefits to employees rather than the traditional Workers Compensation Insurance in Texas. The excess policy (#MWXS 1023) shown on this certificate provides excess Indemnity and Employers Liability coverage for the approved Indemnity Plan.

Contractual Liability is included in the General Liability coverage form. The General Liability policy does not contain an endorsement excluding Contractual Liability.

IL 10 (12/06) OLD REPUBLIC INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF SUBROGATION (BLANKET) ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART/FORM

The following is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 8. Transfer of Rights of Recovery Against Others To Us:**

If you are required by a written contract or agreement, which is executed before a loss, to waive your rights of recovery from others, we agree to waive our rights of recovery. This waiver of rights shall not be construed to be a waiver with respect to any other operations in which the insured has no contractual interest.

GL 458 001 0611

COMMERCIAL GENERAL LIABILITY
CG 20 10 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
<p>*Only those at all locations as required by written contract*</p>	<p>All locations as required by written contract</p>
<p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

COMMERCIAL GENERAL LIABILITY
CG 20 37 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
Only those at all locations as required by written contract	All locations as required by written contract
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

IL 10 (12/06) OLD REPUBLIC INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - WHERE REQUIRED UNDER
CONTRACT OR AGREEMENT**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SCHEDULE

Additional Insured Person(s) or Organization(s):

Where Required Under Contract or Agreement

SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who Is An Insured, is amended to add:

d. Any Person(s) or Organization(s), shown in the Schedule above, to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into which requires you to furnish insurance to that Person(s) or Organization(s) of the type provided by this policy, but only with respect to liability arising out of use of a covered "auto". However, the insurance provided will not exceed the lesser of:

- (1) The coverage and/or limits of this policy; or
- (2) The coverage and/or limits required by said contract or agreement.

CA 458 002 0611

IL 10 (12/06) OLD REPUBLIC INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SCHEDULE

Name of Person(s) Or Organization(s):

"Only those persons or organizations for whom you are required to waive your rights of recovery under the terms of a written contract."

We waive any right of recovery we may have against the designated Person(s) or Organization(s) shown in the Schedule because of payments we make for injury or damage caused by an "accident" or "loss" resulting from the ownership, maintenance, or use of a covered "auto" for which a Waiver of Subrogation is required in conjunction with work performed by you for the designated Person(s) or Organization(s). The waiver applies only to the designated Person(s) or Organization(s) shown in the Schedule.

CA 458 001 0611

IL 10 (12/06) OLD REPUBLIC INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF SUBROGATION (BLANKET) ENDORSEMENT - TEXAS

This endorsement modifies insurance provided under the following:

TEXAS EMPLOYERS EXCESS INDEMNITY POLICY

The following is added to **SECTION IX - ADDITIONAL PROVISIONS, A. Recovery From Others:**

If you are required by a written contract or agreement, which is executed before a loss, to waive your rights of recovery from others, we agree to waive our rights of recovery. This waiver of rights shall not be construed to be a waiver with respect to any other operations in which the insured has no contractual interest.

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