

**SECTION C
GENERAL TERMS & CONDITIONS**

THE STATE OF TEXAS

BID # S30-L22308

COUNTY OF HARRIS

ORDINANCE # 2007-1106

CONTRACT #4600008190

I. PARTIES

A. Address

THIS AGREEMENT FOR LIGHTING MAINTENANCE SERVICES FOR THE HOUSTON AIRPORT SYSTEM ("Agreement") is made on the Countersignature Date between the **CITY OF HOUSTON, TEXAS** ("City"), a municipal corporation and **JOMAR CONTRACTORS, INC.** ("Contractor or Vendor"), a corporation doing business in Texas.

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

City

City Purchasing Agent for Director
of Houston Airport System
City of Houston
P.O. Box 1562
Houston, Texas 77251

Contractor

Jomar Contractors, Inc.
8515 E. North Belt Drive
Humble, Texas
Phone: 281-441-2299
Fax: 281-441-2298

The Parties agree as follows:

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This Agreement consists of the following sections:

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- A. DEFINITIONS
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- * C. EQUAL EMPLOYMENT OPPORTUNITY
- * D. MWBE SUBCONTRACT TERMS
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- * G. DRUG POLICY COMPLIANCE DECLARATION
- H. FEES AND COSTS

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

C. Parts Incorporated

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

D. Controlling Parts

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

E. Definitions

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

F. Signatures

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

Jomar Contractors Incorporated

ATTEST/SEAL (if a corporation):

WITNESS (if not a corporation):

By: _____

Name:

Title:

By: Mark Lapaglia

Name: Mark Lapaglia

Title: President

Federal Tax ID Number: 76-0477868

ATTEST/SEAL:

CITY OF HOUSTON, TEXAS

Signed by:

Conna Russell

City Secretary

Bill White Seney

Mayor

APPROVED:

COUNTERSIGNED BY:

Collin D. Wells

City Purchasing Agent

Annise D. Parker

City Controller

DATE COUNTERSIGNED:

10-14-07

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.

9-14-07
Date

Heione B. Bush
Legal Assistant

II. DUTIES OF CONTRACTOR

In consideration of the payments specified in this Agreement, Contractor shall provide all labor, material, and supervision necessary to perform the services described in Exhibit "B."

B. RELEASE

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.

C. 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, ATTORNEYS' 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:

- (1) PRIME CONTRACTOR/SUPPLIER'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 1-3, "PRIME CONTRACTOR/SUPPLIER") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;
- (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
- (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.

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

D. INDEMNIFICATION PROCEDURES:

- (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:
 - (a) a description of the indemnification event in reasonable detail,
 - (b) the basis on which indemnification may be due, and
 - (c) the anticipated amount of the indemnified loss.

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 has agreed to indemnify the City.

(2) **Defense of Claims**

- (a) **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.
- (b) **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 Contractor 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.

E. Insurance

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:

- (1) Commercial General Liability insurance including Contractual Liability insurance:

\$500,000 per occurrence; \$1,000,000 aggregate

- (2) Workers' Compensation including Broad Form All States endorsement:

Statutory amount

- (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.

Bodily injury by disease \$100,000 (policy limit)

Bodily injury by disease \$100,000 (each employee)

All insurance policies must require on their face, or by endorsement, that the insurance carrier waives any rights of subrogation against the City, and that it shall give 30 days written notice to the City before they may be canceled. 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:

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

F. Warranties

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.

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

- (1) that all items are free of defects in title, material, and workmanship,
- (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,
- (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
- (4) that no item or its use infringes any patent, copyright, or proprietary right.

G. Licenses and Permits

Contractor shall obtain and pay for all licenses, permits, and certifications required for the performance of this Agreement.

H. Compliance with Equal Opportunity Ordinance

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

I. MWBE Compliance

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 11% of the value of this Agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Affirmative Action Division and will comply with them.

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

J. Drug Abuse Detection and Deterrence

(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.

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

- (a) a copy of its drug-free workplace policy,
- (b) 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,
- (c) if applicable (e.g. no safety impact positions), the Certification of No Safety Impact

Positions, substantially in the form set forth in Exhibit "F".

If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, and its 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.

(3) 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.

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

K. Environmental Laws

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.

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.

L. Contractor's Performance

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 the Director determines that Contractor's employees do not meet these standards, Contractor shall take all remedial steps to conform to these standards.

M. Payment of Employees and Subcontractors

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.

Contractor shall defend and indemnify the City from any claims or liability arising out of Contractor's failure to pay its subcontractors as required by law. Contractor shall submit disputes relating to payment of M/WBE subcontractors to arbitration in the same manner as any other disputes under the M/WBE subcontract.

III. DUTIES OF CITY

A. Payment Terms

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.

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.

B. Taxes

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.

C. Method of Payment

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.

D. Method of Payment - Disputed Payments

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.

E. Limit of Appropriation

- (1) The City's duty to pay money to Contractor under this Agreement is limited in its entirety by the provisions of this Section.
- (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 \$711,502.66 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:
- (3) The City makes a supplemental allocation by sending a notice signed by the Director and the City Controller to Contractor and where appropriated, approved by motion, or ordinance of City Council in substantially the following form:

"NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS"

TO: [Name of Contractor]

FROM: City of Houston, Texas (the "City")

DATE: [Date of notice]

SUBJECT: Supplemental allocation of funds for the purpose of the "[title of this Agreement]" between the City and (name of Contractor) countersigned by the City Controller on (Date of Countersignature) (the "Agreement").

I, (name of City Controller), City Controller of the City of Houston, certify that the supplemental sum of \$_____, upon the request of the below-signed Director, 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.

The amounts of all sums allocated for the purpose of such Agreement shall be the "Allocated Funds."

SIGNED:

(Signature of the City Controller)

City Controller of the City

REQUESTED:

(Signature of the Director)

Director

- (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.

F. Changes

- (1) At any time during the Agreement Term, the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent 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.
- (2) The City Purchasing Agent or Director upon written authorization by the City Purchasing Agent 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

[Name of Contractor] countersigned

[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 upon written notice to the City Purchasing Agent]

- (3) The City Purchasing Agent or Director upon written authorization by the City Purchasing Agent may issue more than one Change Order, subject to the following limitations:
 - (a) Council expressly authorizes the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent, to approve a Change Order of up to \$25,000. A Change Order of more than \$25,000 over the approved contract amount must be approved by the City Council.
 - (b) 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.
 - (c) The Total of all Change Orders issued under this section may not increase the Original Agreement amount by more than 25%.
- (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.
- (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) Change Orders are subject to the Allocated Funds provisions of this Agreement.

A. Contract Term

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 (the "Initial Term").

B. Notice to Proceed

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

C. Renewals

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 City chooses not to renew this Agreement, the City Purchasing shall notify Contractor of non-renewal at least 30 days before the expiration of the then-current term.

D. Time Extensions

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

E. Termination for Convenience by the City

The City Purchasing Agent or Director upon written authorization by the City Purchasing Agent 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.

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.

TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE

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.

F. Termination for Cause by City

If Contractor defaults under this Agreement, the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent 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:

- (1) Contractor fails to perform any of its duties under this Agreement;
- (2) Contractor becomes insolvent;
- (3) all or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or
- (4) a receiver or trustee is appointed for Contractor.

If a default occurs, the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent 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 upon written authorization by the City Purchasing Agent, at his or her sole option, may extend the termination date to a later date. If the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent 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 upon written notice to the City Purchasing Agent may terminate this Agreement on the termination date, at no further obligation of the City.

To effect final termination, the City Purchasing Agent or Director upon written notice to the City Purchasing Agent 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.

G. Termination for Cause by Contractor

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.

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.

H. Removal of Contractor Owned Equipment and Materials

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

A. Independent Contractor

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

B. Force Majeure

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. This relief is not applicable unless the affected party does the following:
 - (a) uses due diligence to remove the Force Majeure as quickly as possible; and

(b) provides the other party with prompt written notice of the cause and its anticipated effect.

3. The City may perform contract functions itself or contract them out during periods of Force Majeure. The City may terminate this Agreement at any time without cause, and the Contractor shall not be entitled to any damages or compensation from the City.

4. If the Force Majeure continues for more than 30 days, the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent 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.

C. Severability

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.

D. Entire Agreement

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.

E. Written Amendment

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.

F. Applicable Laws

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.

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

G. Notices

or receptacle; (2) with proper postage (certified mail, return receipt requested); and (3) addressed to the other party at the address set out in the preamble of this Agreement or at such other address as the receiving party designates by proper notice to the sending party.

H. Non-Waiver

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.

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.

I. Inspections and Audits

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

J. Enforcement

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.

K. Ambiguities

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.

L. Survival

Contractor shall remain obligated to the City under all provisions of this Agreement, including all terms, conditions, and provisions, including but not limited to, the following provisions.

M. Parties In Interest

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

N. Successors and Assigns

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.

O. Business Structure and Assignments

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 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.

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

P. Remedies Cumulative

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.

Q. Contractor Debt

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 agrees to reimburse the City for

Exhibit A

DEFINITIONS

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

“Acceptable” means that services, equipment and performance meet or exceed the requirements of this Agreement.

“Acceptance” shall be determined by the Director and will be established when the Director determines that the unit of work specified under the Agreement is complete and acceptable.

“Acceptable Equivalent” means any equipment, part or product that complies with existing industry standards governing its manufacture or use, and that is a functional equivalent of any equipment, part, product or specification described herein, or, which functionally satisfies an approved, negotiated or specified use made a part hereof.

“Agreement” means this contract between the parties including all exhibits and any written amendments authorized by City Council and Contractor.

“Air Operations Area (AOA)” means any area of the airport used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft. An air operations area shall include such paved and unpaved areas that are used or intended to be used for unobstructed movement of aircraft in addition to its associated runway, taxi-way or apron.

“Airport(s)” mean George Bush Intercontinental Airport/Houston (IAH), William P. Hobby Airport (HOU) and Ellington Field (EFD)

“ASC” means the Airport Services Complex located at 4500 Will Clayton Parkway, at George Bush Intercontinental Airport/Houston.

“Basic Services” means those services described in Section B – Performance/Work Statement.

“City” means the City of Houston, Texas, and includes its successors and assigns.

“Company or Contractor” means the entity to whom the City awards this Contract.

“Contract or Agreement” means the Agreement and all amendments or change orders thereto made and entered into by and between the City and the Contractor whereby the Contractor shall provide all specified Work in connection with the Agreement, in the manner and form as provided by the Agreement.

“Director” means the Director of the Houston Airport System, or his designee. The Agreement designates certain functions to be performed by the Director. For the purposes of the Agreement those functions are assigned to the Assistant Director of Aviation, Technical Services Division. The Assistant Director of Aviation, Technical Service Division may delegate certain functions to other HAS employees, with the approval of the Director.

“EFD” means Ellington Field.

“Emergency Service Request” means a request from the director to Contractor to perform remedial maintenance or other work services due to a Major Failure or services deemed necessary by the Director. Contractor must respond to in accordance with the Response Time Table of this Agreement.

“Equipment” means all machinery, together with the necessary supplies for upkeep and maintenance, and also all tools and apparatus necessary for the proper and acceptable completion of the specified Work.

“First Class Condition” refers to the quality of systems, parts, equipment and related components and appurtenances including replacements (“elements”). It also refers to the condition of the wear and operation of the elements. When referring to the quality of the elements, First Class Condition means of a quality equal to or better than the elements as originally installed. When referring to the wear and operation of the elements, First Class Condition means a standard that is within the manufacture’s published tolerances for safe, reliable operation, or if no published tolerances, within generally accepted (tolerances) within the equipment maintenance industry.

“Furnish” means supply and deliver to Project Site, ready for uploading, unpacking, assembly, installation, use, etc., as applicable in each instance, except as otherwise defined in greater detail.

“HOU” means William P. Hobby Airport.

“Houston Airport System (HAS)” means the property and facilities of the City of Houston Department of Aviation which include, but are not limited to, George Bush Intercontinental Airport/Houston (IAH), William P. Hobby Airport (HOU), Ellington Field (EFD), and the Houston Airport System Administration Buildings.

“IAH” means George Bush Intercontinental Airport/Houston.

“Maintenance Facilities” means the shop and office facilities provided to the Contractor by the City as set forth herein.

“Maintenance Service” means both Preventive Maintenance and Remedial Maintenance.

“Manufacturer” means the original manufacturer or producer of a part or component.

“Materials” means any substance specified for use in the accomplishment of the Work.

“Notice to Proceed” means a written communication from the Director to Contractor instructing Contractor to begin performance.

“OEM” means the Original Equipment Manufacturer.

“Other Service Request (OSR)” is the form used to request Other Work/Services within the scope of this Agreement.

“Other Work/Services” means those services described in Section B – Scope of Work as Other Work/Services and other services related to operations and maintenance services, other than Basic Services. Such services are only provided upon the Director’s written request.

“Preventive Maintenance (PM)” means scheduled maintenance activities recommended by the manufacturer and by industry best practice standards. They include, but are not limited to, proper, inspections, installation, testing, and operation procedures, determined by regularly scheduled work, etc.

“Remedial Maintenance (RM)” means repair of equipment and systems with parts, materials, and

labor to restore performance to the designed function in the event of any lighting system breakdown where the lighting system is unable to perform its designed function. RM includes repairs and replacement of related components, parts and accessories that have failed or become inoperative.

“Repair” means to restore to good or sound working condition.

“Response Time” means the maximum elapsed time in which Contractor must respond to an Emergency Service Request. The maximum elapsed time is measured from Contractor’s receipt of an Emergency Service Request to Contractor’s arrival at the specified work site.

“Routine” means those services that do not involve an Emergency Service Request.

“Schedule” the planned periods of time the Contractor shall be allowed to perform Work on the pavement as determined by the Director and local airfield requirements.

“Service” means to provide the labor, tools, equipment, and all items required to minimize maintenance requirements and ensure proper equipment performance based on manufacturer’s recommended procedures.

“Straight Time” is defined as being between the hours of 8:00 a.m. through 5:00 p.m.; Monday through Friday.

“Taxiway” means the portion of the Air Operations Area of an Airport that has been designated by HAS for movement of aircraft to and from the airport’s runways and aircraft parking areas.

“Work” means all services to be provided by the Contractor as defined by the specifications herein.

EXHIBIT "B"

SECTION B

1.0 BACKGROUND

The Houston Airport System (HAS) operates the City of Houston’s three (3) major airports: George Bush Intercontinental Airport/Houston (IAH), William P. Hobby Airport (HOU), and Ellington Field (EFD). Management of the airports includes coordination with FAA, air carriers, and other Federal and State agencies to maintain the highest standards of service and safety to Airport patrons. LIGHTING MAINTENANCE SERVICES operations serve a vital role in the efficient operation of the Houston Airport System.

The Lighting Maintenance Services provided by the Agreement are for a 3-year base term with two 1-year option periods. Services include on-site staff at IAH and on-call services for HOU and EFD. Contractor will be paid for work on a time and materials basis as provided herein.

2.0 PERFORMANCE WORK STATEMENT

2.1 GENERAL

2.1.1 For and in consideration of the payment specified in the Agreement, Contractor shall provide Lighting Maintenance Services, i.e. “The Work” for the Houston Airport System (HAS).

2.1.2 Contractor shall provide all services, management, supervision, labor, parts, equipment, materials, tools, instruments, supplies, expendable items, incidentals, insurance,

transportation, and training required for responsive lighting maintenance services.

communications with HAS, regular management reviews and industry guidelines.

- 2.1.4 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 due to a problem with the lighting. Contractor shall give first priority to HAS requests for emergency service.
- 2.1.5 Provide designated on-site staff to perform Work at IAH during shifts as directed by HAS.
- 2.1.6 The Work provided by Contractor under the Agreement includes Basic Services and Other Work/Services.
- 2.1.7 Perform Work at HOU and EFD on an on-call basis.
- 2.1.8 HAS will provide Contractor with office and storage area at IAH as outlined on Drawings **on page 42 of 46**. HAS will not provide an office or a storage facility at HOU or EFD. Contractor at its own expense to provide housekeeping services for the office and storage space provided.

3.0 SCOPE OF BASIC SERVICES:

- 3.1 At IAH, perform weekly surveys during nighttime hours and daily surveys during daytime hours and report any lamps or fixtures requiring maintenance. Personnel to report daily to IAH Facilities Administration to establish daily work plans detailing which areas will be serviced and which lighting components will be replaced/ repaired during the work day.
- 3.2 Labor rates are inclusive of all support staff, tools, equipment including, but not limited to, scissor-lifts, bucket trucks, high-reach lifting devices, narrow lift (pass through 36" door), scaffolding, etc., at the time Work is required, insurance, transportation and other incidentals required to accomplish the Work; disposal of lamps and ballasts and other materials replaced during the performance of lighting maintenance; and furnishing of printer to receive maintenance requests generated by HAS. Printer shall be located in Contractor's on-site office at IAH. Printer shall be HP Desk Jet compatible printer (HP 6122, or equal) equipped with a serial port.
- 3.3 Bidders must bid their discount applied to the lowest price column shown in the manufacturer's price list. The discount shall remain firm for **60**-months from the date of the Notice to Proceed signed by the Director. During the term of the contract a request to substitute the price list(s) with updated version or documentation from the manufacture will be allowed subject to the Director's approval. Substitute price list(s) may only be later revisions to the original price list(s) bid. Acceptance of any revised price list(s) will be considered after the Contractor submits the following to the Director:
 - A letter clearly stating Price Adjustment Request and Name and Number of the Contract.
 - Revised manufacturer's price list(s) indicating effective date.Price list substitution(s) shall become effective only upon the Contractor's receipt of express written consent from the Director or his designee. No price increase shall be effective until such written consent is received.
- 3.4 If Contractor is unable to secure items from the six price lists set forth in the Fee Schedule, the Contractor shall purchase the items from a third party price list not affiliated with Contractor and

bill the City at cost plus fixed fee (negotiated) markup. Item must be equal or better in equality and performance than OEM product and must be free from all defects.

- 3.6 Contractor shall maintain Lighting Maintenance Services, on a 24 hour-per-day, 365-day-per-year basis, including holidays, using Contractor's personnel, subcontractor services, and any other vendors required for providing complete, safe and efficient lighting maintenance services. Contractor shall ensure that the Lighting Maintenance and related equipment is operated at all times in accordance with best practices prevailing in the industry, observing OEM recommended procedures and complying with applicable Occupational Safety and Health Act (OSHA) and other applicable municipal, state, and federal safety standards.

3.7 SPECIFIC TASKS

The Contractor shall provide properly qualified and licensed personnel to:

- 3.7.1 Inspect lighting systems to detect components that have electrical and/or mechanical defects, detect lamps and fixtures that are not clean, and detect any dirt or debris on lamps that may contribute to light depreciation.
- 3.7.2 Replace any lamps, ballasts, wiring, photoelectric cells, sockets, fusing, fixtures and other lighting components that are defective or not operating at optimum levels.
- 3.7.3 Replacement lamps must be of same quality and performance as those removed, and be of equal wattage, lumen output, and color index of original lamps.
- 3.7.4 Replacement ballasts must be of same quality and performance of ballasts removed.
- 3.7.5 Clean all lamps, fixtures, diffusers, globes, and other light-reflecting surfaces when replacing lamps or ballasts to ensure that any dirt or debris that may contribute to light depreciation is removed.
- 3.7.6 Replace discolored, cracked and/or damaged light diffusers and globes with like units.
- 3.7.7 Repair light fixtures, including photoelectric cells on individual pole lamps as well as photoelectric cells controlling multiple fixtures.
- 3.7.8 Test and maintain designated emergency lighting systems and provide quarterly reports of tests and system repairs.

3.8 PREVENTIVE MAINTENANCE

As a part of Basic Services, Contractor shall perform PM to prevent the occurrence of lighting failures and to keep the lighting in first-class operating condition. Contractor shall perform PM in accordance with the latest OEM technical and user manuals, service bulletins, service advisories, product/service information updates, and all such other OEM published information pertaining to the maintenance of the lighting, as well as evidenced by Contractor's experience and knowledge of similar or like maintenance and equipment, and as specified herein. Contractor shall begin providing PM for the lighting maintenance immediately after Contractor's receipt of Notice to Proceed.

- 3.8.1 PM includes all inspections to detect components that have electrical and/or mechanical defects, scheduled service routines; replacement of worn, damaged, or destroyed lamps, ballasts, wiring, photoelectric cells, sockets, fusing, fixtures, and other lighting

components that are defective or not operating at optimum levels. In addition to all OEM requirements and schedules, PM includes, but is not limited to:

- 3.8.1.2 An annual service inspection of lighting mechanisms, and any other Lighting Maintenance Services to include adjusting and repairing as required to ensure safety and reliability of operation.
 - 3.8.1.3 Thorough cleaning and inspection of all lamps, fixtures, diffusers, globes, and other light-reflecting surfaces as required to ensure safe and efficient operation and appearance.
 - 3.8.1.4 Replace burnt out bulbs, discolored, cracked and/or damaged light diffusers and globes to maintain an original appearance.
 - 3.8.1.5 Repairing light fixtures, including photoelectric cells on individual pole lamps as well as photoelectric cells controlling multiple fixtures
- 3.8.2 Contractor shall develop routine PM Schedules for the Lighting Maintenance Services in accordance with this specification. Contractor's PM Schedules must include all regular or repetitive maintenance tasks and service intervals. Contractor shall develop routine PM Schedules for the Director's approval. Contractor shall submit its proposed PM Schedules to the Director for approval within 30 days after receipt of the Notice to Proceed. Contractor's PM Schedules and procedures must cover each functional area and overall operation, must include inspections, and preventive maintenance schedules.

3.9 REMEDIAL MAINTENANCE

As a part of Basic Services, Contractor shall provide remedial maintenance to keep the Lighting Maintenance Services in First Class Condition. Contractor shall make repairs and replace related components, parts, and appurtenances that have failed, no longer perform reliably, have worn beyond safe tolerances, Contractor shall respond immediately to any defect or malfunction that would reduce the lighting operating efficiency below OEM specifications and specified performance standards.

- 3.9.1 Contractor shall notify the Director immediately of all lighting problems effecting operations or passenger safety, the action to be taken, and an estimate of a time frame to accomplish the repair. Contractor shall notify the Director again when the lighting is repaired and back in service.
- 3.9.2 Contractor shall respond to HAS' requests for emergency service with a journeyman electrician on-site immediately after notification for any defect or malfunction that renders the lighting incapable of performing at its normal, acceptable operating level, or for circumstances which impact passenger safety. In such cases, Contractor shall work continuously without regard for usual business hours until the malfunctions are corrected.
- 3.9.3 Contractor is responsible for the repair and replacement at Contractor's expense of worn, damaged, and failed lighting components, parts, and appurtenances, with the exception of damage and/or failure resulting from Force Majeure or vandalism.

In the instance of Force Majeure (as defined in the Agreement) or vandalism, the replacement service will be provided at a cost not to exceed the rate proposed in the Other Work/Services category.

3.10 CONTRACTOR-FURNISHED PARTS

components replaced or newly installed must be new. All parts, equipment and/or components must be free of defects in material and workmanship and must conform to OEM specification.

3.11 DISPOSAL OF USED PARTS

Contractor shall dispose of all worn/defective scrap parts and waste or hazardous materials resulting from the Work under the Agreement. Contractor shall act prudently in all aspects of handling, transporting, and disposal of worn/defective scrap parts and waste or hazardous materials to ensure the highest level of safety to the environment and to public health. Contractor shall secure all licenses and permits and provide any required documentation associated with hazardous materials as required by law and must ensure that any disposal facilities to which any scrap, waste, or hazardous materials may be moved are in full compliance with federal, state, and local laws and regulations. Worn or defective parts must not be stored on Airport premises. Contractor shall notify the Director when these parts are to be removed from HAS property.

4.0 SERVICE SURVEYS - IAH

4.1 Daylight Hours – Daily: Conduct inspections of designated interior and exterior locations for electrical and mechanical discrepancies. Provide HAS with daily reports.

4.2 Nighttime Hours – Weekly: Conduct inspections in the designated service areas to detect lighting outages. Provide HAS with weekly reports.

4.3 SERVICE COVERAGE

Areas to be covered under the Agreement include, but are not limited to:

| INTERIOR AND EXTERIOR LIGHTS/FIXTURES | | |
|---|---|---|
| | Exterior Lights/Fixtures | Interior Lights/Fixtures |
| Airport campus lighting, as directed. | Obstruction lights on the roof of Terminal D | Tug tunnels of Terminals A, B, and C. C – 3500 North Terminal Road |
| Baggage make-up areas of Terminals A, B, and D. A – 2800 North Terminal Road B – 3100 North Terminal Road D – 3500 North Terminal Road | Certain security fence obstruction lights i.e. between Cargo Buildings A and B, and Terminal A and B South Ramp. Tug Tunnel, Rotundas #5, 6, 7, 8, Flight Stations, Jet Blast Deflectors Walls. | Lights and graphic signs associated with the Inter-Terminal Train (ITT) Tunnel (excluding Marriott Hotel and ITT Maintenance Shop and Office located in Terminal A). The ITT tunnel runs from terminal A to terminal D one mile long underground. |
| Building and associated parking lot, Colonel Fischer Drive | Certain wall- and roof- mounted lights, i.e. Cargo Building A | Rotundas in Flight Stations #5 through #8 of Terminal B. |
| Cargo Building D – 18445 Security | Security ramp side lighting | Planning Design Construction (PDC) satellite office |
| USDA Plant Inspection Station 19591 Lee Road | Restrooms, hallways | wall-and roof-mounted, associated with City Freight Forwarders Building 3050 McKaughan Road |

| | | |
|--|---|---|
| Administration Building and associated parking lots. 16930 | Parking lot and ramp lights at the Federal Express Building | All interior lighting including Offices, hallways, restrooms, |
|--|---|---|

| | | |
|---|---|--|
| Electrical vaults for North (next to 26 right run way) South (next to west of fire station 92) and West Airfield lighting | Pole lights at the Lee Road dumpsite. 18103 Lee Road | |
| Fire Stations: 54, 2500 Fuel Road, 92, 4300 Will Clayton Pkwy. 99, 18580 Chanute | Light Spikes. | All interior lighting including Offices, hallways, restrooms, closets, and waiting areas |
| Taxi Staging Lot | Certain Terminal Street and Boulevard Graphic Signs | |
| Security gates and interior lighting of the security booths | Flight stations, jet blast deflector walls. | |
| Airport Services Complex (ASC). 4500 Will Clayton Pkwy. | All exterior lighting including Building lighting and parking lot pole lighting | All interior lighting including Offices, hallways, restrooms, closets, and waiting areas |
| Hertz Building, 5050 Write Road | All exterior lighting including Building lighting and parking lot pole lighting | All interior lighting including Offices, hallways, restrooms, closets, and waiting areas |
| Federal Inspection Services Building (FIS), 3870 North Terminal Road | All exterior lighting including passengers drop off and pick up areas | All interior lighting including hallways, offices, baggage claims, check in areas, lobby, custom areas & offices, baggage re-check and restrooms |
| Technical Services/Small Business Administration Building, 18600 Lee Road | All exterior lighting including wall mounted lighting and parking lot pole lights | All interior lighting including offices, hallways, restrooms, closets, and warehouses |
| Plant Inspection Facility (PIF) 19591 Lee Road | All exterior lighting including wall mounted lighting, ground mounted lighting and parking lot pole lights. | All interior lighting including offices, hallways, restrooms, closets, and waiting areas. |
| Federal Inspection Facility (FIF) 19591 Lee Road | All exterior lighting including wall mounted lighting, ground mounted lighting, flag pole lights and parking lot pole lights. | All interior lighting including offices, hallways, restrooms, closets, and waiting areas |
| East Cargo Area, 18705 Lee Road | All ramp area pole lights, blast wall lighting, roof mounted red obstruction lights and street lights between buildings outside of AOA. | |

4.4 WORK SHIFTS

All work will be directed by HAS Facilities Administration who will issue work orders. As service areas increase or decrease, Contractor shall provide the number of employees required to fulfill Contractor's obligations under the Agreement.

4.4.1 On-Site

4.4.1.1 Shift 1: Journeyman Electrician(s); Apprentice Electrician(s) Monday through Friday: 7:00 a.m. to 3:30 p.m. (including 30 minutes of unpaid lunch break)

4.4.1.2 Shift 3: Journeyman Electrician(s); Apprentice Electrician(s) Monday through

Friday: 11:00 p.m. to 7:30 a.m. (including 30 minutes of unpaid lunch break)

4.4.2 Optional On-Site

p.m. (including 30 minutes of unpaid lunch break)

4.4.2.2 On-Site: Contractor shall provide Optional On-Site Shifts(s) within 5 days of request by HAS.

4.4.3 On-Call Emergency (OCE)

4.4.3.1 Contractor shall respond to Service Requests on any shift within 4-hours after notification by HAS. Contractor shall provide enough personnel to complete the work.

Pricing – quantities listed are estimated quantities for budgetary proposes only. The actual quantities may be higher or lower than any estimates, and Contractor shall be paid only for actual Work performed; subject to prior HAS direction and approval.

5.0 RESPONSE REQUIREMENT

- 5.1 Trouble Tickets should be completed within 24 hours after notification by HAS.
- 5.2 Daily Inspection Reports should be completed within 1 business day.
- 5.3 Exterior Lift Work should be completed within 7 calendar days of report.
- 5.4 Any item on a Trouble Ticket or Inspection Report not completed within the allotted time due to back ordered parts must be closed only with a written letter from the manufacturer stating said item is not available and an approximate date item will be available.
- 5.5 Service Credits will be invoked if Contractor does not complete work within the allotted time as indicated above. A fee of \$25.00 for each 24 hours until work is completed. Monthly service credits will be an agenda item at each monthly meeting and will be deducted from the following monthly invoice.

6.0 DEMARCATON POINTS – CONTRACTOR'S AREA OF RESPONSIBILITY

- 6.1 Lighting Fixtures: From the power source point of entry into the fixture.
- 6.2 Pole Lights: From the power source point of entry into the electrical junction box at the base of the pole. For all branch circuit conductors, devices, and associated hardware: from the point of entry on the base of the pole, to the point of termination into the fixture being served.

7.0 OTHER WORK/SERVICES

7.1 General

Within the general scope of the Agreement, Other Work/Services may be required to meet desired conditions and/or services not covered in the Basic Services of the Agreement. Contractor shall perform Other Work/Services in accordance with all provisions of the Agreement. With the exception of Emergency Service Requests or Urgent Service Requests, where a request may be verbal and followed immediately in writing, all requests for Other Work/Services will be in writing in the form of an Other Service Request (OSR) provided by the Director and signed by the Director or his/her designated representative. Contractor shall perform Other Work/Services to the same

standards identified for Basic Services.

any special provisions issued with the Other Service/Request (OSR).

- 7.2.1 Before issuing an OSR, the Director will first issue a written notice to Contractor detailing the specific Other Work/Services to be performed by Contractor.
- 7.2.2 In response to any such written notice, Contractor shall provide Director with a written proposal within 3 business days of receipt of OSR Request. The proposal must include a description of the services to be performed, applicable labor rates, estimated labor hours, performance schedule, total estimated cost, and any other requirements set forth in the written notice to Contractor.
- 7.2.3 Contractor shall furnish all materials, labor, tools, equipment, transportation, and incidentals for accomplishing the described services or as otherwise specified by the Director consistent with this Agreement. The Director will not approve an OSR without a specified completion date. Contractor shall complete all such Other Work/Services within the time specified in the OSR. Contractor can request in writing an extension to the completion date. However, Director may or may not allow the extension. Director's decision is final.
- 7.2.4 Upon receipt of Contractor's proposal, the Director has the option to reject Contractor's proposal, require resubmission with revised or additional information, or issue an OSR. Should the Director reject Contractor's proposal and require resubmission, Contractor shall resubmit a modified proposal within 3 business days of the rejection.
- 7.2.5 Upon approval by the Director of the modified proposal, an OSR will be issued. Contractor shall commence Work as stated in the OSR. Contractor shall diligently work to completion in accordance with the terms and conditions of the Agreement and the approved OSR.
- 7.2.6 Labor costs must not exceed the rate stated in the contract fee schedule.
- 7.2.7 Prices for equipment, parts, supplies, and sub-contracted requirements which may be required for authorized Other/Work Services shall be the Contractor's actual cost plus a fixed fee (negotiated) mark-up. Copies of invoices from Contractor's suppliers for these items must be submitted with Contractor's invoices at the time of submittal to HAS for payment. The mark-up percentages stated shall not increase during the term of this Agreement. The quantity of equipment, parts, and supplies will depend on the needs of HAS.
- 7.2.8 Contractor shall obtain (3) itemized bids/estimates within 3 business days from separate /different vendors/ suppliers, not affiliated with Contractor, for the required equipment, parts, supplies, and sub-contracted items. Contractor shall submit the bids/estimates to Director and obtain written approval from Director before proceeding with the Work. Contractor shall be compensated at cost plus the fixed fee negotiated.
- 7.2.9 When Other Work/Services have been completed, a copy of the approved OSR must accompany the monthly invoice.
- 7.2.10 While performing Work on any OSR, if hidden damage or additional cost is discovered, Contractor shall notify Director immediately. After determining the extent of hidden damage a supplemental OSR must be submitted.

7.2.11 Contractor shall submit to Director, copies of original purchase orders and invoices evidencing Contractor's acquisition costs.

Contractor shall submit to Director, copies of original purchase orders and invoices evidencing Contractor's acquisition costs.
written Emergency Service Request to the Contractor.

7.2.13 If it is determined this scope of Work should be covered under Basic Services, any amount paid to the Contractor under Other/Services Request will be reimbursed to the City by the Contractor. The City does not waive any of its rights and remedies whether by statute, at law, in equity, or under this Contract.

7.2.14 If Other Work/Services are performed by the on-site crew in conjunction with their regular duties, Contractor shall not receive additional compensation for their labor.

8.0 PERSONNEL REQUIREMENTS

Contractor shall comply with the following Personnel Requirements:

8.1 GENERAL

Contractor shall provide a list of all Contractor employees to HAS. The list must state each employee's name, job title, and assigned responsibilities. Contractor is also required to provide a list of personnel within 10 days after Notice to Proceed that will be utilized to supplement the on-site staff for absences, such as vacations and sick leave

8.2 STAFFING

Contractor shall furnish the necessary number of personnel, fully competent, qualified, and skilled in all trades and on-site supervisory Work force necessary to fulfill the requirements of the Agreement.

8.2.1 Should the Director determine that Contractor is not meeting the requirements of the Agreement with Contractor's on-site crew, then the Director will request Contractor to increase its on-site crew in order to meet its obligations under the Agreement, at no cost to HAS.

8.2.2 Contractor shall provide a Project Manager. At any time the Project Manager is not on site, staffing must always include a working supervisor who also will serve as a point of contact for HAS.

8.2.3 Contractor shall at all times enforce discipline and good order among its employees and shall employ only reliable persons who are skilled and experienced in their assigned task(s) under the Agreement.

8.2.4 Contractor shall provide written notification to the Director prior to changing employees. Contractor may change personnel only with equally qualified and classified personnel and the Director's approval.

8.2.5 All personnel assigned to this project must be exclusive to this Agreement and must not be utilized on any other projects.

8.2.6 The Contractor shall designate in writing to the Director a Project Manager for the Agreement. Such Project Manager must be approved in writing by the Director before commencing performance herein. The Contractor's Project Manager shall be available at all performance of Contractor's obligations under the Agreement.

- 8.2.7 The Contractor shall replace any personnel assigned to provide services under the Agreement whose product is unsatisfactory to the Director, at his sole discretion.

PERSONNEL QUALIFICATIONS AND APPROVAL

Contractor's Project Manager and all supervisory personnel must have a minimum of 5 years experience in lighting maintenance for which they are responsible. Electricians and support personnel must have a minimum of 3 years experience or be certified by an accredited institution in the skills necessary for lighting maintenance for which they are responsible.

8.3.1 USE OF ON-SITE STAFF- EXTRA WORK

When Contractor's on-site crew performs extra or changed Work covered by Change Orders or Other Work/Services, Contractor shall not be relieved of any responsibilities for performing Basic Services as defined in the Agreement unless otherwise authorized by the Director.

8.3.2 CONTRACTOR'S PROJECT MANAGER

Contractor shall provide a Project Manager skilled in lighting maintenance and management and shall be responsible for overall management and coordination of the Agreement to ensure Contractor's duties under this Agreement are carried out and who shall act as the central point of contact with HAS.

8.3.2.1 The Project Manager shall manage day-to-day operations.

8.3.2.2 The Project Manager shall be on-site a minimum of 4 business hours, weekly for inspections, walk-through, addressing contractual issues, and/or meetings with HAS personnel. The time should be coordinated with Facilities Administration.

8.3.2.3 The Project Manager must be able to be reached by HAS or Contractor's on-site crew immediately by cell phone or pager, 24 hours per day, 7 days per week.

8.3.2.4 The Project Manager shall respond to after-hours emergencies and shall return to the Airport within one hour of notification.

8.3.3 **Contractor's Project Manager shall not be reassigned from the Agreement without prior approval of the Director. Such approval will not be unreasonably withheld so long as the replacement Manager is equally experienced and skilled in the Maintenance and Management of lighting being provided under the Agreement.**

8.3.4 **Contractor shall provide the name of the individual designated as Project Manager and evidence of the individual's experience to the Director in writing. Contractor shall provide written notice to the Director fourteen days prior to any subsequent change of Project Managers.**

8.3.5 **After execution of the Agreement, the Project Manager shall attend meetings as requested with representatives of HAS to report on the status of the Lighting Maintenance. Contractor shall prepare a typed agenda covering the topics to be discussed, keep minutes of the meetings in a form satisfactory to the Director, and issue copies of the minutes to all attendees within four business days of**

each meeting.

Contractor personnel assigned to Work under the Agreement shall wear appropriate uniforms, safety shoes, and badges, provided by Contractor, which will reflect positively on the Houston Airport System. Uniforms must have Contractor's name clearly displayed on the front. HAS has the right to approve the uniforms.

Contractor's employees must be clean, courteous, efficient, and neat in appearance at all times to the satisfaction of the Director.

8.5 SECURITY AND BADGING

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

8.5.2 All on-site personnel of Contractor, including subcontractors, are required to undergo a fingerprint-based criminal history records check.

8.5.3 The cost of badges, which is subject to change, is currently \$45.00 each at IAH and HOU. The cost of badges at EFD is currently \$6.00. 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.

8.5.4 Contractor shall reimburse the City for any fines or penalties incurred by the City as a result of Contractor's non-compliance with security regulations.

8.6 TRANSPORTATION AND PARKING

Contractor shall park its vehicles in areas designated by the Director at Contractor's cost, if any. Contractor shall provide all transportation required by Contractor or its subcontractors to perform the Work under the Agreement. All Contractor and subcontractor vehicles must be clearly marked with identification indicating Contractor's/subcontractor's name. Such identification must be placed on both sides of each vehicle and may be removable (i.e. magnetic). All vehicles must be registered with HAS.

Parking in the terminal area will be provided to the contractor at the current rate.

9.0 ADMINISTRATIVE TASKS

Contractor shall comply with the following Administrative Tasks:

9.1 RECORDS AND REPORTS

Contractor shall develop and maintain records and reports on the operation and maintenance of the Lighting Maintenance Services. Upon expiration or termination of the Agreement, all records produced and maintained on file shall become the property of the City. Contractor may retain all original employee and accounting files, but shall furnish a copy of the accounting files to HAS.

9.2 REPORTING REQUIREMENTS

Contractor shall provide HAS with reports of the work on a monthly basis in Excel, in a format approved by HAS. The reports shall be structured as follows:

9.2.1 Monthly work order summary report that lists monthly labor hours utilization to include but not be limited to:

9.2.1.3 Monthly hours by type of work (i.e. survey, cleaning, repairing, replacing etc.)

9.2.2 Monthly parts utilization report to include, but not be limited to:

- 9.2.2.1 Manufacturer name
- 9.2.2.2 Part number
- 9.2.2.3 Model
- 9.2.2.4 Description
- 9.2.2.5 Serial number
- 9.2.2.6 Unit cost
- 9.2.2.7 Quantity used this month
- 9.2.2.8 Quantity used contract to date
- 9.2.2.9 Airport
- 9.2.2.10 Location (Building)
- 9.2.2.11 Percentage discount

9.2.3 Submit quarterly, report of tests and system repairs on emergency lighting systems.

Reports are due no later than fifteen (15) days following the period being reported. The reports shall be signed by the Project Manager. Such signature shall be certification that all reports and information are accurate.

9.3 FAILURE TO MEET REPORTING REQUIREMENTS

Service Credits will be invoked if Contractor fails to submit reports within fifteen (15) days following the period being reported. A fee of \$25.00 per day until report is provided. Monthly service credits will be an agenda item at each monthly meeting and will be deducted from the following monthly invoice.

9.4 INCIDENT REPORT

Contractor shall provide a monthly Incident Report to track and record incidents. By priority i.e. Priority 1 incidents involve lighting problems; Priority 2 incidents do not involve lighting problems; such as but not limited to vehicle incidents, personnel incidents.

9.5 MAINTENANCE HISTORY REPORT

Contractor shall provide a monthly Lighting Maintenance Services History Report. The report must provide the following information and must be submitted to the Director for approval within 30 days of the Agreement start date. Basic information required is as follows:

9.5.1 Serial Number

9.5.2 Type (lighting)

9.5.3 Date Maintenance Performed on lighting

9.5.4 Time Contractor is notified of a lighting Maintenance Problem (Not required for scheduled preventive maintenance)

9.5.5 Time Maintenance or Repairs are Started. Time Maintenance or Repairs are Completed

9.5.6 Staff hours Expended

9.5.8 Cause of Failure (brief description)

9.5.9 Year-to-Date Scheduled Preventive Maintenance Hours Expended

9.5.10 Year-to-Date Unscheduled Maintenance Hours Expended

9.5.11 Description of Service

9.6 TIME CLOCKS

Contractor shall provide an electronic time clock to be used by all on-site personnel. HAS will have access to the time clock and time clock will remain the property of HAS at expiration of contract. Contractor shall submit a weekly time clock report to verify on-site work hours.

10.0 TRAINING

Contractor shall provide an employee training program covering all phases of the lighting service requirements and maintenance responsibilities detailed in the Agreement. Contractor's training program must include initial training and refresher training. Contractor shall update its training program to keep current with new service bulletins, technical bulletins, advisories, products, procedures, and equipment from time to time. Contractor shall keep accurate records of employee's initial and ongoing training. Contractor shall provide training at its expense and no additional compensation will be provided by HAS.

11.0 SAFETY GENERAL

11.1 SAFETY PROGRAM

Contractor shall not require any person to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to their health or safety. Contractor shall Comply with all provisions of the Occupational Health and Safety Act (OSHA).

Contractor shall be completely familiar with, and shall enforce all City, State of Texas and Federal OSHA regulations and requirements as applicable, including but not limited to, the following:

- 11.1.1 Contractor personnel must wear applicable personal protection equipment at all times.
- 11.1.2 Contractor personnel operating equipment or handling materials must be fully trained in the safe operation of the equipment or materials.
- 11.1.3 Contractor personnel must follow and apply safety practices prevailing in their applicable industry.
- 11.1.4 Contractor shall mark Work areas in locations accessed by the public with appropriate safety signs to protect the public from injury.
- 11.1.5 Contractor shall develop, implement and maintain an on-going safety program concerned with lighting maintenance work, and related procedures.
- 11.1.6 Contractor shall post safety warnings as necessary to ensure safe operations.

When Contractor becomes aware of a hazardous or potentially hazardous condition during the

11.2 **MATERIAL SAFETY DATA SHEETS**

MSDS sheets for all chemicals must be kept on site and employees must be advised of their location.

The Contractor shall furnish to each Facility Superintendent all MSDS, (OSHA Form 174), for each product used in each facility. A Material Safety Data Sheet must accompany each product shipment to the facilities.

11.3 **REGULATORY REQUIREMENTS**

To protect the life and health of employees and other persons; to prevent damage to property, materials, supplies, and equipment; and to avoid Work interruptions, Contractor shall comply with the latest 29 CFR 1910, Occupational Safety and Health Standards (General Industry Standards) as revised or amended from time to time. Compliance with OSHA and other applicable laws and regulations for the protection of employees is exclusively the obligation of Contractor, and the City assumes no liability or responsibility for Contractor's compliance or noncompliance with such responsibilities. CONTRACTOR SHALL INDEMNIFY THE CITY FOR ANY CLAIMS, FINES, OR DEMANDS RESULTING FROM CONTRACTOR'S FAILURE TO COMPLY WITH OSHA REQUIREMENTS.

11.4 **ACCIDENT REPORTS**

Contractor shall comply with all OSHA reporting requirements for record keeping and reporting of all accidents resulting in death, injury, occupational disease, or adverse environmental impact. The Contractor shall provide a verbal report to the Director within one normal working day of occurrence. Contractor shall cooperate with the Houston Airport System Safety Officer, providing written documentation and any information required for their records.

11.5 **FIRE REGULATIONS**

Contractor shall comply with City of Houston Fire Codes. Contractor shall instruct its personnel on the fire regulation. All personnel must be thoroughly familiar with the identification and operation of available fire fighting equipment.

11.6 **ENVIRONMENTAL REQUIREMENTS**

Contractor shall comply with all applicable federal, state, and local environmental protection laws, regulations, and standards. Contractor shall comply with any other statutory requirements for clean air, clean water, toxic substances control, pollution control, resource conservation and recovery. All environmental protection matters or questions must be coordinated with the Houston Airport System Safety Officer.

11.7 **PHYSICAL SECURITY OF WORK AREAS**

Contractor shall be responsible for security of all facilities, materials, and equipment utilized during the performance period. In case of forced entry or theft, Contractor shall notify the Director immediately and assist in the investigation.

11.8 STOP-WORK

requirements, the Director may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such order will be made the subject of a claim for extension of time or for excess costs or damages to Contractor.

12.0 HOUSEKEEPING DUTIES

Contractor shall provide housekeeping services for facility furnished by HAS for Contractor's use under the Agreement. Contractor shall also provide housekeeping services for the functional areas comprising the Lighting Maintenance Services. Contractor shall perform all Work and provide all materials for housekeeping tasks.

12.1 Contractor shall repair HAS-furnished facility to a condition acceptable to HAS for any damage caused by Contractor, its employees or subcontractors as a result of Contractor's use.

13.0 WARRANTY ADMINISTRATION

Contractor shall maintain warranty records and submit documentation and follow-up procedures on all warranty Work. Contractor shall enforce all warranties on behalf of HAS.

13.1 All warranty periods under this Agreement begin upon beneficial use of the equipment. Beneficial use begins upon installation and acceptance of any component, equipment or system by HAS.

13.2 Contractor shall provide service regardless of whether or not equipment is wholly or partially under warranty.

14.0 RADIO EQUIPMENT

HAS will provide Contractor two handheld radios with batteries and chargers for Contractor's use on this Agreement. The radios will be programmed to transmit and receive on Harris County trunked frequencies. Upon cancellation or termination of the Agreement, Contractor shall return all radios provided to HAS.

14.1 Contractor shall operate the radios within protocols established by HAS and the FAA.

14.2 Contractor shall be assessed a one-time service credit in the amount of \$10.00 each, for initial programming of each radio.

14.3 Contractor will be assessed a monthly service credit in the amount of \$10.00 each, for maintenance of each radio. Contractor shall return radios requiring maintenance to HAS.

14.4 Contractor shall pay for time and materials to repair any damaged radio(s) and full replacement costs for any radio(s) that are lost.

14.5 Upon termination of the Agreement, the radios remain the property of HAS.

15.0 PROTECTIVE EQUIPMENT

All Contractor furnished property and material must meet applicable federal, state, and City laws, codes, and regulations. All Contractor equipment must be clean, properly maintained, and properly secured when not in use. Contractor shall remove all Contractor-owned items upon expiration or termination of the Agreement. Contractor's equipment includes, but not limited to the following:

15.1 Safety equipment

15.3 Protective clothing and gear

16.0 QUALITY CONTROL (QC)

16.1 QC PROGRAM

Contractor shall implement and maintain a Quality Control Program that will assure the Director that the Lighting Maintenance Services is in accordance with the highest standards prevailing in the industry and that Contractor at all times adheres to the provisions of the Agreement. Contractor's QC plan, at a minimum, must include a description of how specified Performance Standards will be accomplished. Contractor shall provide the QC plan to the Director in writing, and provide updates to the Quality Control Plan five normal working days prior to implementing any changes. Additionally, Contractor's Quality Control Program must include the following:

16.1.1 DEFICIENCY PREVENTION - Contractor's Quality Control Plan must include a method of identifying and correcting deficiencies (and their cause) in the quality of service performed before the level of performance is unacceptable.

16.1.2 INSPECTION FILES – Contractor's Quality Control Plan must include a file of all inspections conducted by Contractor and the corrective action taken. This documentation must be made available to HAS at any time it is requested during the term of the Agreement.

16.2 HAS QUALITY ASSURANCE

16.2.1 HAS may use a variety of inspection methods to evaluate Contractor's performance including performance review meetings, Facility Administration records detailing any late or defective service, customer complaints, etc.

16.2.2 HAS maintains the right to conduct inspections of the lighting, records and logs without prior notice to Contractor and may use an outside Contractor for this service. A written report of the results of the inspection and recommendations will be forwarded to Contractor.

16.2.3 All deficiencies identified through an inspection require Contractor to take immediate action. Contractor shall correct the deficiency and respond in writing stipulating the corrective action(s) taken within ten days of receipt of report unless otherwise authorized by the Director.

16.3 QC INSPECTION SHEETS

Contractor shall develop a QC inspection sheet in a format acceptable to the Director. Contractor shall maintain a file of all inspections conducted by Contractor and the corrective actions taken. This file must be made available to the Director immediately upon request.

17.0 INCREASE OR DECREASE OF WORK - INCLUSION/EXCLUSION

From time to time throughout the Term of the Agreement, the Director may, by written notice to Contractor, increase and/or decrease the Work. Contractor's sole compensation for such adjustment will be mutually agreed between the Director and Contractor. The Director's decision is final.

18.0 COORDINATE PERFORMANCE

Contractor shall coordinate Performance as follows:

Contractor shall coordinate its performance with such persons as the Director designates in writing to Contractor. Contractor shall keep said persons currently advised of developments relating to the performance of the Agreement and Contractor shall at all appropriate times advise and consult with the Director.

18.2 PRE-PERFORMANCE CONFERENCE

Prior to commencing performance under the Agreement, Contractor shall attend a pre-performance conference with HAS. HAS will specify the time and place of such meeting in a written notice to Contractor. Representatives of Contractor attending the pre-performance conference shall include key personnel whom Contractor has assigned to the Agreement together with the Project Manager (as herein described) who shall be authorized to bind Contractor in 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 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:

- 18.2.1 Contract Administration
- 18.2.2 Facility utilization
- 18.2.3 Channels of communication
- 18.2.4 Review of key personnel resumes and certifications
- 18.2.5 Organization and function charts reflecting the line of management authority
- 18.2.6 Procedures to be used to ensure Agreement requirements are met (Quality Control Program)

18.3 COORDINATION OF MEETINGS

Throughout the term of the Agreement and any extensions thereto, Contractor shall meet with HAS, on a frequency determined by the Director, to identify and resolve performance issues. Notice of any such performance meeting may be given by the Director to Contractor either orally or in writing and will designate the time, date, location, Contractors attendees, and general purpose. 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. The Director will have the right to dispute the accuracy of the minutes and will note any discrepancies in the minutes prior to approval. Once approved, the original will be retained by HAS and a copy thereof submitted to Contractor.

18.4 SCHEDULE OF PERFORMANCE

Contractor shall commence performance under 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.

19.0 PHASE-IN/PHASE-OUT SERVICES

Contractor shall provide a ten-day phase-in period to accomplish a smooth and successful transition of operations and services. Contractor's Phase-in period begins upon receipt of a Start Phase-In Notice from the Director (such notice not to be construed as an official Notice to Proceed, but being anticipatory of phase-in only) and lasts approximately ten days preceding the receipt of the Notice to Proceed.

The incumbent Contractor will be responsible for performing the duties and services listed in its contract during Contractor's Phase-in period, and will be available for a maximum of 10 days to answer questions and resolve issues or any misunderstandings. During the Phase-in period, Contractor shall arrange to have necessary supervisory, technical, and other personnel on site to observe the HAS Lighting Maintenance System. Contractor may use this Phase-in period to recruit and transfer personnel, train personnel, arrange for security badges, establish management procedures, set up records, and otherwise prepare for the assumption of technical control without disruption of operations. During the Phase-in Period, Contractor shall develop and implement a full project schedule detailing the responsibilities of assigned personnel and submit it to the Director for approval. Contractor shall have no responsibilities for operating or maintaining the lighting systems during the Phase-in period. The Phase-in period will end at issuance of the official Notice to Proceed, at which time Contractor shall assume full responsibility for the maintenance of the Lighting System.

- 19.2 CONTRACTOR'S PHASE-OUT - Contractor recognizes that the services provided under the Agreement are vital to HAS's overall efforts to provide safe and efficient Lighting System operation and maintenance services; that continuity thereof must be maintained at a consistently high level without interruption; that upon expiration or termination of the Agreement a successor may continue these services; that its successor contractor will need Phase-in training; and that Contractor must cooperate in order to effect an orderly and efficient transition.

Accordingly, Contractor will be required to provide Phase-out services for up to 30 days prior to the expiration or termination of the Agreement to its successor contractor at no extra charge to HAS. Phase-out orientation comprises a maximum of 30 working days, 8 hours per day. Orientation will include system operations and maintenance procedures, record keeping, reports, and procurement procedures, etc. Contractor shall provide the services called for by the Agreement during its Phase-out period. Contractor shall cooperate with its successor contractor in allowing as many personnel as practical to remain on the job in order to enhance the continuity and consistency of the services under the Agreement. Contractor agrees to disclose necessary personnel records and allow its successor to conduct on-site interviews with its employees, provided Contractor obtains the consent of said employees to disclose their records and to conduct such interviews and provided such disclosure and interviews are conducted in accord with all applicable laws, statutes, rules, regulations, and ordinances which have been passed, enacted or promulgated by any governmental body having jurisdiction over such matters.

20.0 INVOICING

- 20.1 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.

Each invoice submitted must be in duplicate and each copy must include the 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

- 20.2 Contractor shall provide separate monthly invoices for any completed work at each Airport.
- 20.3 Invoices submitted for services performed as the result of change orders require copies of the applicable change order be attached to the original and each of the two (2) invoice copies.
- 20.4 Invoices submitted for services performed as the result of Other Work/Services require a copy of the Director's written request to be attached to the original and each of the two (2) invoice copies.

21.0 DISPUTES

In all cases of misunderstanding and disputes, the terms of this Agreement governs.

22.0 DAMAGE TO CITY PROPERTY

The Contractor shall pay for the repair, of all damaged City property caused by carelessness or neglect on the part of the Contractor, its agents or employees.

23.0 CONTINGENCIES

HAS must meet certain objectives of readiness for emergencies, natural disaster, and other contingencies and must react to such contingencies without delay. Such reaction may have an impact upon Contractor's operation. In order to plan for such events, Contractor shall prepare Contingency Plans as follows:

- 25.1 Natural disasters such as a major storm, flood, high winds, etc.
- 25.2 Labor dispute or strike by Contractor personnel. The Plan must be updated on an annual basis, or as changes occur, and submitted to the Director.
- 25.3 Plans must take into account passenger safety, rowdiness, vandalism, intoxication, fire, smoke, power outages, etc.

24.0 ESTIMATED QUANTITIES NOT GUARANTEED

The estimated quantities specified herein are not a guarantee of actual quantities, as the City does not guarantee any particular quantity of lighting maintenance services during the term of this 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 this Agreement. Therefore, the City shall not be liable for any contractual agreements/obligations the Contractor enters into based on the City purchasing/requiring all of the quantities specified herein.

25.0 CONTRACTOR'S FINANCIAL OBLIGATION

Contractor shall make timely payments to all persons supplying labor and materials or furnishing it with any equipment in the execution of the Agreement.

26.0 TEXAS DRIVER'S LICENSE

Contractor's employees performing Work for the City must possess a valid Texas driver's license for the type of vehicle or equipment operated. Contractor shall ensure its employees meet this requirement.

27.0 Additions & Deletions:

Any additions, deletions, or modifications to the contract shall be in accordance with the contract specification/scope of services, and the charges or rates for items added shall be the same as specified in the fee schedule. In the event that the additional equipment, supplies, locations and/or services are not identical to the item(s) already under contract, the charges therefore will then be the Contractor's normal and customary charges or rates for the equipment, supplies, locations and/or services classified in the fee schedule.

28.0 WARRANTY OF SERVICES

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

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

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

c) 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.

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

EXHIBIT "H"

Year One - Basic Services - On Site Per Specifications

| Item # | Description | Unit of Measure | Unit Price |
|--------|--|-----------------|------------|
| 1 | Shift 1: Journeyman Electrician | per hour | \$32.30 |
| 2 | Shift 1: Apprentice Electrician | per hour | \$15.75 |
| 3 | Shift 3: Journeyman Electrician | per hour | \$25.35 |
| 4 | Shift 3: Apprentice Electrician | per hour | \$13.04 |
| 5 | Optional On-Site - Journeyman Electrician | per hour | \$11.50 |
| 6 | Optional On-Site - Apprentice Electrician | per hour | \$7.75 |
| 7 | On-Call Emergency - Journeyman Electrician | per hour | \$32.30 |
| 8 | On-Call Emergency - Apprentice Electrician | per hour | \$15.75 |

Year One - Other Work/Services Per Specifications

| Item # | Description | Unit of Measure | Unit Price |
|--------|--|-----------------|------------|
| 9 | 1 Journeyman Electrician - Normal Works Hours | per hour | \$32.30 |
| 10 | 1 Journeyman Electrician - After Normal Work Hours | per hour | \$32.30 |
| 11 | 1 Apprentice Electrician - Normal Work Hours | per hour | \$15.75 |
| 12 | 1 Apprentice Electrician - After Normal Work Hours | per hour | \$15.75 |

Year One - Remedial Maintenance Materials/Supplies

| Item # | Description | % Discount/Markup |
|--------|--|-------------------|
| 13 | Remedial Maintenance Materials/Supplies (Original Invoice) 5% MAXIMUM MARKUP | +5.00 |

Price List For All Five Years

| Item # | Description | % Discount/Markup |
|--------|---|-------------------|
| 14 | Discount Applied to Lowest Price Column for Philips PS-100-U dated 3/1/2006, or latest edition | -71.00 |
| 15 | Discount Applied to Lowest Price Column for Advance 152CC dated 6/5/2006, or latest edition. | -70.00 |
| 16 | Discount Applied to Lowest Price Column for Intermatic TS 190 D dated 2/1/2005, or latest edition. | -40.00 |
| 17 | Discount Applied to Lowest Price Column for Farraz Shawmut Fuses FPTs dated 4/4/2004, or latest edition | -45.00 |
| 18 | Discount applied to lowest price column for Lithonia Lightquick Order Guide dated 11/10/2005, or latest edition | -65.00 |

19 Discount applied to lowest price column for OSRAM Sylvania 01-2-U dated 10/1/2001 or latest edition -20.00

| Item # | Description | Unit of Measure | Unit Price |
|--------|--|-----------------|------------|
| 1 | Shift 1: Journeyman Electrician | per hour | \$33.30 |
| 2 | Shift 1: Apprentice Electrician | per hour | \$16.75 |
| 3 | Shift 3: Journeyman Electrician | per hour | \$33.30 |
| 4 | Shift 3: Apprentice Electrician | per hour | \$16.75 |
| 5 | Optional On-Site - Journeyman Electrician | per hour | \$11.50 |
| 6 | Optional On-Site - Apprentice Electrician | per hour | \$7.75 |
| 7 | On-Call Emergency - Journeyman Electrician | per hour | \$33.30 |
| 8 | On-Call Emergency - Apprentic Electrician | per hour | \$16.75 |

Year Two - Other Work/Services Per Specifications

| Item # | Description | Unit of Measure | Unit Price |
|--------|--|-----------------|------------|
| 9 | 1 Journeyman Electrician - Normal Works Hours | per hour | \$33.30 |
| 10 | 1 Journeyman Electrician - After Normal Work Hours | per hour | \$33.30 |
| 11 | 1 Apprentice Electrician - Normal Work Hours | per hour | \$16.75 |
| 12 | 1 Apprentice Electrician - After Normal Work Hours | per hour | \$16.75 |

Year Two - Remedial Maintenance Materials/Supplies

| Item # | Description | % Discount/Markup |
|--------|--|-------------------|
| 13 | Remedial Maintenance Materials/Supplies (Original Invoice) 5% MAXIMUM MARKUP | +5.00 |

Year Three - Basic Services - On Site Per Specifications

| Item # | Description | Unit of Measure | Unit Price |
|--------|--|-----------------|------------|
| 1 | Shift 1: Journeyman Electrician | per hour | \$34.30 |
| 2 | Shift 1: Apprentice Electrician | per hour | \$17.75 |
| 3 | Shift 3: Journeyman Electrician | per hour | \$34.30 |
| 4 | Shift 3: Apprentice Electrician | per hour | \$17.75 |
| 5 | Optional On-Site - Journeyman Electrician | per hour | \$11.50 |
| 6 | Optional On-Site - Apprentice Electrician | per hour | \$7.75 |
| 7 | On-Call Emergency - Journeyman Electrician | per hour | \$34.30 |
| 8 | On-Call Emergency - Apprentic Electrician | per hour | \$17.75 |

Year Three - Other Work/Services Per Specifications

| Item # | Description | Unit of Measure | Unit Price |
|--------|--|-----------------|------------|
| 10 | 1 Journeyman Electrician - After Normal Work Hours | per hour | \$34.30 |
| 11 | 1 Apprentice Electrician - Normal Work Hours | per hour | \$17.75 |
| 12 | 1 Apprentice Electrician - After Normal Work Hours | per hour | \$17.75 |

Year Three - Remedial Maintenance Materials/Supplies

| Item # | Description | % Discount/Markup |
|--------|--|-------------------|
| 13 | Remedial Maintenance Materials/Supplies (Original Invoice) 5% MAXIMUM MARKUP | +5.00 |

Year Four - Basic Services - On Site Per Specifications

| Item # | Description | Unit of Measure | Unit Price |
|--------|--|-----------------|------------|
| 1 | Shift 1: Journeyman Electrician | per hour | \$35.30 |
| 2 | Shift 1: Apprentice Electrician | per hour | \$18.75 |
| 3 | Shift 3: Journeyman Electrician | per hour | \$35.30 |
| 4 | Shift 3: Apprentice Electrician | per hour | \$18.75 |
| 5 | Optional On-Site - Journeyman Electrician | per hour | \$11.50 |
| 6 | Optional On-Site - Apprentice Electrician | per hour | \$7.75 |
| 7 | On-Call Emergency - Journeyman Electrician | per hour | \$35.30 |
| 8 | On-Call Emergency - Apprentic Electrician | per hour | \$18.75 |

Year Four - Other Work/Services Per Specifications

| Item # | Description | Unit of Measure | Unit Price |
|--------|--|-----------------|------------|
| 9 | 1 Journeyman Electrician - Normal Works Hours | per hour | \$35.30 |
| 10 | 1 Journeyman Electrician - After Normal Work Hours | per hour | \$35.30 |
| 11 | 1 Apprentice Electrician - Normal Work Hours | per hour | \$18.75 |
| 12 | 1 Apprentice Electrician - After Normal Work Hours | per hour | \$18.75 |

Year Four - Remedial Maintenance Materials/Supplies

| Item # | Description | % Discount/Markup |
|--------|--|-------------------|
| 13 | Remedial Maintenance Materials/Supplies (Original Invoice) 5% MAXIMUM MARKUP | +5.00 |

Year Five - Basic Services - On Site Per Specifications

| Item # | Description | Unit of Measure | Unit Price |
|--------|---------------------------------|-----------------|------------|
| 1 | Shift 1: Journeyman Electrician | per hour | \$35.30 |

| | | | |
|---|--|----------|---------|
| 2 | Shift 1: Apprentice Electrician | per hour | \$18.75 |
| 3 | Shift 3: Journeyman Electrician | per hour | \$35.30 |
| | On-Call Emergency - Journeyman Electrician | per hour | \$35.30 |
| 6 | Optional On-Site - Apprentice Electrician | per hour | \$7.75 |
| 7 | On-Call Emergency - Journeyman Electrician | per hour | \$35.30 |
| 8 | On-Call Emergency - Apprentice Electrician | per hour | \$18.75 |

Year Five - Other Work/Services Per Specifications

| Item # | Description | Unit of Measure | Unit Price |
|--------|--|-----------------|------------|
| 9 | 1 Journeyman Electrician - Normal Works Hours | per hour | \$35.30 |
| 10 | 1 Journeyman Electrician - After Normal Work Hours | per hour | \$35.30 |
| 11 | 1 Apprentice Electrician - Normal Work Hours | per hour | \$18.75 |
| 12 | 1 Apprentice Electrician - After Normal Work Hours | per hour | \$18.75 |

Year Five - Remedial Maintenance Materials/Supplies

| Item # | Description | % Discount/Markup |
|--------|--|-------------------|
| 13 | Remedial Maintenance Materials/Supplies (Original Invoice) 5% MAXIMUM MARKUP | +5.00 |