



CITY OF HOUSTON INVITATION TO BID

Issued: May 18, 2018

BID OPENING

Sealed bids (labelled with the company name, address and bid number), in duplicate will be received by the City Secretary of the City of Houston, in the City Hall Annex, Public Level, 900 Bagby Street, Houston, Texas 77002, until **10:30 a.m., Thursday, June 14, 2018**. Once the award is made, a bid tabulation for this procurement may be posted and made publicly available on the Strategic Procurement Division's website. All bids will be opened and publicly read in the City Council Chamber, City Hall Annex, Public Level, 900 Bagby Street at 11:00 AM on that date for the purchase of:

**USDA REGULATED GARBAGE TRANSPORT AND DISPOSAL SERVICES
FOR THE HOUSTON AIRPORT SYSTEM
BID INVITATION NO.: S60-L26600
NIGP CODE: 910-27; MWBE GOAL 0%**

Once the award is made, a bid tabulation for this procurement may be posted and made publicly available on the Strategic Procurement Division's website.

BUYER

Questions regarding this solicitation document should be addressed to Raquel S. Rosa at **832.393.8798**, or e-mail to **Raquel.rosa@houstontx.gov**.

ELECTRONIC BIDDING

In order to submit a bid for the items associated with this procurement, vendor must fill in the pricing information on the "**PLACE BID**" page.

PRE-BID CONFERENCE

A Pre-Bid Conference will be held for all Prospective Bidders at **611 Walker, Houston, Texas 77002, 16th floor, Conference Room-16-A at 9:00 a.m. on Thursday, May 24, 2018**.

All Prospective Bidders are urged to be present. It is the Bidder's responsibility to ensure that they have secured and thoroughly reviewed the solicitation documents prior to the Pre-Bid Conference. Any revisions to be incorporated into this solicitation document arising from discussions before, during and subsequent to the Pre-Bid Conference will be confirmed in writing by Letter(s) of Clarification prior to the bid due date. Verbal responses will not otherwise alter the specifications, and terms and conditions as stated herein.

Bidding forms, specifications, and all necessary information should be downloaded from the Internet at <https://purchasing.houstontx.gov/>. By registering and downloading this solicitation document, all updates to this solicitation document will be automatically forwarded via e-mail to all registered Bidders.

The place of the bid opening may be transferred in accordance with Paragraph (b), (5) of Section 15-45 of The Code of Ordinances, Houston, Texas. The bid opening meeting may be rescheduled in accordance with Paragraph (b), (6) of said Section 15-3.

The City reserves the right to reject any or all bids or to accept any bid or combination of bids deemed advantageous to it.

City Employees are prohibited from bidding on this solicitation in accordance with the Code of Ordinances, Section 15-1.

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SECTION A: OFFER
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SECTION C: GENERAL TERMS & CONDITIONS

Legal Dept. Rev. 10-25-2017

***NOTE 1:** Actual page numbers for each Section may change when the solicitation document is downloaded from the Internet or because of Letters of Clarification. Therefore, Bidders must read the bid document in its entirety and comply with all the requirements set forth therein.

***NOTE 2:** To be considered for award, please submit the electronic bid form and the forms listed in Section A, including the Official Signature Page, which must be signed by a company official authorized to bind the company.

SECTION A



**USDA REGULATED GARBAGE TRANSPORT AND DISPOSAL SERVICES
FOR THE HOUSTON AIRPORT SYSTEM
BID INVITATION NO.: S60-L26600
NIGP CODE: 910-27; MWBE Goal: 0%**

To The Honorable Mayor
and Members of the City Council
of the City of Houston (the "City"), Texas:

The undersigned Bidder hereby offers to contract with the City upon the terms and conditions stated in that certain "**Contract for USDA Regulated Garbage Transport and Disposal Services for a three-year period with two (2) one-year option periods to extend for the Houston Airport System,**" which was distributed by the City together with the "Notice to Bidders" and is hereby incorporated herein by this reference (the "contract"). This offer is made at the prices stated on the electronic bid form. When issued by the City of Houston, Letters of Clarification shall automatically become part of this bid document and shall supersede any previous specifications or provisions in conflict with the Letters of Clarification. It is the responsibility of the Bidder to ensure that it has obtained all such letters. By submitting a bid on this project, Bidder shall be deemed to have received all Letters of Clarification and to have incorporated them into its bid.

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

The City of Houston reserves the option, after bids are opened, to increase or decrease the quantities listed, subject to the availability of funds, and/or make award by line item.

If the City accepts the foregoing offer, this Bidder promises to deliver to the City Chief Procurement Officer of the City, five (5) original counterparts of said contract duly executed by

Legal Dept. Rev. 10-25-2017

this Bidder (as "Contractor") in accordance with this paragraph, proof of insurance as outlined in Article II of the contract, all on or before the tenth (10th) day following the day this Bidder receives from the City the unsigned counterparts shall be executed so as to make it binding upon the Bidder, and all of the applicable requirements stated in the document entitled "Instructions for Execution of Contract Documents," (which was distributed by the City) shall be complied with.

The City reserves the right to cancel this ITB, accept or reject, in whole or in part, any or all bids received and to make award on the basis of individual items or combination of items, as it is deemed in the best interest of the City.

If the City accepts the foregoing offer, this Bidder shall furnish all labor, supervision, materials, supplies, equipment and tools necessary to provide **USDA Regulated Garbage Transport and Disposal Services** for the City in accordance with attached specifications.

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

Additional Required Forms to be included with this Bid:

In addition to the Electronic Bid Form and the Official Signature Page, the Forms listed in Table 1 **must be completed and submitted to the Office of the City Secretary on or before the date and time the bid is due.** When submitting bids via UPS/FedEx, etc. please label it with the name: Office of the City Secretary, City Hall Annex, Public Level, 900 Bagby, Houston, Texas 77002, along with the bid/proposal number:

TABLE 1 - REQUIRED FORMS
Affidavit of Ownership.doc
Fair Campaign Ordinance.doc (Form-A)
Statement of Residency.doc
Conflict of Interest Questionnaire.doc
Pay or Play-1A, Program Acknowledgement Form
Pay or Play-2, Certification of Agreement Form
M/WBE Signed Letter of Intent

Table 2 lists other documents and forms that should be viewed/downloaded from the City's website, but are not required to be submitted with the bid. The City will request these forms, as applicable, to be completed and submitted to the City by the recommended/successful bidder:

TABLE 2 - DOCUMENTS & FORMS
Drug Forms.doc
EEOC.doc
Formal Instructions for Bid Terms.doc
M/WBE.doc
Sample Insurance Over \$50,000.pdf
Insurance Endorsements

Pay or Play Office of Business Opportunity & Contract Compliance Q & A
Pay or Play Office of Business Opportunity & Contract Compliance Requirements
Pay or Play Contractor/Subcontractor Payment Reporting Form
Pay or Play Contractor/Subcontractor Waiver Request
Pay or Play List of Participating Subcontractors
Criminal Justice Information Services (CJIS) Compliance Addendum (Applicable to Houston Police Department (HPD) Occupied Facilities)

Questions concerning the bid should be submitted by e-mail to **Raquel.rosa@houstontx.gov** no later than **4:00 p.m. CST., Thursday, May 31, 2018.**

SITE INSPECTION

The City of Houston reserves the right to inspect the Bidder's current place of business to evaluate equipment condition and capabilities, staff experience, training and capabilities, and storage capabilities as they relate to the performance of this contract.

QUALITY AND WORKMANSHIP

The Bidder must be able to demonstrate upon request that it has satisfactorily performed services similar to the services specified herein. The Bidder will provide records of warranty and repair services upon request by City. The City of Houston shall be the sole judge as to whether the services performed are similar to the scope of services contained herein and whether the Bidder is capable of performing such services.

PROTESTS

Protests should be filed in accordance with the City of Houston Administrative Policy (A.P. No. 5-12) http://www.houstontx.gov/policies/administrative_policies.html

NO CONTACT PERIOD:

Neither bidder(s) nor any person acting on bidder(s)'s behalf shall attempt to influence the outcome of the award by the offer, presentation or promise of gratuities, favors, or anything of value to any appointed or elected official or employee of the City, their families or staff members. All inquiries regarding the solicitation are to be directed to the designated City Representative identified on the first page of the solicitation.

With the exception of bidder's formal response to the solicitation and written requests for clarification during the period officially designated for such purpose by the City Representative, neither Proposer(s) nor persons acting on their behalf shall communicate with any appointed or elected official or employee of the City, their families, or staff through written or oral means in an attempt to persuade or attempt to persuade or influence the outcome of the award or to obtain or deliver information intended to or which could reasonably result in an advantage to any Proposer from the time of issuance of the solicitation through the pre-award phase and up to the date the City Secretary publicly posts notice of any City Council agenda containing the applicable award. However, nothing in this paragraph shall prevent a bidder from making public statements to the City Council convened for a regularly scheduled session after the official selection has been made and placed on the City Council agenda for action, or to a City Council committee convened to discuss a recommendation regarding the solicitation.

Minority and Women Business Enterprises

It is the City of Houston's policy to ensure that Minority and Women Business Enterprises (MWBE) have full opportunity to compete for and participate in City Contracts. Contractor shall comply with the City's MWBE Program as set forth in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts and supply agreements in at least **0%** of the value of the Agreement to certified MWBEs. Contractor acknowledges that they have reviewed the requirements for good faith efforts on file with the Office of Business Opportunity (OBO), available at <http://www.houstontx.gov/obo/docsandforms/goodfaithefforts.pdf>, and will comply with the set forth requirements.

Contractor shall maintain records of subcontracts and supply agreements with certified MWBEs, containing language required herein. In addition, Contractor shall submit all disputes that may arise with MWBE subcontractors/supplies to mediation provided by the City, if directed to do so by OBO.

HIRE HOUSTON FIRST

In an effort to promote economic opportunity for Houston businesses and to support job creation, the Hire Houston First Program grants the City of Houston the ability to give a preference to eligible local companies, as long as their pricing is competitive. To be eligible for the preference, a company must be designated as a **City Business (CB) or Local Business (LB)** under the Hire Houston First Program **prior** to submittal of bid. Bidders must submit a completed *Declaration of Hire Houston First Designation* form with the bid.

To complete an application for the Hire Houston First program, visit <http://www.houstontx.gov/obo/hirehoustonfirst.html>. Applications can be submitted to the City of Houston Office of Business Opportunity via the online application system, by e-mail to HIREHOUSTONFIRST@houstontx.gov, by fax to 832-393-0646, or hand delivered.

Note: Participation in the Hire Houston First program is not required to bid on City of Houston contracts.

Award of Procurement of \$100,000 or More for Purchase of Non-Professional Services, Including Construction Services:

THE CITY WILL AWARD THIS PROCUREMENT TO A "CITY BUSINESS," AS THAT TERM IS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES ("THE CODE")

- IF THE BID OF THE LOCAL BUSINESS IS THE LOWEST RESPONSIBLE BID OR IS WITHIN 3% OF THE LOWEST BID RECEIVED, AND
- UNLESS THE USER DEPARTMENT DETERMINES THAT SUCH AN AWARD WOULD UNDULY INTERFERE WITH CONTRACT NEEDS, AS PROVIDED IN SECTION 15-181 OF THE CODE.

IF THERE IS NO BID OF A LOCAL BUSINESS THAT MEETS THESE CRITERIA, THE CITY WILL AWARD THE PROCUREMENT TO THE LOWEST RESPONSIBLE BIDDER

Award of Procurement under \$100,000 Purchase of Non-Professional Services Including Construction Services:

THE CITY WILL AWARD THIS PROCUREMENT TO A "LOCAL BUSINESS," AS THAT TERM IS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES

- IF THE BID OF THE CITY BUSINESS IS THE LOWEST RESPONSIBLE BID OR IS WITHIN 5% OF THE LOWEST BID RECEIVED, AND
- UNLESS THE USER DEPARTMENT DETERMINES THAT SUCH AN AWARD WOULD UNDULY INTERFERE WITH CONTRACT NEEDS, AS PROVIDED IN SECTION 15-181 OF THE CODE.

IF THERE IS NO BID OF A LOCAL BUSINESS THAT MEETS THESE CRITERIA, THE CITY

WILL AWARD THE PROCUREMENT TO THE LOWEST RESPONSIBLE BIDDER

Award of Procurement that may be More or Less than \$100,000 for Purchase of Non-Professional Services, Including Construction Services:

THE CITY WILL AWARD THIS PROCUREMENT TO A "LOCAL BUSINESS," AS THAT TERM IS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES ("THE CODE")

- IF THE BID OF THE LOCAL BUSINESS IS LESS THAN \$100,000 AND IS THE LOWEST RESPONSIBLE BID OR IS WITHIN 5% OF THE LOWEST BID RECEIVED, OR
- IF THE BID OF THE LOCAL BUSINESS IS MORE THAN \$100,000 AND IS THE LOWEST RESPONSIBLE BID OR IS WITHIN 3% OF THE LOWEST BID RECEIVED, AND
- UNLESS THE USER DEPARTMENT DETERMINES THAT SUCH AN AWARD WOULD UNDULY INTERFERE WITH CONTRACT NEEDS, AS PROVIDED IN SECTION 15-181 OF THE CODE.

IF THERE IS NO BID OF A LOCAL BUSINESS THAT MEETS THESE CRITERIA, THE CITY WILL AWARD THE PROCUREMENT TO THE LOWEST RESPONSIBLE BIDDER

SECTION B SCOPE OF WORK/SPECIFICATIONS

1.0 SCOPE OF WORK:

- 1.1 For and in consideration of the payment specified in the Agreement Contractor shall pick-up, remove, and dispose of United States Department of Agriculture (USDA) Regulated Garbage i.e. "The Work" at Houston Airport System (HAS) as outlined herein. Work to proceed will be initiated by a notice to proceed.
- 1.2 Definitions "Exhibit A" of attached Sample Contract.

2.0 GENERAL:

- 2.1 Contractor shall furnish all labor, material, equipment, containers, transportation, supervision, permits, and incidentals required for pick-up removal, and disposal of USDA Regulated Garbage at the following locations:
 - 2.1.1 George Bush Intercontinental Airport (IAH)
 - 2.1.1.1 The average amount of USDA Regulated Garbage per pick-up each day is approximately 1 cubic yard 365 days per year.
 - 2.1.1.2 Contract must be able to perform specified services without fail 365 days per year at the location provided in section 6.0.
 - 2.1.1.3 Pricing
 - 2.1.1.3.1 Cost per load for approximately 1 cubic yard will be as stated in the Fee Schedule (Exhibit "F" of attached Sample Contract).
 - 2.1.1.3.2 Incremental cost should trip loads exceed 1-1/3 cubic yard will be as stated in the Fee Schedule (Exhibit "F" of attached Sample Contract).
 - 2.1.2 William P. Hobby Airport (HOU)
 - 2.1.2.1 HOU generates approximately 30 cubic yards of USDA Regulated Garbage from their various locations per week. Pick-ups are required at the Federal Inspection Services (FIS) 365 days per year. At the specified locations in section 6.0, pickup will be on Monday, Wednesday, and Friday each week.
 - 2.1.2.2 Following are HOU current pick-up frequency per location:
 - 2.1.2.3.1 Wilson Aviation - 1 pickup every 3 weeks.
 - 2.1.2.3.2 Jet Aviation – 1 pickup per week.
 - 2.1.2.3.3 Atlantic Aviation – 1 pickup per week.

- 2.1.2.3.4 Signature Flight Support – 1 pickup per month.
- 2.1.2.3.5 Million Air Houston – 1 pickup every 3 weeks.
- 2.1.2.3.6 US CBP – 3 pickups per week (Monday, Wednesday, and Friday).
- 2.1.2.3.7 FIS – 365 days per year.
- 2.1.2.3.8 Southwest Airlines – Atlantic Aviation – 3 pickups per week (Monday, Wednesday, and Friday).

2.1.2.3 Pricing

- 2.1.2.2.1 Customs and Border Protection (CBP) cost per load for approximately 1/3 cubic yard will be as stated in Fee Schedule (Exhibit “F” of attached Sample Contract).
- 2.1.2.2.2 CBP incremental cost should trip loads exceed 2/3 cubic yard will be as stated in the Fee Schedule (Exhibit “F” of attached Sample Contract).
- 2.1.2.2.3 Cost for additional Fixed Base Operator (FBO) pick-ups will be as stated in the Fee Schedule (Exhibit “F” of attached Sample Contract).
- 2.1.2.2.4 FIS cost per load for approximately 1/4 cubic yard per day will be as stated in the Fee Schedule (Exhibit “F” of attached Sample Contract).

2.1.2.5 During special events HOU may generate up to 2 cubic yards more per week.

2.1.3 Ellington Airport (EFD)

2.1.3.1 As needed basis – estimate 10 cubic yards per year at a location later specified.

2.1.3.2 Pricing

2.1.3.2.1 Cost for each EFD pick-up shall be as stated in the Fee Schedule (Exhibit “F” of attached Sample Contract).

3.0 BASIC SERVICES:

3.1 Pick-up, Removal, and Disposal of USDA Regulated Garbage.

3.2 Scheduled Services/Work Hours:

3.2.1 Pick-up time shall be between 8:00 am and 8:00 pm. Pick-up time will be established to the satisfaction of the Airports and successful contractor.

3.2.2 Contractor may be required to make additional pick-ups as needed, depending upon air traffic volume. If HAS requires additional pick-ups, the daily trip charge and additional on-demand rates specified in the Fee Schedule (Exhibit “F” of

attached Sample Contract) will apply.

4.0 SPECIFIED TASKS:

- 4.1 Contractor shall pick up USDA Regulated Garbage and arrange transportation of USDA Regulated Garbage as described in Title 9 §94.5 and §330.400 - §330.403 of the CFR from specified HAS locations to a USDA approved treatment facility in accordance with USDA Compliance agreement and properly dispose of waste after treatment.
- 4.2 Contractor must identify to HAS the name and address of the disposal landfill.
- 4.3 Contractor must submit copies of all compliance related documents upon HAS request.
- 4.4 Contractor shall transport USDA Regulated Garbage in approved sealed bags inside shipping and handling containers in accordance with the requirements of USDA's Compliance Agreement. Reference website: www.aphis.usda.gov/aphis/resources/lawsandregs
- 4.5 Contractor shall have a spill kit containing all required components as designated in the compliance agreement cleaning and disinfection addendum available at all times. Reference website: www.aphis.usda.gov/aphis/resources/lawsandregs
- 4.6 Contractor shall clean any USDA Regulated Garbage spills according to the procedures outlined in the compliance agreement cleaning and disinfection addendum.
- 4.7 Contractor shall only allow employees that have been trained in accordance with the requirements listed in the compliance agreement to handle USDA Regulated Garbage.
- 4.8 Contractor shall provide HAS with appropriate training certification.
- 4.9 Contractor shall only transport USDA Regulated Garbage in an enclosed, rigid, leak-proof vehicle that meet the requirements listed in the compliance agreement.
- 4.10 Contractor shall keep records in accordance with the record keeping requirements listed in the compliance agreement and these records shall be available within twenty-four (24) hours if audit is required by the Director.
- 4.11 Contractor shall adhere to all other requirements listed in the compliance agreement.
- 4.12 Contractor is responsible for providing any required shipping documentation.

5.0 WORK COORDINATION:

- 5.1 IAH - Contractor shall coordinate the Work with Contract Services Contract Administrator. Contact information will be provided at the Pre-Performance Conference.
- 5.2 HOU – Contractor shall coordinate the work with Airport Operations/Airfields and grounds. Contact information will be provided at the Pre-Performance Conference.

6.0 LOCATION OF WORK:

- 6.1 George Bush Intercontinental Airport (IAH) at Regulated Garbage Area. Federal

Inspection Services (FIS) building physical address is 3870 N. Terminal Road, Houston Texas 77032.

6.2 William P. Hobby Airport (HOU):

6.2.1 Wilson Aviation Physical address is 9000 Randolph, Houston, TX 77061

6.2.2 Jet Aviation Physical address is 8620 Monroe Rd., Houston, TX 77061

6.2.3 Atlantic Aviation Physical address is 7930 Airport Blvd., Houston, TX 77061

6.2.4 Signature Flight Support Physical address is 8402 Nelms Rd., Houston, TX 77061

6.2.5 Million Air Houston Physical address is 8501 Telephone Rd., Houston TX 77061

6.2.6 US Customs Border Protection Physical address is 8800 Paul B. Koonce, Houston, TX 77061

6.2.7 Federal Inspection Services (FIS) Physical address is 7800 Airport Blvd., Houston, TX 77061

6.2.8 Southwest Airlines – Atlantic Aviation Physical address is 7930 Airport Blvd, Houston, TX 77061

6.3 Ellington Airport (EFD) physical address is 6011 Farley Rd., Houston, Texas 77034

7.0 DUTIES OF THE CITY:

7.1 HAS will provide access to the pick-up site.

7.2 HAS will assume no responsibility for the Contractor's property.

7.3 HAS has the right to inspect equipment, containers, and/or trucks for disrepair/contamination. If found to be in poor condition (disrepair, contaminated, etc.), equipment/trucks/containers will not be loaded and turned away with costs borne by the Contractor, at the sole discretion of the Director. HAS will not be responsible for any costs associated with delays caused by delivery of inadequate equipment/trucks/containers.

8.0 DUTIES OF THE CONTRACTOR:

8.1 Contractor duties include, but are not limited to the following:

8.1.1 Contractor shall specify a point-of-contact(s) person for the Work specified.

8.1.2 Contractor personnel shall conform to all HAS Security & Operations rules or regulations at all times while on HAS property per HAS Operating Instructions 05-02 and 05-03. Reference Website: <http://www.fly2houston.com/biz/resources/badging/>

8.1.3 Contractor shall be solely responsible for Contractor's vehicles, equipment, supplies, materials, and other property while on HAS property.

- 8.1.4 In case of an emergency, the Director may order Contractor to stop Work on the project and clear the area of all personnel and equipment Contractor shall comply with such an order with all possible haste.
- 8.1.5 Contractor shall comply with all applicable federal, state and local environmental rules, regulations, statutes, or orders, (Environmental Laws). In any conflict between this specification and applicable Environmental Laws, the more stringent shall govern.
- 8.1.6 Contractor shall promptly reimburse the City for any fines or penalties levied against the City because of Contractors failure to comply with Environmental Laws. Contractor shall perform its obligations under this specification and related Agreement in strict compliance with Environmental Laws.

9.0 MONTHLY REPORTS:

- 9.1 During the term of the Agreement, monthly report shall be issued by the Contractor with each monthly invoice summarizing waste removal/disposal activities including but not limited to volumes of waste picked-up and transported for each airport.

10.0 SAFETY:

- 10.1 Contractor shall be completely familiar with, and shall enforce all City, State of Texas and federal Occupational Safety and Health Administration (OSHA) regulations and requirements as applicable for services performed herein.
- 10.2 Contractor personnel shall wear applicable personal protection equipment at all times.
- 10.3 Contractor personnel operating equipment and/or handling materials shall be fully trained in the safe operation of the equipment or materials.

11.0 ACCIDENT REPORTS:

- 11.1 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 HAS Safety Officer(s), providing written documentation and any information required for their records.

12.0 CONTRACTOR'S LIABILITY/PROPERTY DAMAGE:

- 12.1 In addition to any insurance which is required by statute or City ordinance, the Contractor understands that it will be liable to the City for any damage caused to City property or any individual or accident caused by Contractor or may occur in the course of performance of Work.
- 12.2 Contractor is responsible for their equipment damaging City property. Contractor shall replace or repair any City property damaged by their negligence at no cost to the City.

13.0 INVOICE:

- 13.1 Contractor shall submit its invoices monthly for work completed on form(s) approved in

advance by the Director of HAS; invoices must be accompanied by supporting documents requested by the Director.

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

City of Houston
Houston Airport System
Finance Division/Accounts Payable
P.O. Box 60106
Houston, Texas 77205-0106

- 13.3 HAS will accept invoices submitted electronically along with required form(s) approved by the Director. Each invoice should be in a TIFF format. Multiple invoices can be submitted in a single email.

- 13.4 Requirements are as follows:

13.4.1 Submit invoices in "TIFF" format

13.4.2 Submit to has.accountspayable@houstontx.net

14.0 SECURITY AND BADGING:

- 14.1 The Contractor's personnel and vehicles shall not be allowed within the Airport Operations Area (AOA), which includes the ramp area and aprons, unless authorized by the Director and escorted by authorized City Personnel. The Contractor shall not move any Contractor owned vehicles on and off aprons or within the AOA without prior authorization.

- 14.2 Airport Security: The Contractor's services shall be performed in accordance with the Transportation Security Administration (TSA), Federal Aviation Administration (FAA) and any other governmental agency security directives, rules and regulations. The FAA and/or the TSA may assess fines and/or penalties for the Contractor's non-compliance with the provisions of Title 49 Code of Federal Regulations (CFR), Parts 1540 and 1542, as amended from time to time, or by other agencies for non-compliance with laws or regulations applicable to the Contractor's operations. Within 10 days of notification in writing, the Contractor shall reimburse the City for any fine or penalty assessed against the City because of Contractor's non-compliance with 49 CFR 1540 and 1542 or other applicable laws or regulations.

- 14.3 Badging: George Bush Intercontinental Airport (IAH) and William P. Hobby Airport (HOU): Contractor shall comply with all applicable federal rules governing security at the Airports, as may be amended from time to time. Contractor acknowledges that fines or penalties associated with non-compliance with security regulations must be reimbursed to HAS.

- 14.4 All on site personnel of the Contractor, including subcontractors, who perform services under the Agreement, shall be required to undergo a fingerprint-based criminal history records check. Fingerprints are collected at the Airport Badging Office and submitted electronically for investigation.

14.5 The Contractor shall obtain HAS security badges for its personnel performing services on-site, including its sub-contractor's personnel. On-site personnel shall wear identification badges at all times while on Airport property. The cost of the badges, which is subject to change, is currently \$55.00 each at (IAH) and (HOU). Costs for the fingerprint-based criminal history checks are reflected in the cost of the badges. The Contractor is responsible for the cost of badges, including replacements thereof. Contractor's personnel will be charged for replacement badges at the current rate.

14.6 The contractor acknowledges that fines or penalties associated with non-compliance with security regulations must be reimbursed to HAS.

14.7 Airport Customs Security Area Bond:

14.7.1 The Contractor shall obtain an Airport Customs Security Bond in order to have access to the FIS at George Bush Intercontinental Airport (IAH) and William P. Hobby Airport (HOU).

14.7.2 The recommended bidder must contact the CBP Airport Security Office by telephone at 281-230-4641 or 282-230-4643 or email cbpbadgingauthority@dhs.gov in order to obtain the bond form.

14.7.3 The bond amount is determined by calculating \$1,000.00 by the number of employees needed to provide the service.

(Example: 10 employees = Bond Amount of \$10,000.00)

15.0 PRE-PERFORMANCE CONFERENCE:

15.1 Prior to commencing performance under the Agreement, Contractor shall attend a pre-performance conference with representatives of HAS. The Director will specify the time and place of such meeting in a written notice to Contractor. Representatives of Contractor attending the pre-performance conference must include the Contractor's supervisors. Items to be addressed at the pre-performance conference include, but are not limited to the following:

15.1.1 Channels of communication

15.1.2 Facilities utilization (including access routes, etc.)

16.0 INCREASE OR DECREASE OF WORK-INCLUSION/EXCLUSION:

16.1 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.

17.0 ADDITIONS & DELETIONS:

17.1 The City, by written notice from the City's Chief Procurement Officer to the Contractor, at any time during the term of this contract, may add or delete like or similar equipment, supplies, locations and/or services to the list of equipment, supplies, locations, and/or services to be provided. Any such written notice shall take effect on the date stated in

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

18.0 ESTIMATED QUANTITIES NOT GUARANTEED:

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

19.0 INTERLOCAL AGREEMENT:

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

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

BID # _____
ORDINANCE # _____
CONTRACT # _____

AGREEMENT FOR _____ SERVICES

ARTICLE 1. PARTIES

THIS AGREEMENT FOR _____ (“Agreement”) is made on the date countersigned by the City Controller between the **CITY OF HOUSTON, TEXAS** (“City”), a home-rule city of the State of Texas principally situated in Harris County and _____ (“Contractor”), a (*state of incorporation*) _____ (*type of legal entity*) doing business in Texas.

1.01 **ADDRESS:**

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

City

Director or Designee
_____ Department
City of Houston
P. O. Box 1562
Houston, Texas 77251

Contractor

Name
Address
City, State Zip Code
Attention:

1.02 **TABLE OF CONTENTS**

1.02.1 The Parties agree as follows:

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1.03 **PARTS INCORPORATED**

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

1.04 **CONTROLLING PARTS**

1.04.1 If a conflict between the sections or exhibits arises, the sections control over the exhibits.

1.05 **DEFINITIONS**

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

1.06 **SIGNATURES**

1.06.1 The Parties have executed this Agreement in multiple copies, each of which is an original. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

ATTEST/SEAL (if a corporation):
WITNESS (if not a corporation):

CONTRACTOR:

Name:
Title:

By: _____
Name:
Title:
Federal Tax ID Number: _____

ATTEST/SEAL:

CITY OF HOUSTON, TEXAS
Signed by:

City Secretary

Mayor

APPROVED:

COUNTERSIGNED BY:

Director, _____
Department

City Controller

APPROVED:

COUNTERSIGNATURE DATE:

Chief Procurement Officer

This Agreement has been reviewed as to form by the undersigned and has been found to meet established Legal Department criteria. The Legal Department has not reviewed the content of these documents.

APPROVED AS TO FORM:

Legal Assistant
Date: _____

Assistant City Attorney
L.D. File No. _____

ARTICLE 2. DUTIES OF CONTRACTOR

2.01 **SCOPE OF SERVICES**

2.01.1 In consideration of the payments specified in this Agreement, Contractor shall provide all supervision, labor, tools, equipment, permits, parts, expendable items, material, and supplies necessary to perform the services described in Exhibit "B".

2.02 **COORDINATE PERFORMANCE**

2.02.1 Contractor shall coordinate its performance with the Director and other persons that the Director designates. Contractor shall promptly inform the Director and other person(s) of all significant events relating to the performance of this Agreement.

2.03 **TIME EXTENSIONS**

2.03.1 If Contractor requests an extension of time to complete its performance, then the Director, in consultation with the CPO, may, in his or her sole discretion, extend the time so long as the extension does not exceed ninety (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).

2.04. **REPORTS**

2.04.1 Contractor shall submit all reports and progress updates required by the Director or CPO.

2.05 **PAYMENT OF SUBCONTRACTORS**

2.05.1 In accordance with the Texas Prompt Payment Act, Contractor shall make timely payments to all persons and entities supplying labor, materials, or equipment by, through or under Contractor in the performance of this Agreement.

2.05.2 CONTRACTOR SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF CONTRACTOR'S FAILURE TO MAKE THESE PAYMENTS.

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

2.06 **RELEASE**

2.06.1 **CONTRACTOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS**

CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

2.07 INDEMNIFICATION

2.07.1 CONTRACTOR 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:

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

2.07.1.2 THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; AND

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

2.07.2 CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. CONTRACTOR'S INDEMNIFICATION IS LIMITED TO \$500,000 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

2.08 SUBCONTRACTOR'S INDEMNITY

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

2.09 INDEMNIFICATION PROCEDURES

2.09.1 Notice of Claims. If the City or Contractor 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 30 days. The notice must include the following:

2.09.1.1 A description of the indemnification event in reasonable detail,

2.09.1.2 The basis on which indemnification may be due, and

2.09.1.3 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 30-day period, it does not waive any right to indemnification except to the extent that Contractor is prejudiced, suffers loss, or incurs expense because of the delay.

2.09.2 Defense of Claims

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

2.09.2.2 Continued Participation. If Contractor 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. Contractor 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.

2.10 INSURANCE

2.10.1 **Risks and Limits of Liability.** Contractor shall maintain the following insurance coverages in the following amounts:

<u>COVERAGE</u>	<u>LIMIT OF LIABILITY</u>
Workers' Compensation	Statutory for Workers' Compensation
Employer's Liability	<ul style="list-style-type: none">• Bodily Injury by Accident \$500,000 (each accident)• Bodily Injury by Disease \$500,000 (policy limit)• Bodily Injury by Disease \$500,000 (each employee)
Commercial General Liability: Bodily and Personal Injury; Products and Completed Operations	Bodily Injury and Property Damage, Combined Limits of \$1,000,000 each Occurrence, and \$2,000,000 aggregate

Coverage	
Automobile Liability	\$1,000,000 combined single limit for (1) Any Auto or (2) All Owned, Hired, and Non-Owned Autos
Professional Liability (if applicable)	\$1,000,000 per occurrence; \$2,000,000 aggregate
Excess Liability Coverage, or Umbrella Coverage, for Commercial General Liability and Automobile Liability	\$1,000,000
Aggregate Limits are per 12-month policy period unless otherwise indicated.	

2.10.2 **Insurance Coverage.** At all times during the term of this Agreement and any extensions or renewals, Contractor shall provide and maintain insurance coverage that meets the Agreement requirements. Prior to beginning performance under the Agreement, at any time upon the Director's request, or each time coverage is renewed or updated, Contractor shall furnish to the Director current certificates of insurance, endorsements, all policies, or other policy documents evidencing adequate coverage, as necessary. Contractor shall be responsible for and pay (a) all premiums and (b) any claims or losses to the extent of any deductible amounts. Contractor waives any claim it may have for premiums or deductibles against the City, its officers, agents, or employees. Contractor shall also require all subcontractors or consultants whose subcontracts exceed \$100,000 to provide proof of insurance coverage meeting all requirements stated above except amount. The amount must be commensurate with the amount of the subcontract, but no less than \$500,000 per claim.

2.10.3 **Form of insurance.** The form of the insurance shall be approved by the Director and the City Attorney; such approval (or lack thereof) shall never (a) excuse non-compliance with the terms of this Section, or (b) waive or estop the City from asserting its rights to terminate this Agreement. The policy issuer shall (1) have a Certificate of Authority to transact insurance business in Texas, or (2) 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 Best's Key Rating Guide.

2.10.4 **Required Coverage.** The City shall be an Additional Insured under this Agreement, and all policies, except Professional Liability and Worker's Compensation, shall explicitly name the City as an Additional Insured. The City shall enjoy the same coverage as the Named Insured without regard to other Contract provisions. Contractor waives any claim or right of subrogation to recover against the City, its officers, agents, or employees, and each of Contractor's insurance policies except professional liability must contain coverage waiving such claim. Each policy, except Workers' Compensation and Professional Liability, must also contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Contract. If professional liability coverage is written on a "claims made" basis,

Contractor shall also provide proof of renewal each year for two years after substantial completion of the Project, or in the alternative: evidence of extended reporting period coverage for a period of two years after substantial completion, or a project liability policy for the Project covered by this Contract with a duration of two years after substantial completion. All certificates of insurance submitted by Contractor shall be accompanied by endorsements for 1) Additional Insured coverage in favor of the City for Commercial General Liability and Automobile Liability policies, and 2) Waivers of Subrogation in favor of the City for Commercial General Liability, Automobile Liability and Workers' Compensation/Employers' Liability policies. The Director will consider all other forms on a case-by-case basis.

2.10.5 **Notice. CONTRACTOR SHALL GIVE 30 DAYS' ADVANCE WRITTEN NOTICE TO THE DIRECTOR IF ANY OF ITS INSURANCE POLICIES ARE CANCELED OR NON-RENEWED.** Within the 30-day period, Contractor shall provide other suitable policies in order to maintain the required coverage. If Contractor does not comply with this requirement, the Director, at his or her sole discretion, may immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default.

2.10.6 **Other Insurance.** If requested by the Director, Contractor shall furnish adequate evidence of Social Security and Unemployment Compensation Insurance, to the extent applicable to Contractor's operations under this Agreement.

2.11 **WARRANTIES**

2.11.1 Contractor 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.

2.11.2 With respect to any parts and goods it furnishes, Contractor warrants:

2.11.2.1 That all items are free of defects in title, design, material, and workmanship;

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

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

2.11.2.4 That no item or its use infringes any patent, copyright, or proprietary right.

2.12 **CONFIDENTIALITY**

2.12.1 Contractor, its agents, employees, contractors, and subcontractors shall hold all City information, data, and documents (collectively, the "Information") that they receive, or to which they have access, in strictest confidence. Contractor, its agents, employees, contractors, and subcontractors shall not disclose, disseminate, or use the Information unless the Director authorizes it in writing. Contractor shall obtain written agreements from its agents, employees, contractors, and subcontractors which bind them to the terms in this Section.

2.13. **USE OF WORK PRODUCTS**

2.13.1 The City may use all Documents that Contractor prepares or obtains under this Agreement. In addition, the Contractor shall provide the Director with supporting schedules, flow charts or other analysis necessary to understand the reported findings and recommendations. Generally, this information is attached as exhibits to the final report; however, if requested by the Director, Contractor shall provide this information from its work paper files.

2.13.2 Contractor warrants that it owns the copyright to the Documents.

2.13.3 Contractor shall deliver the original Documents to the Director on request. Within five working days after this Agreement terminates, Contractor shall deliver to the Director the original Documents, and all other files and materials Contractor produces or gathers during its performance under this Agreement.

2.14 **LICENSES AND PERMITS**

2.14.1 Contractor shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by any statute, ordinance, rule, or regulation for the performance under this Agreement. Contractor shall immediately notify the Director of any suspension, revocation, or other detrimental action against its license.

2.15 **COMPLIANCE WITH LAWS**

2.15.1 Contractor shall comply with all applicable state and federal laws and regulations and the City Charter and Code of Ordinances in its performance under this Agreement.

2.16 **COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY ORDINANCE**

2.16.1 Contractor shall comply with City's Equal Employment Opportunity Ordinance as set out in in Section 15-17 of the Code of Ordinances.

2.17 **MWBE COMPLIANCE**

2.17.1 Contractor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of

Ordinances. Contractor shall make good faith efforts to award subcontracts or supply agreements in at least 0% of the value of this Agreement to MWSBEs. Contractors are encouraged to provide meaningful participation to each subcontractor to the fullest extent of its capacity. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Office of Business Opportunities ("OBO") and will comply with them.

2.17.2 Contractor shall ensure that all subcontracts with MWBE subcontractors and suppliers contain the following terms:

[Name of MWBE subcontractor] shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston's Office of Business Opportunity Director ("the Director").

[Name of MWBE subcontractor] shall permit representatives of the City of Houston, at all reasonable times, to perform (1) audits of the books and records of the subcontractor, and (2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for such purpose for at least four (4) years after the end of its performance under this subcontract. Nothing in this provision shall affect the time for bringing a cause of action nor the applicable statute of limitations.

Within five business days of execution of this subcontract, Contractor and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of such agent.

Any controversy between the parties involving the construction or application of any of the terms, covenants, or conditions of this subcontract may be submitted to the Director. The Director may prescribe procedures to provide dispute resolution by neutrals in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances.

2.18. **DRUG ABUSE DETECTION AND DETERRENCE**

2.18.1 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.

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

2.18.2.1 a copy of its drug-free workplace policy,

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

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

2.18.3 If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "E". 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.

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

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

2.19 **CONFLICTS OF INTEREST**

2.19.1 If an actual or potential conflict arises between the City's interests and the interests of other client(s) Contractor represents, Contractor shall immediately notify the Director in writing. The City Controller shall issue a letter of consent or non-consent to Contractor's representation, potential or otherwise, of the other client(s) within 10 business days after receipt of Contractor's notice. If the City Controller issues a non-consent letter, Contractor shall immediately terminate its representation, potential or otherwise, of the other client(s) whose interests are or may be in conflict with those of the City.

2.20. **PAY OR PLAY**

2.20.1 The requirements and terms of the City of Houston Pay or Play program, as set out in Executive Order 1-7, as revised from time to time, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order No. 1-7, as revised, and shall comply with its terms and conditions.

2.21. **CONTRACTOR'S PERFORMANCE**

2.21.1 Contractor shall make citizen satisfaction a priority in providing services under this Agreement. Contractor shall train its employees to be customer service-oriented and to positively and politely interact with citizens when performing contract services. Contractor's employees shall be clean, courteous, efficient, and neat in appearance and committed to offering the highest quality of service to the public.

If, in the Director's opinion, Contractor is not interacting in a positive and polite manner with citizens, he or she shall direct Contractor to take all remedial steps to conform to these standards

2.22. **ADDITIONS AND DELETIONS**

2.22.1 **Additional Products and Services.** Subject to the allocation of funds, the Director or CPO may add similar equipment, supplies, services or locations, within the scope of this Agreement, to the list of equipment, supplies, services or locations to be performed or provided by giving written notification to Contractor. For purposes of this Section, the "Effective Date" means the date specified in the notification from the Director or CPO. As of the Effective Date, each item added is subject to this Agreement, as if it had originally been a part, but the charge for each item starts to accrue only on the Effective Date. In the event the additional equipment, supplies, services or locations are not identical to the items(s) already under this Agreement, the charges therefor will then be the Contractor's normal and customary charges or rates for the equipment, supplies, services or locations classified in the Fees and Costs (Exhibit "F" of attached Sample Contract).

2.22.2 **Exclusion of Products and Services.** If a deliverable or service that is subject to this Agreement is deleted, lost, stolen, destroyed, damaged, sold, replaced, or otherwise disposed of, the Director or CPO may exclude it from the operation of this Agreement by notifying Contractor in writing. The notice takes effect immediately on its receipt by Contractor. More than one notice may be given. When a notice is received, Contractor shall delete the charge for the excluded deliverable or service from the sum(s) otherwise due under this Agreement.

2.22.3 The total charges for additions and deletions to this Agreement must never exceed 25% of the original contract amount unless:

2.22.3.1 The additions are exempt from the competitive bidding or proposal requirements, set forth in Tex. Local Govt. Code Chapter 252; or

2.22.3.2 The City acquires the additions from Contractor through a competitive bid or competitive proposal.

2.23. **CHANGES**

2.23.1 At any time during the Agreement Term, the Director or CPO 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.

2.23.2 The CPO or Director will issue the Change Order in substantially the following form:

CHANGE ORDER

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

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

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

Signed:
[Signature of CPO or Director]

- 2.23.3 The CPO or Director may issue more than one Change Order, subject to the following limitations:
 - 2.23.3.1 The City Council expressly authorizes the CPO or Director to approve a Change Orders up to \$50,000. A Change Order of more than \$50,000 over the approved contract amount must be approved by the City Council.
 - 2.23.3.2 If a Change Order describes items that Contractor is otherwise required to provide under this Agreement, the City is not obligated to pay any additional money to Contractor.
 - 2.23.3.3 The total of all Change Orders issued under this section may not increase the Original Agreement amount by more than 25%.
- 2.23.4 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 CPO's or Director's decision regarding a time extension is final.
- 2.23.5 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.
- 2.23.6 Change Orders are subject to the Allocated Funds provisions of this Agreement.

2.24 **ENVIRONMENTAL LAWS**

2.24.1 Contractor shall comply with all rules, regulations, statutes, or orders of the Environmental Protection Agency ("EPA"), the Texas Commission on Environmental Quality ("TCEQ"), and any other governmental agency with the authority to promulgate environmental rules and regulations ("Environmental Laws"). Contractor shall promptly reimburse the City for any fines or penalties levied against the City because of Contractor's failure to comply with Environmental Laws.

2.24.2 Contractor shall not possess, use, generate, release, discharge, store, dispose of, or transport any Hazardous Materials on, under, in, above, to, or from the site except in strict compliance with the Environmental Regulations. "Hazardous Materials" means any substances, materials, or wastes that are or become regulated as hazardous or toxic substances under any applicable federal, state, or local laws, regulations, ordinances, or orders. Contractor shall not deposit oil, gasoline, grease, lubricants or any ignitable or hazardous liquids, materials, or substances in the City's storm sewer system or sanitary sewer system or elsewhere on City Property in violation of the Environmental Laws.

2.25 **ANTI-BOYCOTT OF ISRAEL**

2.25.1 Contractor certifies that Contractor is not currently engaged in, and agrees for the duration of this Agreement not to engage in, the boycott of Israel as defined by Section 808.001 of the Texas Government Code.

2.26 **ZERO TOLERANCE POLICY FOR HUMAN TRAFFICKING AND RELATED ACTIVITIES**

2.26.1 The requirements and terms of the City of Houston's Zero Tolerance Policy for Human Trafficking and Related Activities, as set forth in Executive Order 1-56, as revised from time to time, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order 1-56, as revised, and shall comply with its terms and conditions as they are set out at the time of the Countersignature Date. Contractor shall notify the CPO, City Attorney, and the Director of any information regarding possible violation by Contractor or its subcontractors providing services or goods under this Agreement.

ARTICLE 3. DUTIES OF CITY

3.01 **PAYMENT TERMS**

3.01.1 Subject to all terms and conditions of this Agreement, the City agrees to pay for the services described in Exhibit "B" that are rendered by Contractor based upon monthly invoices showing the number of individual tasks and related services performed at the rates set forth in Exhibit "F" of attached Sample Contract. The fees must only be paid from Allocated Funds, as provided below.

3.01.2 Early Payment Discount. The City of Houston's standard payment term is to pay 30 days after receipt of invoice or receipt of goods or services, whichever is later,

according to the requirements of the Texas Prompt Payment Act (Tex. Gov't Code, Ch. 2251). However, the City will pay in less than 30 days in return for an early payment discount from Contractor as follows:

Payment Time - 10 Days: 2% Discount
Payment Time - 20 Days: 1% Discount

3.01.3 If the City fails to make a payment according to the early payment schedule above, but does make the payment within the time specified by the Prompt Payment Act, the City shall not receive the discount, but shall pay no other penalty. When the payment date falls on a Saturday, Sunday, or official holiday when City offices are closed and City business is not expected to be conducted, payment may be made on the following business day.

3.02 **TAXES**

3.02.1 The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to the City must not contain assessments of any of these taxes. The Director will furnish the City's exemption certificate and federal tax identification number to Contractor if requested.

3.03 **METHOD OF PAYMENT**

3.03.1 The City shall pay on the basis of monthly invoices submitted by the Contractor and approved by the Director showing the services performed and the attendant fee. The City shall make payment to the Contractor within thirty (30) days of the receipt and approval by the City of such invoices. If the City disputes any item in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify the Contractor of the dispute and request remedial action. After any dispute is settled, the Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

3.04 **LIMIT OF APPROPRIATION**

3.04.1 The City's duty to pay money to Contractor under this Agreement is limited in its entirety by the provisions of this Section.

3.04.2 In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum of \$_____ to pay money due under this Agreement during the City's current fiscal year (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds (each a "Supplemental Allocation" and collectively, the "Supplemental Allocations") for this Agreement, but they are not obligated to do so. Therefore, the Parties have agreed to the following procedures and remedies:

3.04.2.1 The City makes a Supplemental Allocation by issuing to Contractor a Service Release Order, or similar form approved by the City Controller,

containing the language set out below. When necessary, the Supplemental Allocation shall be approved by motion or ordinance of City Council.

NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS

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

\$ _____

3.04.2.2 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.

3.05 ACCESS TO SITE

3.05.1 Contractor may enter and leave the premises at all reasonable times without charge. Contractor and its employees may use the common areas and roadways of the premises where it is to perform the services together with all facilities, equipment, improvements, and services provided in connection with the premises for common use. This excludes parking for Contractor's personnel. Contractor shall repair any damage caused by it or its employees as a result of its use of the common areas.

3.06 ACCESS TO DATA

3.06.1 The City shall, to the extent permitted by law, allow Contractor to access and make copies of documents in the possession or control of the City or available to it that are reasonably necessary for Contractor to perform under this Agreement.

3.06.2 The City does not, however, represent that all existing conditions are fully documented, nor is the City obligated to develop new documentation for Contractor's use.

3.06.3 For any raw data created, assembled, used, maintained, collected, or stored by the Contractor for or on behalf of the City, Contractor shall provide the City either the raw data itself or the ability to extract the raw data in a format mutually agreed upon by both parties at no additional cost to the City.

ARTICLE 4. TERM AND TERMINATION

4.01. **AGREEMENT TERM**

4.01.1 This Agreement is effective on the Countersignature Date and shall remain in effect for ____ (____) years, unless sooner terminated under this Agreement (“Initial Term”).

4.02. **NOTICE TO PROCEED**

4.02.1 Contractor shall begin performance under this Agreement on the date specified in a Notice to Proceed from the CPO or Director.

4.03. **RENEWALS**

4.03.1 Upon expiration of the Initial Term, and so long as the City makes sufficient supplemental allocations, this Agreement will be automatically renewed for _____ successive one-year term on the same terms and conditions. If the Director chooses not to renew this Agreement, he/she shall notify Contractor and the CPO of non-renewal at least 30 days before the expiration of the then-current term.

4.04. **TERMINATION FOR CONVENIENCE BY CITY**

4.04.1 The Director may terminate this Agreement at any time by giving 30 days’ written notice to Contractor, with a copy of the notice to the CPO. The City’s right to terminate this Agreement for convenience is cumulative of all rights and remedies, which exist now or in the future.

4.04.2 On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. The City shall then pay the fees to Contractor for services actually performed, but not already paid for, in the same manner as prescribed in this Agreement unless the fees exceed the allocated funds remaining under this Agreement.

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

4.05. **TERMINATION FOR CAUSE BY CITY**

4.05.1 If Contractor defaults under this Agreement, the Director may terminate this

Agreement after providing Contractor written notice and an opportunity 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:

4.05.1.1 Contractor fails to perform any of its material duties under this Agreement;

4.05.1.2 Contractor becomes insolvent;

4.05.1.3 All or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or

4.05.1.4 A receiver or trustee is appointed for Contractor.

4.05.2 If a default occurs and the Director determines that the City wishes to terminate the Agreement, then the Director must deliver a written notice to Contractor, describing the default and the proposed termination date, with a copy of the notice to the CPO. The date must be at least thirty (30) days after Contractor receives notice. The Director, at his or her sole option, may extend the termination date to a later date. If Contractor cures the default before the proposed termination date, then the proposed termination is ineffective. If Contractor does not cure the default before the termination date, then the Director may terminate this Agreement on the termination date, at no further obligation of the City.

4.05.3 To effect final termination, the Director must notify Contractor in writing, with a copy of the notice to the CPO. 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.

4.06 **TERMINATION FOR CAUSE BY CONTRACTOR**

4.06.1 Contractor may terminate its performance under this Agreement only if the City defaults and fails to cure the default after receiving written notice of it. Default by the City occurs if the City fails to perform one or more of its material duties under this Agreement. If a default occurs and Contractor wishes to terminate the Agreement, then Contractor must deliver a written notice to the Director describing the default and the proposed termination date. The date must be at least 30 days after the Director receives the 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

4.07. **REMOVAL OF CONTRACTOR OWNED EQUIPMENT AND MATERIALS**

4.07.1 Upon expiration or termination of this Agreement, Contractor is permitted ten (10) days within which to remove contractor-owned material and equipment from the City's premises. This 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.

ARTICLE 5. MISCELLANEOUS

5.01 INDEPENDENT CONTRACTOR

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

5.02 FORCE MAJEURE

5.02.1 Timely performance by both parties is essential to this Agreement. However, neither party is liable for reasonable delays in performing its obligations under this Agreement to the extent the delay is caused by Force Majeure that directly impacts the City or Contractor. The event of Force Majeure may permit a reasonable delay in performance but does not excuse a party's obligations to complete performance under this Agreement. Force Majeure means: fires, interruption of utility services, epidemics in the City, floods, hurricanes, tornadoes, ice storms and other natural disasters, explosions, war, terrorist acts against the City or Contractor, riots, strikes, court orders, and the acts of superior governmental or military authority, and which the affected party is unable to prevent by the exercise of reasonable diligence. The term does not include any changes in general economic conditions such as inflation, interest rates, economic downturn or other factors of general application; or an event that merely makes performance more difficult, expensive or impractical. Force Majeure does not entitle Contractor to extra reimbursable expenses or payment.

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

5.02.2.1 uses due diligence to remove the effects of the Force Majeure as quickly as possible and to continue performance notwithstanding the Force Majeure; and

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

5.02.3 The Director will review claims that a Force Majeure that directly impacts the City or Contractor has occurred and render a written decision within 14 days.

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

5.02.5 If the Force Majeure continues for more than 7 days from the date performance is affected, the Director may terminate this Agreement by giving 7 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 UP TO THE TIME THE WORK IS HALTED DUE TO FORCE MAJEURE.**

5.03 **SEVERABILITY**

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

5.04 **ENTIRE AGREEMENT**

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

5.05 **WRITTEN AMENDMENT**

5.05.1 Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance 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.

5.06 **APPLICABLE LAWS**

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

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

5.07 **NOTICES**

5.07.1 All notices to either party to the Agreement must be in writing and must be delivered by hand, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, UPS or any other national overnight express delivery service. The notice must be addressed to the party to whom the notice is given at its address set out in Article 1 of this Agreement or other address the receiving party has designated previously by proper notice to the sending party. Postage or delivery charges must be paid by the party giving the notice.

5.08 **CAPTIONS**

5.08.1 Captions contained in this Agreement are for reference only, and, therefore, have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section in this Agreement.

5.09 **NON-WAIVER**

5.09.1 If either party fails to require the other to perform a term of this Agreement, that failure does not prevent the party from later enforcing that term and all other terms.

If either party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.

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

5.10 **INSPECTIONS AND AUDITS**

5.10.1 City representatives may perform, or have performed, (1) audits of Contractor's books and records, and (2) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least three years after this Agreement terminates. If the books and records are located outside of Harris County, Texas, Contractor agrees to make them available in Harris County, Texas. This provision does not affect the applicable statute of limitations.

5.11 **ENFORCEMENT**

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

5.12 **AMBIGUITIES**

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

5.13 **SURVIVAL**

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

5.14 **PUBLICITY**

5.14.1 Contractor shall make no announcement or release of information concerning this Agreement unless the release has been submitted to and approved, in writing, by the Director.

5.15 **PARTIES IN INTEREST**

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

5.16 **SUCCESSORS AND ASSIGNS**

5.16.1 This Agreement binds and benefits the Parties and their legal successors and

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

5.17 **BUSINESS STRUCTURE AND ASSIGNMENTS**

5.17.1 Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the Director's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest under Section 9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the Director and CPO 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.

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

5.18 **REMEDIES CUMULATIVE**

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

5.19 **CONTRACTOR DEBT**

5.19.1 IF CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT CONTRACTOR HAS INCURRED A DEBT, HE OR SHE SHALL IMMEDIATELY NOTIFY CONTRACTOR IN WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FROM ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFOR. CONTRACTOR SHALL FILE A NEW AFFIDAVIT OF OWNERSHIP, USING THE FORM DESIGNATED BY CITY, BETWEEN FEBRUARY 1 AND MARCH 1 OF EVERY YEAR DURING THE TERM OF THIS AGREEMENT.

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EXHIBIT "A"

DEFINITIONS

In addition to the words and terms defined elsewhere in this Agreement, the following terms have the meanings set out below. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular include the plural. The word "shall" is always mandatory and not merely permissive.

1. "Agreement" means this contract between the Parties, including all exhibits and any written amendments authorized by City Council and Contractor.
2. "Business Day" means any calendar day except Saturdays, Sundays and full-day holidays for employees of the City (as designated by City Council).
3. "CBP" means US Customs and Border Protection.
4. "CFR" means Code of Federal Regulations.
5. "Chief Procurement Officer" (CPO) means the Chief Procurement Officer of the City of Houston, as set forth in Chapter 15 of the Houston Code of Ordinances.
6. "City" is defined in the preamble of this Agreement and includes its successors and permitted assigns.
7. "City Purchasing Agent" is defined as the person or duly authorized successor, authorized in writing to act for the City. The term includes, except as otherwise provided in this Contract, the authorized representative of the City Purchasing Agent acting within the limits of delegated authority.
8. "Contract Administrator" means the representative of the Department who is responsible for the administration for the Contract.
9. "Contract Award Notice" means the official notification substantiated by the Notice to Proceed issued by the City Purchasing Agent to the Contractor.
- 10 "Contract Charges" means charges that accrue during a given month as defined in Article III.
- 11 "Contract Term" is defined in Article IV.
- 12 "Contractor" is defined in the preamble of this Agreement and includes its successors and assigns.
- 13 "Countersignature Date" means the date shown as the date countersigned on the signature page of this Agreement.

- 14 "Director" means the Director of the City of Houston _____ Department or such other person as he or she designates.
- 15 "Documents" mean notes, manuals, notebooks, plans, computations, computer databases and diskettes, software, tabulations, exhibits, reports, underlying data, charts, analyses, maps, letters, models, forms, photographs, the original tracings of all drawings and plans, and other work products (and any modifications or improvements to them) that Contractor prepares or provides under this Agreement.
- 16 "EFD" means Ellington Airport.
- 17 "Effective Date" means the date this Agreement is countersigned by the City Controller.
- 18 "FBO" means Fixed Base Operation.
- 19 "FIS" means Federal Inspection Services.
- 20 "Governing Body" means the Mayor and City Council of the City of Houston.
- 21 "HAS" means Houston Airport System.
- 22 "Hazardous Materials" is defined in Article II (Environmental Laws).
- 23 "HOU" means William P. Hobby Airport.
- 24 "IAH" means George Bush Intercontinental Airport/Houston.
- 25 "Notice to Proceed" means a written communication from the Director or the CPO to Contractor instructing Contractor to begin performance.
- 26 "Parties" means all the entities set out in the Preamble who are bound by this Agreement.
- 27 "USDA" means United States Department of Agriculture.

EXHIBIT "B"

SCOPE OF SERVICES & SPECIFICATIONS

EXHIBIT "C"

DRUG POLICY COMPLIANCE AGREEMENT

I, _____, _____,
(Name) (Title)

as an owner or officer of _____ (Contractor)
(Name of Company)

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

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

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

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

Date

Contractor Name

Signature

Title

EXHIBIT "D"

**CONTRACTOR'S CERTIFICATION OF NO SAFETY IMPACT POSITIONS
IN PERFORMANCE OF A CITY CONTRACT**

I, _____, _____,
(Name) (Title)

as an owner or officer of _____ (Contractor)
(Name of Company)

have authority to bind the Contractor with respect to its bid, and hereby certify that Contractor has no employee safety impact positions, as defined in §5.17 of Executive Order No. 1-31, that will be involved in performing

_____.
(Project)

Contractor agrees and covenants that it shall immediately notify the City of Houston Director of Human Resources if any safety impact positions are established to provide services in performing this City Contract.

(Date)

(Typed or Printed Name)

(Signature)

(Title)

EXHIBIT "E"

DRUG POLICY COMPLIANCE DECLARATION

I, _____ as an owner or
(Name) (Print/Type) (Title)
officer of _____ (Contractor) (Name of Company), have personal knowledge and full
authority to make the following declarations:

This reporting period covers the preceding 6 months from _____ to _____, ____.

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

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

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

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

_____ From _____ [Start date] to _____ [End date] the following test has occurred:
Initials

	<u>Random</u>	<u>Reasonable Suspicion</u>	<u>Post Accident</u>	<u>Total</u>
Number Employees Tested	_____	_____	_____	_____
Number Employees Positive	_____	_____	_____	_____
Percent Employees Positive	_____	_____	_____	_____

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

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

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

(Date)

(Typed or Printed Name)

(Signature)

(Title)

EXHIBIT "F" OF ATTACHED SAMPLE CONTRACT

FEES AND COSTS