



CITY OF HOUSTON INVITATION TO BID

Issued: September 4, 2020

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, October 22, 2020**. 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:

**CABLING INSTALLATION AND REPAIR SERVICES
FOR THE HOUSTON AIRPORT SYSTEM
BID INVITATION NO.: S94-L29591
NIGP CODE: 962-18 MWBE GOAL 10%**

BUYER

Questions regarding this solicitation document should be addressed to Maira Artola at **832.393.8724**, or e-mail to maira.artola@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

The City of Houston's Strategic Procurement Division has decided to suspend ALL onsite Pre-Bid Conferences until further notice. Therefore, there will be a teleconference for this Pre-Bid at 10:00 a.m. on Wednesday, September 16, 2020 the dial in number is 936-755-1521, access code 430 539 037#. It is the bidder's responsibility to ensure that they have secured and thoroughly reviewed all aspects of the bidding documents prior to the Pre-Bid teleconference.

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 and the date and time of the bid opening may be rescheduled in accordance with subsection 15-45(c) of the City of Houston Code of Ordinances.

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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***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



**CABLING INSTALLATION AND REPAIR SERVICES
FOR THE HOUSTON AIRPORT SYSTEM
BID INVITATION NO.: S94-L29591
NIGP CODE: 962-18**

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 Cabling Installation and Repair 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, three (3) original counterparts of said contract duly executed by this Bidder (as "Contractor"), and proof of insurance as outlined in Article II of the draft 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 the applicable requirements stated within the Letter of Intent to Award Document, issued by the City to the contractor 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 **Cabling Installation and Repair 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
Ownership Information Form
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 maira.artola@houstontx.gov no later than **10:00 a.m. CST., Wednesday, September 30, 2020.**

BID DISQUALIFICATION

The City may disqualify a Bid if the Bidder: 1) improperly or illegibly completes information required by the Bid Documents; 2) fails to sign the Official Signature Page or improperly signs the Official Signature Page; 3) qualifies its Bid; or 4) improperly submits its Bid.

When requested, the apparent Low Bidder shall present satisfactory evidence that Bidder has regularly engaged in providing the commodities or performing the services as proposed, and has the capital, labor, equipment, and material to deliver the required commodities or perform the work.

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 10% 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/goodfaihefforts.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.

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.

ANTI-BOYCOTT OF ISRAEL

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.

ZERO TOLERANCE POLICY FOR HUMAN TRAFFICKING AND RELATED ACTIVITIES

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 within 7 days of Contractor becoming aware of or having a reasonable belief that such violations may have occurred, have occurred, or are reasonably likely to occur.

PRESERVATION OF CONTRACTING INFORMATION

The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this bid [or solicitation] and the Contractor or vendor agrees that the contract can be terminated if the Contractor or Vendor knowingly or intentionally fails to comply with a requirement of that subchapter

SECTION B SCOPE OF WORK/SPECIFICATIONS

1.0 BACKGROUND

1.1 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 Airport (EFD). Management of the Airport System includes coordination with FAA, air carriers OSR's, and other Federal and State Agencies to maintain the highest standards of service and safety to Airport Patrons. Communications serves a vital role in the efficient operation of the Houston Airport System. First-class communications capability is essential for safety and uninterrupted Airport operations.

2.0 General

2.1 The contractor shall be required to provide all equipment, labor, materials, parts tools, supervision and transportation necessary to install and repair, as necessary and required of the structural cabling systems in strict compliance with the scope of work/specifications herein and this Agreement. Upon the Director's written notice provide Other work/Services at all HAS Facilities.

3.0 Basic Services

3.1 Basic Services includes the following:

3.1.1 Contractor shall supply materials and physical installation of structured cabling systems and network equipment which shall include but is not limited to all low voltages Structured Cabling Systems, Network Switches, Network Cameras, and all devices that require a connection thru the Structured Cabling System.

3.1.2 In accordance with Houston Airport System Technology Specifications Contractor shall supply all components to build a complete structured cabling system. This includes and is not limited to, systems, equipment, software, and cabling materials and services that are required to meet desired conditions and/or repairs to the existing structured cabling systems.

3.2 Contractor shall provide personnel including but not limited to, the following:

3.2.1 One (1) Administrative Coordinator/ Estimator/Point of Contact (hereinafter referred to as the "Administrative Coordinator"

3.2.1.1 Requirements:

3.2.1.1.1 10 years' experience in the field design, estimating, purchasing, and coordination of the installation of Structured Cabling Systems.

3.2.1.1.2 Extensive experience in the field design, estimating, purchasing and coordination of the installation of Structured Cabling Systems.

3.2.1.1.3 SYSTIMAX experience required.

- 3.2.1.1.4 RCDD preferred.
- 3.2.1.2 The Administrative Coordinator shall perform the following duties:
 - 3.2.1.2.1 Oversee the four (4) on-site Structured Cabling Technicians and on-site subcontractors at IAH, HOU, and EFD.
 - 3.2.1.2.2 Coordinate the dispatch of the structured cabling technicians via HAS Work Order System.
 - 3.2.1.2.3 Establish and adjust priorities as requested by the Director as workload requires.
 - 3.2.1.2.4 Perform quality control inspections.
 - 3.2.1.2.5 Analyze structured cabling technician's workload and efficiency; produce reports for HAS.
 - 3.2.1.2.6 Process orders.
 - 3.2.1.2.7 Track invoices.
 - 3.2.1.2.8 Provide sales quotations and engineering documentation.
 - 3.2.1.2.9 Perform other task requested by the Director.
 - 3.2.1.2.10 Perform tasks as shown in 3.2.2 as required.
- 3.2.2 Four (4) On-site Structured Cabling Technicians
 - 3.2.2.1 Requirements: Minimum of five (5) years structured cabling installation experience with certifications/knowledge in the following:
 - 3.2.2.1.1 BICSI Installer-BICSI Technician Preferred.
 - 3.2.2.1.2 SYSTIMAX Manufacture Certified; Installation and Maintenance, iPatch/imVision.
 - 3.2.2.1.3 Fiber Optic Cable Certifications and/or Verifiable Fiber Optic Cabling experience.
 - 3.2.2.2 At minimum, the structured cabling Installation Technicians shall perform the following duties:
 - 3.2.2.2.1 Project Coordination (large moves, system upgrades and interfaces, etc.)
 - 3.2.2.2.2 Must be proficient in reviewing and processing HAS work orders for troubleshooting, repairs, and installations, moves, adds and changes ("IMAC") to the HAS Structured Cabling System.
 - 3.2.2.2.3 Structured Cabling Technicians to be certified through the Structured Cabling System Manufacturer and adhere to the requirements for contractor qualifications specified within HAS IT Specifications.
 - 3.2.2.2.4 Install low voltage horizontal cabling and low voltage copper cabling.
 - 3.2.2.2.5 Install Backbone fiber optic cabling. Patch jumpers to make fiber optic connections.

- 3.2.2.2.6 Install for low voltage backbone cabling.
- 3.2.2.2.7 Install equipment/materials associated with the installation of low voltage backbone and horizontal cabling.
- 3.2.2.2.8 Terminate, label, test, and document the installation of all low voltage backbone and horizontal cabling. Extend circuits on the Structure Cabling Infrastructure which includes but is not limited to T1, DS3, and POTS.
- 3.2.2.2.9 Perform other tasks requested by the director.
- 3.2.2.2.10 Project coordination (large moves, system upgrades and interfaces, etc.) Must be proficient in reviewing and processing HAS work orders for troubleshooting, repairs, installs, moves, adds, and changes (IMAC) to the HAS structured Cabling System.
- 3.2.2.2.11 Complete work orders and update Director.
- 3.2.2.2.12 Must be proficient in using HAS work order system for completion of service request with the contractual service level agreement:

PRIORITY	SLA
Low	Planned
Minor	20 Business Days
Normal	5 Business Days
High	1 Business Day
Emergency	ASAP

3.2.3 Contractor shall adhere to all HAS Technology Specifications.

3.2.3.1 The specifications are subject to change by HAS periodically to maintain current technology standards. Contractor is required to simply with changes to the HAS Technology specifications within thirty (30) days of notice of revisions.

3.2.3.2 "Notice of revisions" shall be accomplished by way of posting revised electronic documents to designated areas within the HAS data network or on HAS SharePoint website, and will be posted with revision dates. Contractor is using the most current specifications each time cabling, conduit, or equipment is installed.

3.2.4 When requested by HAS, under an approved OSR, as specified herein, supplies, parts, instruments, or equipment required to complete IMAC's will be supplied by the Contractor at prices specified in the Bid Tab.

4.0 Moves/Adds/Changes (MACS) And Other Work Services (OSR)

4.1 The contractor shall be responsible for, but not necessarily limited to, the following MAC/OSR items:

- 4.1.1 In response to any such written notice, contractor shall provide the Director with a written proposal within five (5) business days of receipt of the notice. Such proposal shall include but not limited to; a detailed description of the services to be performed, applicable labor rates set forth in the fee schedule (Exhibit "B"), estimated labor hours, performance schedule, total estimated cost, and any other requirements set forth in the Director's written notice to contractor.
- 4.1.2 Upon receipt of the proposal, the Director shall have the option to reject the proposal and require and require resubmission with revised or additional information of issue an OSR. If required, Contractor will resubmit a modified proposal within two (2) business days of receipt of the Director's written rejection.
- 4.1.3 Upon approval by the Director of the modified proposal, an OSR will be issued. Contractor shall commence performance on the date set forth in the OSR issued under this Section and shall complete the work in accordance with the terms and conditions of this Agreement and the approved proposal.
- 4.1.4 For Emergency Service Requests issued after Normal Business Hours (7:00 a.m. to 5:00 p.m.), Contractor may perform Other Work/Services upon the verbal approval of the Director. However, as soon as it is reasonably practical thereafter, HAS shall issue within one business day a written OSR relating to the verbal Emergency Service Request.
- 4.1.5 Other Service Request (OSR) Forms- With the exception of Emergency Service Request issued after Normal Business Hours, or Urgent Service Requests, where a request may be verbal and followed immediately in writing, all request for Other Work/Services will be in writing in a form provided by the Director and signed by the Director.
- 4.1.6 Other Work/Service Labor Compensation Limits-The Contractor may be compensated for labor under the Other Work/Services rate schedule for IMAC's only when the on-site technician's workload is such that the work cannot be completed during Normal Business Hours and an additional technicians(s) is required or when the work is performed after Normal Business Hours. Additional compensation for labor must be approved in writing in advance of work being performed with the only exception being emergency services as described above.
- 4.1.7 Compensation for Other Work/Services-Compensation for Other Work/Services may include the following:
 - 4.1.7.1 Labor-Additional labor needed (help for the On-Site Technician) for IMAC activities that occur during or after Normal Business Hours. The Contractors mark-up on cost of parts and subcontracted labor shall be as shown in the Bid Tab exclusive of tax, freight, and travel.

4.1.7.2 Parts, Supplies, Equipment-When IMAC orders requested by HAS require parts, supplies, or equipment; Contractor will be compensated for parts, supplies, or equipment as specified only if the additional compensation is approved in writing in advance of parts being installed in accordance with the established Other/Work Services procedures.

5.0 General Requirements

- 5.1 The contractor shall begin maintenance of the Structured Cabling Systems and ancillary equipment on the start date specified in the notice to proceed and shall complete all requirements of such maintenance in accordance with the terms of this agreement.
- 5.2 The contractor's on-site personnel must be able to communicate with the HAS Technology Specifications located on the HAS website. Fly2Houston.com
- 5.3 The Contractor's on-site personnel are required to retrieve and update the status of work assignments via City-provided computers and applications such as ServiceNow (for work order/trouble tickets), Microsoft Outlook (e-mail system).
- 5.4 The Contractor's on-site technicians may be expected to maintain/update cable management records in the existing I-Patch management application on an individual work order/trouble ticket basis. Contractor's Cabling Services technicians shall be required to periodically perform physical cable inventories and assist with the reconciliation of the cable management database.
- 5.5 Contractors shall comply with HAS IT Standards and specifications for all Installations, Moves, Adds and/or Changes ("IMAC"). Contractor shall not charge HAS for services including labor or materials to repair or re-install Structured Cabling System ("SCS") components or installation practices that does not meet contract specifications. Any materials to be used for installations other than what is included in HAS IT Specifications must be approved by HAS IT Infrastructure in written prior to use.

6.0 Cable Records and Documentation

- 6.1 The contractor shall establish a final written and electronic set of cable records for all work performed and shall provide it within fifteen (15) business days of HAS acceptance (i.e. Substantial Completion) of each cable installation. These cable records shall include, but are not limited to, iPatch, cable schedules, test results, and AutoCAD drawings showing all cable paths, faceplate locations, and labeling nomenclature. Cable records shall be submitted in a format specified by HAS. Documentation acceptance shall be based upon review/approval of the submitted data.
 - 6.1.1 The Contractor shall record GPS data in accordance with HAS GIS standards for outside plant cabling and associated structures (i.e. manholes, handholds, splices, etc.)

6.1.2 At the time of installation cabling shall be labeled at each end, at all access points, and every fifty feet.

7.0 Cable Testing and Acceptance

7.1 Contractor shall perform pre-construction tests on the outside cable plant with a HAS representative present. Testing shall include, but not limited to; tests for shorts, grounds, sheath continuity, and conformance to HAS Technology Specifications and acceptance to meet manufacturer's standards. Acceptance shall be subject to completion of all work.

7.2 Technology Specification

7.2.1 The Contractor agrees to meet or exceed HAS's standards, not or hereinafter in effect as same may be amended at any time, which are referenced in Houston Airport System Technology Specifications located on HAS SharePoint website.

7.2.2 If any conflict arises between the provisions of the Scope of Work and HAS Technology Specifications, the provisions of the Technology Specifications shall govern. Contractor shall adhere to revised standards within thirty (30) calendar days of posted revisions.

8.0 Contractor Staff Qualifications

8.1 Contractor must be a current CommScope/SYSTIMAX Premier Vendor Capable of providing numbered warranty/registration certificates for cabling installations. All of the Contractors Cabling Technicians shall be property trained as specified in Houston Airport System Technology Standards. HAS reserves the right to request that the Contractor change the cabling services subcontractors at any time.

8.2 All Cabling Services performed under the term of this Agreement shall be inspected and approved by the Director. The Director will not approve payment for any cabling services where quality, scope, or workmanship issues are not resolved.

9.0 Personnel of Contractors

9.1 Personnel Requirements:

9.1.1 The Contractor shall provide sufficient personnel to meet the performance requirements of this Agreement. The full-time on-site staff as referenced in 3.2.1 and 3.2.2 will be required to perform the Basic Services specified herein.

9.1.2 Furthermore, the Contractor on or before the start date specified in the Notice to Proceed, shall assign in writing the certified technicians, cable technicians, and helper technicians, dedicated solely to this Agreement. Such technicians shall have no other employment obligations to Contractor or other third parties and must be approved in writing by the Director before commencing performance under this agreement. The designated certified technicians shall be on-site at the assigned Airport locations during Normal Business Hours and shall not be removed by Contactor from performing under this Agreement without the prior written consent of the Director.

- 9.1.3 The Director shall have the right to approve or disapprove any successor on-site certified technician(s) prior to their performance under this Agreement.
- 9.1.3.1 Upon written request of the Director, Contractor shall provide additional technicians on an "as-needed" basis per the pricing on the Bid Tab.
- 9.1.3.2 Although the dedicated on-site Structured Cabling Technicians will be assigned primary Airport locations, HAS reserves the right to utilize any/all dedicated technicians at any/all HAS locations.
- 9.1.3.3 Contractor shall furnish adequate certification papers and documentation of on-site personnel qualifications and must obtain the written approval of the Director prior to on-site assignment under this Agreement.
- 9.1.3.4 Resumes shall be provided and updated by Contractor annually on the agreement anniversary date throughout the Term of Agreement.
- 9.1.4 Contractor may change personnel only with equally qualified personnel and then only after obtaining the Director written approval.
- 9.1.5 Contractor shall replace any personnel assigned to provide services under this Agreement whose work product or conduct is not satisfactory to the Director.
- 9.1.6 All personnel Contractor assigns to this Agreement must wear the company's uniform while performing work under this Agreement. The contractor's personnel will always present a clean and neat appearance.
- 9.1.7 The contractor technicians will be expected to work in accordance with the City holiday schedule rather than Contractor's holiday schedule at no additional cost. Substitute technicians must be approved in advance and assigned to accommodate normal onsite technician absence due to training, vacation, Contractor holiday, etc.
- 9.1.8 When primary on-site Cabling Services technicians are not available, Contractor must provide an equally qualified certified technician, and must inform HAS in advance.
- 9.1.9 The Contractor shall provide a sub-set of "Standby", equally qualified substitute technicians who may be called upon to fulfill the duties of assigned technicians who may be called upon to fulfill the duties of assigned on-site technicians during vacations, training, recertification, or absences due to illness. Substitute technicians shall hold a valid HAS badge for the respective airports (IAH, HOU, and EFD) to include Customs and Border Patrol (CBP) Clearances and must be included in the airport familiarization process. Contractor shall not substitute technicians who are unfamiliar with HAS Specifications, airport facilities, tenants, and/or personnel.
- 9.1.10 The Contractor shall provide HAS with an organization chart complete with names and resumes for each position listed on the chart.

10.0 Subcontractors

- 10.1 The contractor may use only subcontractors approved in writing and in advance by the Director in connection with the performance of work under this Agreement. Resumes of subcontractor's technicians performing work under this Agreement shall be submitted to the Director prior to beginning work and from time to time under this Agreement. Contractor shall be fully liable to the Coty for an damages caused by the intentional or negligent acts or omissions of its subcontractor and shall be responsible for making all payments to subcontractors for materials and/or services.
- 10.2 Subcontractors approved to perform to perform work under this agreement shall not be added of removed from work by contractor without prior written consent of the Director.

11.0 Equipment, Parts, Materials, and Instruments

- 11.1 Contractor shall furnish and install equipment required to perform all specified services in accordance with the applicable Houston Airport System Standards provided in HAS SharePoint website.
- 11.2 Contractor shall provide current revised equipment lists to incorporate product number changes as well as new products. Price list (s) shall be submitted on electronic media.
- 11.3 All materials, equipment, parts, and/or components replaced or newly installed in the Structure Cabling System (SCS) by the Contractor shall be factory new and free of defects in title, materials, and workmanship at the time if their delivery and installation. Each component of the Structure Cabling System shall conform to the specifications published by the manufacturer of the component. HAS reserves the right to request or permit the substitution of rebuilt or reconditioned parts, but such substitutions shall not be used without the prior express written consent of the Director.
- 11.4 In addition to any other warranty provisions, at any time during the Term of this Agreement of any extensions thereto, if a specific part or component requires in excess of three (3) maintenance calls within one (1) month, Contractor shall replace the defective part or component at Contractor's expense.

12.0 Equipment, Parts, Supplies, and instruments Pricing

- 12.1 Contractor shall supply all equipment, parts, supplies, and instruments required for any and all installation(s) which shall include, but is not limited to copper, finer and coax installation equipment and/or test equipment, fusion splicer, Optical Time Domain Reflectometer (OTDR), Power Meter, etc. All items shall be provided with no percentage mark-up in accordance with the Bid Tab.
- 12.2 Prices for equipment, parts, and supplies, which may be required for authorized Other/Work Services Requests, for which process are not otherwise established herein, shall be based on the percentage of discount or mark-up stipulated on the Bid Tab as applied to the current price list(s)-or links to the manufacturer's published lists- upon request by HAS for the purpose of verifying Contractor's charges.

12.3 SYSTIMAX product discounts shall be according to the subcontractor specific discounts. Contractor may markup materials/equipment, and OSR subcontractor cost by 5% and 0% on prime contractor labor cost.

12.4 Cabling Services-Flat Rate for horizontal cabling.

13.0 Test Equipment

13.1 The contractor and cabling services subcontractor shall furnish and maintain adequate quantities and types of on-site test equipment as required for diagnostics and repairs at all HAS facilities. The Contractor shall be responsible for calibrating, repairing and maintaining test equipment in a First-Class Condition throughout the Term of this Agreement and any extensions thereto. Upon the expiration or termination of this Agreement, Contractor shall remove all Contractor provided test equipment from HAS Facilities. All test equipment supplied shall meet or exceed the related HAS Division 27 Specifications (available at <http://fly2houston.com>) for the system being tested.

13.2 Contractor shall provide the on-site BICSI Certified Technicians with all tools and equipment to perform Installations and/or repairs on any cabling Infrastructure issues, to include, but is not limited to; ladders, flashlights, screwdrivers, water pumps, air blowers and other equipment deemed necessary to gain access to areas where cabling may be installed, tested, and/or damaged.

13.3 Contractor shall provide the Director a list of all equipment to be used exclusively for this Agreement. All of Contractor's technicians shall be properly trained and certified on all diagnostic and test equipment.

14.0 Coordinate Performance

14.1 HAS Contracts:

14.1.1 Contractor shall coordinate all its performance with such person(s) as the Director designates in writing. Contractor shall keep said person(s) currently advised of developments relating to the performance of this Agreement and Contractor shall at all appropriate times advise and consult with the Director. Representative(s) of HAS may remain with Contractor's personnel during performance of any work or services required under this Agreement.

14.2 Pre-Performance Conference:

14.2.1 Prior to commencing performance under this Agreement, Contractor shall attend a pre-performance conference under this Agreement, Contractor shall attend a pre-performance conference with the Director and other representatives of HAS. The Director shall specify the time and place of such meeting in a written or electronic notice to Contractor. Representative of Contractor attending the pre-performance conference shall include, but is not limited to; the on-site certified technician(s) whom Contractor has assigned to this Agreement (as set forth in 3.2.2 of the scope of work, with the Administrative Co 3.2.1 in this document) who is authorized to bind Contractor in matters relating to the following pre-performance conference

items. In the above-mentioned notice, the Director shall have the right, in his sole discretion, to further designate other representatives of Contractor who must attend the pre-performance conference and such designated representatives shall attend same. Items to be addressed at the pre-performance conference include, but are not limited to the following:

- 14.2.1.1 Phase-in schedule from incumbent contractor to new Contractor.
- 14.2.1.2 Work Scheduling.
- 14.2.1.3 Agreement Administration
- 14.2.1.4 Facilities utilization
- 14.2.1.5 Channels of Communication
- 14.2.1.6 Maintenance requirements
- 14.2.1.7 Logistical management of Contractor furnished supplies and equipment.
- 14.2.1.8 Implementation of additional procedures to ensure Agreement is performed in accordance with its terms.

14.3 Coordination Meetings:

- 14.3.1 Throughout the Term of this Agreement, Contractor shall meet with the Director, as deemed necessary, 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 shall designate the time, date, location, Contractor attendees, and general purpose. Contractor's designated attendees shall be present at an such performance meeting for its duration and shall prepare minutes. The meeting minutes shall be transcribed by Contractor in typewritten form and shall be submitted to the Director for approval within five (5) business days of any such meeting.
- 14.3.2 The Director shall have the right to dispute the accuracy of the minutes and shall so note the discrepancies in the minutes prior to his approval. Once approved, the original will be retained by HAS and a copy thereof shall be submitted to Contractor.

15.0 Equipment condition at Expiration

- 15.1 The Contractor shall turn over all equipment and systems in First Class Condition. Any item not operating in accordance with its required function shall be repaired or replaced. Preventative maintenance work shall have been performed as required per the PM schedule.
- 15.2 Within six (6) months of expiration of the Agreement, Contractor shall inspect and test all equipment and repair or replace any equipment or components in a accordance with findings in the inspection and test.

- 15.3 Within sixty (60) days of expiration of the Agreement, Contractor shall perform a complete inspection of all controls and instrumentation. Any item outside First Class Condition shall be corrected.
- 15.4 Within thirty (30) days of expiration of the Agreement, Contractor shall adjust all systems equipment and complete spare parts inventory and report. Contractor shall provide HAS a complete final report on the condition of all systems and equipment, including inspection and test reports, and certified statements signed by an agent of Contractor testifying to the First-Class Condition of all equipment and systems.
- 15.5 HAS shall have the right of inspection during or after any of this work, and shall notify Contractor, within seven (7) business days of receipt of Contractor's certified statement, of any noted discrepancies. Contractor shall then proceed to correct to complete the work. Contractor shall complete all work within thirty calendar (30) days and notify the Director in writing upon completion of all work. Contractor shall assist HAS with any inspections required by the Director at no additional cost to HAS.
- 15.6 Should Contractor fail to perform or complete any required work prior to expiration of the contract, HAS may have such work performed at Contractor's expense.
- 15.7 Contractor shall assure that all equipment is in First Class Condition at the expiration of the Agreement.

16.0 Security and Badging

- 16.1 Contractor shall comply with applicable Federal rules governing security at the Airport, as may be amended from time to time.
- 16.2 All on-site personnel of Contractor, including subcontractors, are required to undergo a fingerprint-based criminal history records check.
- 16.3 Contractor shall pay for the cost of badges and the process at all required Airports (IAH, HOU, and EFD) to include Customs and Border Patrol clearances, including replacements thereof. Contractor personnel losing badges will be charged for the lost badge in addition to replacement badges at the then current rate.
- 16.4 Contractor acknowledges that fines or penalties associated with non-compliance with security regulations must be reimbursed to HAS.

17.0 Transportation and Parking

- 17.1 The Contractor shall provide vehicles for the Administrative Coordinator and the On-site Structured Cabling Technicians for their employee's use within HAS facilities and shall park the vehicles in areas designated by the Director at Contractor's own cost, if any. HAS will provide a limited number of vendor parking spaces at no charge. All transportation activities and related costs of Contractor, or its subcontractors, necessary to perform under this Agreement shall be provided by Contractor. All of Contractor's and its subcontractors' vehicles shall be clearly identified as required by the Director.

18.0 Travel Time

18.1 Contractor shall not be entitled to compensation for travel time to and from the job site unless traveling between airports (IAH, HOU, and EFD). i.e. Not to and from office/residence.

19.0 Records and Reports

19.1 Contractor shall submit all reports and records as may be required by the Director.

20.0 Equipment Registration Commitment

20.1 Contractor shall register any new equipment it provides and/or installs with the manufacturer before the date of acceptance and provide documentation to substantiate the manufacturer's support commitment for the installed equipment.

21.0 Housekeeping

21.1 The very sensitive equipment to be maintained by the Contractor is secured in rooms accessible to a very limited number of authorized personnel having an appreciation of the critical nature of the equipment. Therefore, all Contractor personnel granted access to the rooms shall perform all housekeeping tasks and provide all materials and equipment for cleaning of all such areas and the associated equipment.

21.2 If any room is found not to be clean and orderly, the last person's employer that entered the room shall be notified and given twenty-four (24) hours to resolve and correct the matter. If the room is still not cleaned within such twenty-four (24) hour period, a cleaning fee for each occurrence shall be assessed against the appropriate entity, which could be deducted from Contractor's pay to enable HAS to have the cleaning accomplished by others.

22.0 Contractor's Phase-in

22.1 Contractor (at no extra charge to the City) shall have up to a thirty (30) day phase-in period to accomplish a smooth and successful transition of operations and services (hereinafter referred to as "Phase-In Period"). Contractor's Phase-In Period shall begin 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 shall last approximately thirty (30) days preceding the receipt of Notice to Proceed.

22.2 The incumbent contractor shall be responsible for performing the duties and services listed on its contract during Contractor's Phase-In Period.

22.3 During the Phase-In Period, Contractor shall arrange to have necessary supervisory, technical, and other personnel on site to observe the operation and maintenance of the equipment. Contractor may use the Phase-In Period to recruit and transfer personnel, train personnel, arrange for security badging, establish management procedures, set up records, ensure adequate parts, tools, and equipment are in place, and otherwise prepare for the assumption of control without disruption of operations.

22.4 During the Phase-In Period, it shall be the responsibility of the Contractor to develop and implement a full project schedule detailing the responsibilities of assigned personnel and submit it to the Director for approval.

22.5 Contractor shall have no responsibilities for operating or maintaining the systems or equipment during the Phase-In Period. The Phase-In Period shall end on the date set forth in the official Notice to Proceed, at which time the Contractor shall assume full responsibility for the maintenance of the systems equipment.

23.0 Change Order

23.1 The City, by written notice from the Director to the Contractor at any time during the term of this Agreement, 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 this Agreement shall be in accordance with the contract specification/scope of services, and the charges or rates for the 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 on the Bid Tab.

24.0 Contractor's Phase-Out

- 24.1 The contractor recognizes that the services provided by under this Agreement are vital to the City's overall efforts to provide safe and efficient facility operations; that continuity thereof must be maintained at a consistently high level without interruption; that upon expiration of this Agreement a successor may continue Contractor must cooperate in order to effect an orderly and efficient transition.
- 24.2 Accordingly, Contractor shall be required to provide Phase-Out services for up to thirty (30) calendar days prior to contract expiration to its successor contractor at no extra charge to the City (hereinafter referred to as "Phase out Period").
- 24.3 Phase-Out orientation shall compromise a maximum of thirty (30) calendar days, eight (8) hours per day. Orientation may include system operations procedures, record keeping, reports, and procurement procedures, etc.
- 24.4 Contractor shall be totally responsible for providing the services called for by the Agreement during the Phase-Out Period.
- 24.5 Contractor agrees to 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 in the Agreement.
- 24.6 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 personnel file 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.

25.0 Estimated Quantities Not Guaranteed

25.1 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 Agreement. The quantities may vary depending upon the actual needs of the HAS. The quantities specified herein are good faith estimates of usage during the Term. 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.

26.0 Warranty of Services

26.1 Definitions:

26.1.1 "Acceptance" as used in this Section 26 this Exhibit, 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.

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

26.2 Notwithstanding inspection and acceptance by the City or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this Agreement 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.

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

27.0 ESTIMATED QUANTITIES NOT GUARANTEED:

27.1 The estimated quantities specified herein are not a guarantee of actual quantities, as the City does not guarantee any particular quantity of 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.

28.0 INTERLOCAL AGREEMENT:

28.1 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.

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1. **DEFINITIONS**

- 1.1 The following additional terms are defined as follows for purposes of this solicitation:
- 1.1.1 "*Acceptable*" means that services, equipment, or performance, meet or exceed the requirements of this Agreement.
 - 1.1.2 "*Airport(s)*" mean George Bush Intercontinental Airport/Houston (IAH), William P. Hobby Airport (HOU) and Ellington Airport (EFD).
 - 1.1.3 "*AOA*" means the Air Operations Area and includes, but is not limited to, runways, ramps, taxiways and aprons.
 - 1.1.4 "*ASC*" means the Airport Services Complex located at 4500 Will Clayton Parkway.
 - 1.1.5 "*CBP*" means Customs and Border Protection.
 - 1.1.6 "*First Class Condition*" refers to the quality of systems, parts, equipment, and related components, including replacements. 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 before the Countersignature Date. When referring to the wear and operation of the elements, First Class Condition means a standard that is within the manufacturer's published tolerances, or if no published tolerances, within generally accepted tolerances within the telecommunications industry.
 - 1.1.7 "*Elements*" means systems, parts, equipment, and related components, including replacements.
 - 1.1.8 "*Emergency Service Request*" means a verbal request from the Director to Contractor to perform installation or repair of communication infrastructure due to a Major Failure, a Minor Failure, or a Non-Critical Failure that Contractor must respond to in accordance with the Response Times set forth in Section 3.2.2.2.12 of this Exhibit.
 - 1.1.9 "*Equipment*" means any and all hardware, equipment, material, goods, products, or other tangible items that Contractor provides or furnishes to City under, pursuant to, or in connection with this Agreement.
 - 1.1.10 "*HAS Facilities*" means the property and facilities of the Houston Airport System which include, but are not limited to, George Bush Intercontinental Airport/Houston (IAH), William P. Hobby Airport (HOU),

Ellington Airport (EFD), and the Houston Airport System Administration Buildings.

- 1.1.11 "*Houston Airport System Technology Specifications*", also known as Division 27, as amended from time to time, is incorporated herein by reference and available online at <http://fly2houston.com> or HAS SharePoint website.
- 1.1.12 "*IDF*" means Intermediate Distribution Frame.
- 1.1.13 "*MAC*" means move, add, or change order(s) that are required as part of the normal day to day activities in managing a telecommunications system when telecommunications terminal equipment and station lines that may have to be rearranged, increased or decreased as a result of normal business activity. By way of example, and not by way of limitation, MACs include individual telephone changes; installing new telephones and associated cabling and programming to make operational; removing existing telephones; and modifying existing telephones.
- 1.1.14 "*MDF*" means Main Distribution Frame.
- 1.1.15 "*Normal Business Hours*" means 7:00 a.m. to 5:00 p.m., Monday through Friday unless Contractor receives a written notice from the Director on a preceding Thursday modifying the work hours for the following week(s) and Contractor agrees in which case, the modified work hours become the Normal Business Hours only for the period of time designated in such notice.
- 1.1.16 "*Other Service Request (OSR)*" is the form used to request Other Work/Services within the scope of this Agreement.
- 1.1.17 "*Preventive Maintenance*" or "*PM*" means periodic or scheduled maintenance in accordance with manufacturer's maintenance specifications, industry standards, professional association recommendations, and as set forth in this Agreement.
- 1.1.18 "*Remedial Maintenance*" or "*RM*" means the repair of equipment with parts, materials, and labor to restore performance to the designed function in the event of any breakdown or stoppage of equipment where the equipment is unable to perform its designed function.
- 1.1.19 "*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.
- 1.1.20 "*Substantial Completion*" means the stage in the progress of the work when the work or designated portion thereof is sufficiently complete in accordance with the Agreement and OSR so that the City can occupy or utilize the work product for its intended use.

1.1.21 "*Structured Cabling System*" or "*System*" means all equipment, cabling, connectivity, and instruments, and all appurtenances thereto identified in this Agreement.

1.1.22 "*Upgrade*" means hardware or software to improve the current system for additional functionality and/or expansion/increases of capacity.

1.1.23 "*Urgent Service Request*" is defined as a non-remedial maintenance request for immediate action. An urgent service request may be issued outside of Normal Business Hours, in which case additional labor charges will apply.

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EXHIBITS

- "A" DEFINITIONS
- "B" SCOPE OF SERVICES
- "C" DRUG POLICY COMPLIANCE AGREEMENT
- "D" CERTIFICATION OF NO SAFETY IMPACT POSITIONS
- "E" DRUG POLICY COMPLIANCE DECLARATION
- "F" FEES AND COSTS

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. The Parties hereby agree that each Party may sign and deliver this Agreement electronically or by electronic means and that an electronic transmittal of a signature, including but not limited to, a scanned signature page, will be as good, binding, and effective as an original signature.

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

Name:
Title:

ATTEST/SEAL:

City Secretary

APPROVED:

Director, _____ Department

APPROVED:

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.

Legal Assistant
Date: _____

CONTRACTOR:

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

CITY OF HOUSTON, TEXAS
Signed by:

Mayor

COUNTERSIGNED BY:

City Controller

COUNTERSIGNATURE DATE:

APPROVED AS TO FORM:

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 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).

2.03.2 If the Director requests an extension of time to complete Contractor's performance, then the CPO may, upon consultation with the Director involved, extend the time so long as the extension does not exceed 90 calendar 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 **IN ACCORDANCE WITH THE TEXAS PROMPT PAYMENT ACT, CONTRACTOR SHALL MAKE TIMELY PAYMENTS TO ALL PERSONS AND ENTITIES THAT CONTRACTOR HAS HIRED TO SUPPLY LABOR, MATERIALS, OR EQUIPMENT FOR THE PERFORMANCE OF THIS AGREEMENT. CONTRACTOR SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF CONTRACTOR'S FAILURE TO MAKE THESE PAYMENTS REGARDLESS OF WHETHER THE FAILURE TO PAY IS CAUSED BY, OR CONTRIBUTED TO, IN WHOLE OR IN PART, THE NEGLIGENCE (WHETHER SOLE, JOINT OR CONCURRENT), OR GROSS NEGLIGENCE, (WHETHER SOLE, JOINT OR CONCURRENT), STRICT LIABILITY, INTENTIONAL ACTS, OR OTHER CONDUCT OR**

LIABILITY OF THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES.

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. CONTRACTOR HEREBY COVENANTS AND AGREES NOT TO SUE THE CITY FOR ANY CLAIMS, DEMANDS, OR CAUSES OF ACTION DIRECTLY OR INDIRECTLY RELATED TO ITS RELEASE UNDER THIS SECTION. FOR THE AVOIDANCE OF DOUBT, THIS COVENANT NOT TO SUE DOES NOT APPLY TO CLAIMS FOR BREACH OF THIS AGREEMENT.

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 2.07.1.1 THROUGH 2.07.1.3, "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 estop 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 Attorney. Contractor shall then control the defense and any negotiations to settle the claim, subject to the City Attorney's consent or agreement to the settlement, which consent or agreement shall not unreasonably be withheld. 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.

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 Coverage	Bodily Injury and Property Damage, Combined Limits of \$1,000,000 each Occurrence, and \$2,000,000 aggregate
Automobile Liability	\$10,000,000 combined single limit for: (i) Any Auto; or (ii) 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: (i) all premiums; and (ii) 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: (i) excuse non-compliance with the terms of this Section; or (ii) waive or estop the City from asserting its rights to terminate this Agreement. The policy issuer shall: (i) have a Certificate of Authority to transact insurance

business in Texas; or (ii) 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 Agreement 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 Agreement. 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 Agreement with a duration of two years after substantial completion. All certificates of insurance submitted by Contractor shall be accompanied by endorsements for: (i) Additional Insured coverage in favor of the City for Commercial General Liability and Automobile Liability policies; and (ii) 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, 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 **10%** of the value of this Agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Office of Business 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: (i) audits of the books and records of the subcontractor; and (ii) 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 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 (the "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 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 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 Contractor's normal and customary charges or rates for the equipment, supplies, services, or locations classified in the Fees and Costs (Exhibit "F").

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 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 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 will issue the Change Order in substantially the following form:

<u>CHANGE ORDER</u>	
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]	

2.23.3 The CPO may issue more than one Change Order, subject to the following limitations:

2.23.3.1 The City Council expressly authorizes the CPO 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 contract 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 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, and orders of the Environmental Protection Agency, the Texas Commission on Environmental Quality, and any other governmental agency with the authority to promulgate environmental rules and regulations (the "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 Laws. "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 within 7 days of Contractor becoming aware of or having a reasonable belief that such violations may have occurred, have occurred, or are reasonably likely to occur.

2.27 **PRESERVATION OF CONTRACTING INFORMATION**

2.27.1 The requirements of Subchapter J, Chapter 552, Texas Government Code, may

apply to this Agreement and the Contractor agrees that this Agreement can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter. If the requirements of Subchapter J, Chapter 552, Texas Government Code, apply to this Agreement, then for the duration of this Agreement (including the initial term, any renewal terms, and any extensions), Contractor shall preserve all Contracting Information, as defined by Section 552.003 of the Texas Government Code, related to this Agreement as provided by the records retention requirements applicable to the City pursuant to federal or state law or regulation, city ordinance or city policy, which record retention requirements include but are not limited to those set forth in Chapters 201 and 205 of the Texas Local Government Code and Texas Administrative Code Title 13, Chapter 7. Within five business days after receiving a request from the Director, Contractor shall provide any Contracting Information related to this Agreement that is in the custody or possession of Contractor. Upon the expiration or termination of this Agreement, Contractor shall, at the Director's election, either (a) provide, at no cost to the City, all Contracting Information related to this Agreement that is in the custody or possession of Contractor, or (b) preserve the Contracting Information related to this Agreement as provided by the records retention requirements applicable to the City pursuant to federal or state law or regulation, city ordinance or City policy.

2.27.2 If Contractor fails to comply with any one or more of the requirements of this Section, Preservation of Contracting Information, or Subchapter J, Chapter 552, Texas Government Code, then, in accordance with and pursuant to the processes and procedures set forth in Sections 552.373 and 552.374 of the Texas Government Code, the Director shall provide notice to the Contractor and may terminate this Agreement. 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.

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". 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 Contractor and approved by the Director showing the services performed and the attendant fee. The City shall make payment to Contractor within 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 Contractor of the dispute and request remedial action. After any 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.

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 has not allocated supplemental funds or made a Supplemental Allocation for this Agreement unless the City has issued 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 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 (the "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 1-year terms on the same terms and conditions. If the Director chooses not to renew this Agreement, he or 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 that 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 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 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 **GOVERNING LAW AND VENUE**

5.06.1 This Agreement shall be construed and interpreted in accordance with the applicable laws of the State of Texas and City of Houston. Venue for any disputes relating in any way to this Agreement shall lie exclusively in 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: (i) audits of Contractor's books and records; and (ii) 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.

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. "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.
4. "City" is defined in the preamble of this Agreement and includes its successors and permitted assigns.
5. "Contractor" is defined in the preamble of this Agreement and includes its successors and assigns.
6. "Countersignature Date" means the date shown as the date countersigned on the signature page of this Agreement.
7. "Director" means the Director of the City of Houston _____ Department or such other person as he or she designates.
8. "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.
9. "Effective Date" means the date this Agreement is countersigned by the City Controller.
10. "Notice to Proceed" means a written communication from the Director or the CPO to Contractor instructing Contractor to begin performance.
11. "Party" or "Parties" means one or all of the entities set out in the Preamble who are bound by this Agreement.

EXHIBIT "B"

SCOPE OF SERVICES

SAMPLE

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 §5.18 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)

SAMPLE

EXHIBIT "E"

DRUG POLICY COMPLIANCE DECLARATION

I, _____ as an owner or officer of _____ (Name) (Print/Type) _____ (Title) _____ (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 _____.

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

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

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

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

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

Table with 4 columns: Random, Reasonable Suspicion, Post Accident, Total. Rows: Number Employees Tested, Number Employees Positive, Percent Employees Positive.

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

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

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

_____ (Date)

_____ (Typed or Printed Name)

_____ (Signature)

_____ (Title)

EXHIBIT "F"

FEES AND COSTS

SAMPLE