SAMPLE AGREEMENT – SUBJECT TO CHANGE

AGREEMENT FOR PROFESSIONAL PROJECT MANAGEMENT SERVICES

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

THIS AGREEMENT FOR PROFESSIONAL PROJECT MANAGEMENT SERVICES ("Agreement") is made on the date countersigned by the City Controller ("Effective Date"), by and between the **CITY OF HOUSTON, TEXAS** (the "City"), a Home Rule City of the State of Texas principally situated in Harris County, and _____ (the "Consultant"), a _____ Company.

The Parties agree as follows:

ARTICLE 1. PARTIES

1.1. ADDRESS

1.1.1. The initial addresses of the Parties, which one Party may change by giving written notice of its changed address to the other Party, are as follows:

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

1.2. TABLE OF CONTENTS

1.2.1. This Agreement consists of the following articles and exhibits:

TABLE OF CONTENTS

EXHIBITS	
A	Scope of Services
B	Total Hourly Salary Rate
C	Title VI: Non-Discrimination
D	Drug Policy Compliance Agreement
E	Consultant's Certification of No Safety Impact Positions
F	Drug Policy Compliance Declaration
G	FEMA Addendum

1.3. PARTS INCORPORATED

1.3.1. The above described articles and exhibits are incorporated into this Agreement.

1.4. CONTROLLING PARTS

1.4.1. If a conflict among the articles and exhibits arises, the articles control over the exhibits.

1.5. SIGNATURES

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

CONSULTANT:

_____

By: _____
NAME: _____
POSITION: _____

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

By:_____
NAME:_____

Tax Identification No.:_____

CITY:

CITY OF HOUSTON, TEXAS

By:_____
Mayor

ATTEST/SEAL:

_____
City Secretary

APPROVED:

_____
Director of General Services Department

APPROVED AS TO FORM:

_____
Assistant City Attorney
L.D. File No. _____

COUNTERSIGNED BY:

_____
City Controller

DATE COUNTERSIGNED:

_____
("Effective Date")

ARTICLE 2. DEFINITIONS

2.1. In addition to the words and terms defined elsewhere in this Agreement, the following terms have the meanings set out below:

2.1.1. "*Agreement*" means this contract between the Parties, including all exhibits and any written amendments authorized by City Council and Consultant.

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

2.1.3. "*City Attorney*" means the City Attorney of the City or any person designated by the City Attorney to perform one or more of the duties of the City Attorney under this Agreement.

2.1.4. *"City's Project Manager"* is a City employee designated by the Director with the responsibility and authority to manage a Project or Projects for a City Department. The City's Project Manager is the single point of contact for the Agreement. All concerns, regarding the Agreement, must pass through the City's Project Manager. The City's Project Manager may provide in writing that the Consultant's Housing Program Design Manager and/or Housing Program Manager, shall stop or reject Work not performed in accordance with the Agreement documents.

2.1.5. "*City Personnel*" means all City employees, but not elected officials.

2.1.6. "*Confidential Information*" means all non-public Documents or Information of a Party to this Agreement, including without limitation any such Documents or Information that is identified as or would be reasonably understood to be confidential, proprietary, and/or sensitive.

2.1.7. *"Construction Contractor"* means the Consultant to whom the City has awarded a construction contract for all or part of the Work included in a Project.

2.1.8. *"Construction Manager"* is a person designated by the Consultant and given the responsibility and authority to oversee the Work and manage the construction contract. The City's Project Manager is the immediate supervisor of the Construction Manager. Construction Manager duties are further defined in Exhibit "A" of the Agreement.

2.1.9. "*Consultant*" is defined in the preamble of this Agreement and includes its successors and assigns.

2.1.10. "*Design Consultant*" is the design professional under contract with the City for the design of a Project.

2.1.11. "*Director*" means the Director of the City's Housing and Community Development Department, or any person designated by the Director to perform one or more of the Director's duties under this Agreement.

2.1.12. "*Disclosing Party*" means a Party who discloses, supplies, or provides Confidential Information to another Party or whose Confidential Information is otherwise in the possession, custody, or control of another Party.

2.1.13. "*Documents*" means all original and non-identical copy of any written, typed, or printed matter, or electronically stored information, of any kind or description.

2.1.13.1. The word "documents" includes, but is not limited to, the following: agendas, analyses, audio or video recordings, bulletins, charts, circulars, communications (including any interoffice, social media, and other communications), computations, computer programs, copies, correspondence, data, databases, data compilations, data prototypes, designs, diagrams, diskettes, documents, drafts, drawings, electronic mail (email), electronically stored information, exhibits, facsimiles, forms, graphs, guides, images, information, inventions, items, letters, logs, manuals, maps, materials, memoranda, metadata, microfilm, minutes or meeting minutes, models, notes, notations, notebooks, operating manuals, original tracings of all drawings and plans, other graphic matter (however produced or reproduced), pamphlets, photographs (including any digital or film photographs), plans, printouts, policies, procedures, records, recordings (including any audio, video, digital, film, tape, and other recordings), reports, social media communications, software, specifications, tabulations, telegrams, underlying data, works, worksheets, work products, writings, and any other writings or recordings of any type or nature (and any revisions, modifications, or improvements to them).

2.1.14. "*Effective Date*" means the date the City Controller countersigns the signature page of this Agreement and the Agreement becomes effective and binding.

2.1.15. *"Inspector"* is a person designated by the Consultant and given the responsibility. and authority to physically inspect the Work and monitor progress of the Work on a frequent basis. Inspector duties are further defined in Exhibit "A" of this Agreement.

2.1.16. "*Notice to Proceed*" means a written communication from the Director to Consultant instructing Consultant to begin performance under this Agreement.

2.1.17. "*Party*" or "*Parties*" means City and Consultant who are bound by this Agreement, individually or collectively as indicated in the context by which it appears.

2.1.18. *"Project"* means all work involved in the administration and implementation of housing program design and housing program management services for housing recovery for the Department, including but not limited to those set forth under Exhibit A.

2.1.19. "*Project Manager*" is a person designated by the Consultant and given the responsibility and authority to manage all or an identified portion of the Project. Project Manager duties are further defined in Exhibit "A" of this Agreement. The Project Manager's immediate supervisor is the City's Project Manager, unless the City deems the number of Projects requires an intermediate manager, in which case the Project Manager shall report to such intermediate manager.

2.1.20. "*Subconsultant*" or "*Subcontractor*" means person under-contract with Consultant to perform services under this Contract.

2.1.21. *"Task Order*" is an individual project assignment with a defined scope of services, budget and schedule issued by the Director under this Agreement.

2.1.22. "*Term*" means the entire period during which this Agreement is in effect, starting on the Effective Date and continuing through the final date of termination or expiration of this Agreement, including any renewals or extensions thereof.

2.1.23. "*Work*" is the entire completed Project, including all labor, materials, equipment and services provided in connection with housing program design and housing program management services under this Agreement.

2.1.24. "*Work Products*" means all Documents or Information that the City and/or Consultant creates, develops, modifies, prepares, produces, or writes under, pursuant to, or in connection with this Agreement. "Work Products" does not mean or include the Software, the Source Code, or Object Code.

2.2. 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.

2.3. The word "*shall*" is always mandatory and not merely permissive.

ARTICLE 3. DUTIES OF CONSULTANT

3.1. SCOPE OF SERVICES

3.1.1. In consideration of the payments specified in this Agreement, Consultant shall provide all labor, material, and supervision necessary to perform the Services and furnish the Deliverables described in **Exhibit A**.

3.2. COORDINATE PERFORMANCE

3.2.1. Consultant shall coordinate its performance with the Director. Consultant shall promptly inform the Director and other person(s) of all significant events relating to the performance of this Agreement.

3.3. REPORTS

3.3.1. Consultant shall submit all reports and progress updates required by the Director.

3.4. PROMPT PAYMENT OF SUBCONTRACTORS

3.4.1. In accordance with the Texas Prompt Payment Act, Consultant shall make timely payments to all persons and entities supplying labor, materials, equipment, or services for the performance of this Agreement. **CONSULTANT SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF CONSULTANT'S FAILURE TO MAKE THESE PAYMENTS.**

3.5 SCHEDULE OF PERFORMANCE

3.4.1. Time of Performance

3.4.1.1 The Director shall provide Consultant with a written Notice to Proceed specifying a date to begin performance.

3.4.2. Time Extensions

3.4.1.1. If Consultant requests an extension of time to complete its performance, then the Director may, in consultation with the CPO, extend the time so long as the extension does not exceed 180 calendar days. The extension must be in writing, but does not require amendment of this Agreement. Consultant is not entitled to damages for delay(s) regardless of the cause of the delay(s).

3.6 RELEASE

3.6.1 CONSULTANT 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.

3.7 INDEMNIFICATION

3.7.1 CONSULTANT 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:

3.7.1.1 CONSULTANT'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONSULTANTS', OR SUBCCONTRACTORS' (COLLECTIVELY REFERRED TO AS "CONSULTANT") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;

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

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

3.7.2 CONSULTANT SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND

FOR FIVE YEARS AFTER THE AGREEMENT TERMINATES. CONSULTANT SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

3.8 SUBCONTRACTOR'S INDEMNITY

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

3.9 INDEMNIFICATION PROCEDURES

3.9.1 *Notice of Claims*.

3.9.1.1 If the City or Consultant receives notice of any claim or circumstances, which could give rise to an indemnified loss, the receiving Party shall give written notice to the other Party within 10 days. The notice must include the following:

3.9.1.1.1 a description of the indemnification event in reasonable detail, and

3.9.1.1.2 the basis on which indemnification may be due, and

3.9.1.1.3 the anticipated amount of the indemnified loss.

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

3.9.2 *Defense of Claims.*

3.9.2.1 *Assumption of Defense.* Consultant may assume the defense of the claim at its own expense. If Consultant assumes the defense of the claim, Consultant shall then control the defense and any negotiations to settle the claim. Consultant shall notify the City of any and all offers to settle the claim.

3.9.2.2 *Continued Participation.* If Consultant 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. Consultant may settle the claim without the consent or agreement of the City, unless it (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City, (ii) would require the City to pay amounts that Consultant does not fund in full, or (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

3.10 INSURANCE

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

Coverage	**Limit of Liability**
Workers' Compensation	Statutory for Workers' Compensation
Employer's Liability	• 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	$1,000,000 combined single limit for (1) Any Auto or (2) All Owned, Hired, and Non-Owned Autos
Professional Liability	$1,000,000 per occurrence; $2,000,000 aggregate
Excess Liability Coverage, or Umbrella Coverage, for Commercial General Liability and Automobile Liability	$1,000,000.00
Aggregate Limits are per 12-month policy period unless otherwise indicated,	

3.10.2 *Insurance Coverage.* At all times during the term of this Agreement and any extensions or renewals, Consultant shall provide and maintain insurance coverage that meets the requirements of the Agreement. Prior to beginning performance under the Agreement, at any time upon the Director's request, or each time coverage is renewed or updated, Consultant shall furnish to the Director current certificates of insurance, endorsements, all policies, or other policy documents evidencing adequate coverage, as necessary. Consultant shall be responsible for and pay (a) all premiums and (b) any claims or losses to the extent of any deductible amounts. Consultant waives any claim it may have for premiums or deductibles against the City, its

officers, agents, or employees. Consultant 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.

3.10.3 *Form of Insurance.* The form of the insurance shall be approved by the Director and the City Attorney; such approval (or lack thereof) shall never (a) excuse non-compliance with the terms of this Section, or (b) waive or estop the City from asserting its rights to terminate this Agreement. The policy issuer shall (1) have a Certificate of Authority to transact insurance business in Texas, or (2) be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+, and a Best's Financial Size Category of Class VI or better, according to the most current Best's Key Rating Guide.

3.10.4 *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 provisions of this Agreement. Consultant waives any claim or right of subrogation to recover against the City, its officers, agents, or employees, and each of Consultant'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, Consultant shall also provide proof of renewal each year for two years after substantial completion of the Project, or in the alternative: evidence of extended reporting period coverage for a period of two years after substantial completion, or a project liability policy for the Project covered by this Contract with a duration of two years after substantial completion.

3.10.5 *Notice.* **CONSULTANT SHALL GIVE A 30-DAY ADVANCE WRITTEN NOTICE TO THE DIRECTOR IF ANY OF ITS INSURANCE POLICIES ARE CANCELED OR NON-RENEWED**. Within the 30-day period, Consultant shall provide other suitable policies in order to maintain the required coverage. If Consultant does not comply with this requirement, the Director, at his sole discretion, may

immediately suspend Consultant from any further performance under this Agreement and begin procedures to terminate for default.

3.11 PROFESSIONAL STANDARDS

Consultant's performance shall conform to the professional standards prevailing in the Harris County, Texas, with respect to the scope, quality, due diligence, and care of the services and products Consultant provides under this Agreement.

3.12 WARRANTIES

Consultant assigns all manufacturer's warranties on the deliverables to the City and will deliver all related documentation to the Director within 5 days after execution of this Agreement.

3.13 USE AND OWNERSHIP OF DATA AND WORK PRODUCTS

3.13.1 The City may use and shall be permitted to use all City Data, Consultant Data, and Work Products.

3.13.2 Consultant warrants that it owns the copyright to Consultant Data.

3.13.3 Consultant conveys and assigns to the City its entire interest and full ownership worldwide in and to all Work Products and all Proprietary Rights therein.

3.13.4 Consultant shall not claim or exercise any Proprietary Rights in or to the Work Products. If requested by the Director, Consultant shall place a conspicuous notation on any Work Products indicating that the City owns the Work Products and the Proprietary Rights therein.

3.13.5 Consultant's assignment of its interest in the Work Products and the Proprietary Rights therein to the City does not constitute a mere license or franchise to the City.

3.13.6 Consultant shall execute all documents required by the Director to further evidence Consultant's assignment and the City's ownership of the Work Products and the Proprietary Rights therein. Consultant shall cooperate with City in registering, creating, and enforcing the City's ownership of the Work Products and the Proprietary Rights therein.

3.13.7 All Work Products are "works made for hire."

3.13.8 Consultant shall deliver to the Director all or any part of the original City Data, Consultant Data, Work Products, and/or all other files and materials that Consultant produces or gathers during its performance under this

Agreement, in the format and on the media specified by Director, within five Business Days after written request from Director or after this Agreement terminates or otherwise expires.

3.13.9 Consultant may retain copies of the Work Products for its archives. Consultant shall not otherwise use, sell, license, or market the Work Products.

3.13.10 Notwithstanding anything to the contrary, the City is, will be, and shall remain at all times the sole owner of all City Documents and all Work Products. Consultant expressly acknowledges that the City has all right, title, or other ownership interest in all City Documents and all Work Products. Consultant shall not possess or assert any lien or other right against any City Documents or Work Products.

3.14 CONFIDENTIALITY

3.14.1.1 Except as otherwise provided in this Agreement, each Receiving Party shall:

3.14.1.2 Hold all Confidential Information of a Disclosing Party in strict confidence;

3.14.1.3 Protect all Confidential Information of a Disclosing Party with at least the same degree of care and in accordance with the security regulations by which it protects its own Confidential Information;

3.14.1.4 Not use, reproduce, or copy any Confidential Information of a Disclosing Party except as necessary for purposes of performing any duties or exercising any rights under, pursuant to, or in connection with this Agreement unless the Disclosing Party otherwise agrees in writing;

3.14.1.5 Not disclose any Confidential Information of a Disclosing Party to any person or entity except the Receiving Party's agents, Consultants, employees, and representatives with a need to know for purposes of performing any duties or exercising any rights under, pursuant to, or in connection with this Agreement unless the Disclosing Party otherwise agrees in writing;

3.14.1.6 Not remove any Confidential Information of a Disclosing Party from the continental United States;

3.14.1.7 Return or destroy all Confidential Information of a Disclosing Party and any copies of such Confidential Information upon request of the Disclosing Party and, in any event, when no longer needed or

permitted for use under, pursuant to, or in connection with this Agreement; and

3.14.1.8 Advise its agents, Consultants, employees, and representatives of their obligations with respect to the Confidential Information of a Disclosing Party.

3.14.2 No Receiving Party shall have any obligation under this Section (Confidentiality) as to any Confidential Information of a Disclosing Party that:

3.14.2.1 Was previously known to it free and clear of any obligation to keep it confidential;

3.14.2.2 Except as otherwise provided under this Agreement, is disclosed to third parties by the Disclosing Party without restriction;

3.14.2.3 Is or becomes publicly available by other than unauthorized disclosure;

3.14.2.4 Is independently developed by it; or

3.14.2.5 Is disclosed in response to requests made under the Texas Public Information Act or a court order. However, the Receiving Party ordered to disclose the Confidential Information shall: (i) give the Disclosing Party of the Confidential Information prompt written notice of all such requests, and (ii) cooperate with the Disclosing Party's efforts to obtain a protective order protecting the Confidential Information from disclosure.

3.14.3 No Receiving Party shall be liable for the inadvertent or accidental disclosure of Confidential Information of a Disclosing Party, if the disclosure occurs despite the exercise of a reasonable degree of care, which is at least as great as the care the Receiving Party normally takes to protect its own Confidential Information of a similar nature.

3.14.4 Consultant shall obtain written agreements from its agents, employees, Consultants, and subcontractors that bind them to the terms of this Section (Confidentiality).

3.15 USE OF WORK PRODUCTS

3.15.1 The City may use all notes, plans, computations, databases, tabulations, exhibits, photographs, reports, underlying data and other work products (collectively, the ADocuments@) that Consultant prepares or obtains under this Agreement.

3.15.2 Consultant warrants that it owns the copyright to the Documents.

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

3.16 LICENSES AND PERMITS

3.16.1 Consultant shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by any statute, ordinance, rule, or regulation. Consultant shall immediately notify the Director of any suspension, revocation, or other detrimental action against his license.

3.17 COMPLIANCE WITH LAWS

3.17.1 Consultant shall comply with all applicable state and federal laws and regulations and the City Charter and Code of Ordinances.

3.18 COMPLIANCE WITH EQUAL OPPORTUNITY ORDINANCE

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

3.19 CONFLICTS OF INTEREST

3.19.1 If an actual or potential conflict arises between the City=s interests and the interests of other clients Consultant represents, Consultant shall immediately notify the Director by fax transmission or telephone. If the Director consents to Consultant's continued representation of the other clients, he or she shall notify Consultant in writing. If the Director does not issue written consent within 3 business days after receipt of Consultant's notice, Consultant shall immediately terminate its representation of the other client whose interests are or may be in conflict with those of the City.

3.20 NON-DISCRIMINATION

3.20.1 Consultant shall comply with the applicable non-discrimination provisions required by the United States of America, including but not limited to the provisions of 49 CFR Part 21. These provisions are inclusive of any amendments which may be made to such regulations. Further, Consultant shall include the summary of the provisions of 49 CFR Part 21, as may be amended, in subcontracts it enters into under this Agreement. This summary is set forth in **Exhibit C**.

3.21 DRUG ABUSE DETECTION AND DETERRENCE

3.21.1 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 Consultants while on City Premises is prohibited. Consultant shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Consultants, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.

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

3.21.2.1 a copy of its drug-free workplace policy,

3.21.2.2 the Drug Policy Compliance Agreement substantially in the form set forth in **Exhibit D**, together with a written designation of all safety impact positions and,

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

3.21.3 If Consultant files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every six months during the performance of this Agreement (or on completion of this Agreement if performance is less than six (6) months), a Drug Policy Compliance Declaration in a form substantially similar to **Exhibit F**. Consultant shall submit the Drug Policy Compliance Declaration to the CCODT within thirty (30) days of the expiration of each 6-month period of performance and within thirty (30) days of completion of this Agreement. The first six-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 Consultant begins work under this Agreement.

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

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

3.22 CONSULTANT'S PERFORMANCE

3.22.1 Consultant shall make citizen satisfaction a priority in providing services under this Agreement. Consultant shall train its employees to be customer service-oriented and to positively and politely interact with citizens when performing contract services. Consultant'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, Consultant is not interacting in a positive and polite manner with citizens, he or she shall direct Consultant to take all remedial steps to conform to these standards.

3.23 PAY OR PLAY

3.23.1 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. Consultant has reviewed Executive Order No. 1-7, as revised, and shall comply with its terms and conditions as they are set out at the time of City Council approval of this Agreement.

3.24 ACCEPTANCE AND REJECTION

3.24.1. Consultant shall not be entitled to payment and the City shall have no duty to pay Consultant unless the Director has Accepted the Services and other Deliverables as set forth in **Exhibit A**.

3.24.2. Consultant shall provide written notice to the Director upon completion and/or delivery of the Services and other Deliverables as set forth in **Exhibit A**. The Director shall Accept in writing such Services and other Deliverables on or before the 20th Business Day after the date of receipt of such notice by the Director unless, prior to such 20th Business Day, the Director sends written notice to Consultant stating the reason(s) why any Services and other Deliverables have been rejected and not Accepted.

3.24.3. Notwithstanding anything to the contrary in **Exhibit A** or elsewhere, the Director may, in his sole discretion, approve in writing a partial Acceptance of the Services and other Deliverables set forth in **Exhibit A**.

3.24.4. If the Director rejects any Services or other Deliverables, Consultant shall have 10 Business Days after the Director sends written notice of rejection to correct or otherwise replace such Services or other Deliverables as necessary to conform to this Agreement, at no additional cost to the City. Consultant shall provide written notice to the Director upon completion of any such correction(s) or replacement(s) after the receipt of which the Director shall continue to either Accept or reject (as provided under this

Section) and Consultant shall continue to make any necessary correction(s) or replacement(s) (as provided under this Section) until the Director Accepts in writing all previously rejected Services or other Deliverables.

3.24.5. Notwithstanding anything to the contrary herein or elsewhere, if the Director does not Accept any Services or other Deliverables after one or more attempted correction(s) or replacement(s) of such Services or other Deliverables by Consultant, the Director may, in his sole discretion, issue a final rejection notice to Consultant for all Services and other Deliverables (whether or not previously Accepted), the City shall return all Equipment and Software to Consultant at no cost to the City, the City shall have no obligation to pay any amount whatsoever under this Agreement, Consultant shall immediately refund any and all amounts paid by City under this Agreement, and this Agreement shall immediately terminate.

3.24.6. The City reserves all other available rights and remedies at law or in equity, including without limitation all rights and remedies and rights under Article 2 of the Texas Business and Commercial Code.

3.25 MWBE COMPLIANCE

3.25.1. In its performance under this Agreement, 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 **24%** 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.

ARTICLE 4. DUTIES OF CITY

4.1. PAYMENT TERMS

4.1.1. For services described in **Exhibit A,** the City shall pay and Consultant shall accept the fees set forth in **Section 4.2** as full compensation for all Services rendered and Deliverables furnished by Consultant under this Agreement, excluding any Reimbursable Expenses. The fees must be paid from allocated funds as provided in **Section 4.7,** inclusive of all sections therein.

4.2 COMPENSATION FOR CONSULTANT'S SERVICES

4.2.1. Compensation to the Consultant shall be a lump sum amount agreed upon by the Consultant and Director that will be set forth in each Task Order. The Director may negotiate a lump sum fee for each Task Order equal to or less than the following:

4.2.1.1. Total Salary Cost, which is the Total Hourly Salary Rate in **Exhibit B** times the necessary hours to complete the Task Order; and estimated Subcontract Cost times **1.1.**

4.2.1.2. If the Consultant and Director do not agree to a lump sum amount for an individual project related to a Task Order, then the Director may send notice to the Consultant deleting such individual project from this Contract and the Task Order.

4.2.2. If the time initially established for completion of the Project is extended, through no fault of the Consultant, for more than **90** calendar days, the Consultant may request compensation for any required extension of services, which, if authorized, shall be paid in accordance with the provisions of Section 4.2.2.

4.2.3. Payments for Consultant's Services may be made monthly upon presentation of the Consultant's statement of services rendered and expenses incurred.

4.3 REIMBURSABLE EXPENSES

4.3.1. The City shall pay Consultant for reimbursable expenses at documented actual costs, upon receipt of Consultant's itemized invoice.

4.3.2. Consultant shall propose a maximum amount for each Reimbursable Expense at the time that services requiring such expenses are requested by the Director. The Director must approve Reimbursable Expenses before Consultant incurs them. The compensation for Reimbursable Expenses shall never exceed this agreed-upon maximum amount. Reimbursable Expenses are the actual expenditures Consultant and its subcontractors make while performing services for the project requested by the Director. They include travel costs outside the City and its extraterritorial jurisdiction (not to exceed the amounts established under the City's then-current travel reimbursement policy for its employees), if reasonably necessary to accomplish a task in connection with the project, plus living expenses in connection with out-of-town travel, long distance communications, and fees paid for securing approval of authorities having jurisdiction over the project. Expenses for reproductions for submittals or correction of submittals required under the design phases, reproductions

for the office use of the Consultant and/or the Consultant's subcontractors are not reimbursable.

4.4 COMPENSATION FOR REIMBURSABLE EXPENSES

4.4.1 Payments for Reimbursable Expenses shall be paid at documented actual costs and may be made monthly upon presentation of the Consultant's statement of services rendered or expenses incurred.

4.4.2 For Reimbursable Expenses, as described in Article 4.3, compensation to the Consultant shall be the documented actual amounts expended by the Consultant, the Consultant's employees and/or subcontractors in the interest of the Project.

4.4.3 Compensation for Reimbursable Expenses as described in Article 4.3, shall not exceed the total dollar limit set forth in each Task Order.

4.5 TAXES

4.5.1 The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Consultant'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 Consultant if requested.

4.6 METHOD OF PAYMENT

4.6.1. The City shall pay Consultant on the basis of invoices submitted by Consultant and approved by the Director in such detail showing the Services performed and Deliverables provided and the attendant fee. The City shall make payments to Consultant at its address for notices within thirty (30) days of receipt of an approved invoice.

4.6.2. If the Director disputes an invoice Consultant submits for any reason, including lack of supporting documentation (as may be required by the Director in his sole discretion), the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Consultant of the dispute and request remedial action. After the dispute is settled, Consultant shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

4.6.3 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 (Texas Gov't Code, Ch. 2251). However, the City will pay in less than 30 days in return for an early payment discount from vendor as follows:

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

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.

4.7 LIMIT OF APPROPRIATION

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

4.7.2 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 zero dollars ($_____) to pay money due under this Agreement (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the Parties have agreed to the following procedures and remedies:

4.7.2.1 The City makes a Supplemental Allocation by issuing to Consultant 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. $ _____

4.7.2.2 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. Consultant must assure itself that sufficient allocations have been made to pay for Services it provides. If Allocated Funds are exhausted, Consultant'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.

ACCESS TO DATA

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

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

4.8.3. For any raw data created, assembled, used, maintained, collected, or stored by the Consultant for or on behalf of the City, Consultant 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.

4.8 NO QUANTITY GUARANTEE

4.8.1 This Agreement does not create an exclusive right in Consultant to perform all services concerning the subject of this Agreement. The City may procure and execute contracts with other consulting firms for the same, similar, or additional services as those set forth in this Agreement or any Scope of Services or Change Order.

4.8.2 The City makes no express or implied representations, warranties, or guarantees whatsoever, that any particular quantity, type, task area, or dollar amount of services will be procured or purchased from Consultant through this Agreement or any Scope of Services; nor does the City make any express or implied representations, warranties, or guarantees, whatsoever for the amount or value of revenue that Consultant may ultimately derive from or through this Agreement or any Scope of Services.

ARTICLE 5. TERM AND TERMINATION

5.1. TERM

5.1.1. This Agreement is effective on the date of the Effective Date and expires upon the completion of the last Task Order issued within three (3) years of the Effective Date, unless sooner terminated in accordance with the terms and conditions of this Agreement.

5.2. RENEWALS

5.2.1. If the Director, at his or her sole discretion, makes a written request for renewal to Consultant (with a copy of the request sent to the CPO) at least 30 days before expiration of the then-current term and if sufficient funds are allocated, then, upon expiration of the initial term, this Agreement is renewed for two (2) successive one-year terms upon the same terms and conditions.

5.3. TERMINATION FOR CONVENIENCE BY THE CITY

5.3.1. The Director may terminate this Agreement at any time by giving a 3-day written notice to Consultant, 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.

5.3.2. On receiving the notice, Consultant 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, Consultant shall submit a final invoice marked "FINAL" showing in detail the Services performed under this Agreement up to the termination date.

5.3.3. TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED, IF ANY, ARE CONSULTANT'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONSULTANT 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.

5.4. TERMINATION FOR CAUSE BY THE CITY

5.4.1. If Consultant defaults under this Agreement, the Director may either terminate this Agreement or allow Consultant to cure the default as

provided below. The City's right to terminate this Agreement for Consultant's default is cumulative of all rights and remedies which exist now or in the future. Default by Consultant occurs if:

5.4.1.1. Consultant fails to perform any of its material duties under this Agreement;

5.4.1.2. Consultant becomes insolvent;

5.4.1.3. all or a substantial part of Consultant's assets are assigned for the benefit of its creditors; or

5.4.1.4. a receiver or trustee is appointed for Consultant.

5.4.2. If a default occurs, the Director may, but is not obligated to, deliver a written notice to Consultant describing the default and the termination date. The Director, at his sole option, may extend the termination date to a later date. If the Director allows Consultant to cure the default and Consultant does so to the Director's satisfaction before the termination date, then the termination is ineffective. If Consultant does not cure the default before the termination date, then the Director may terminate this Agreement on the termination date and pay Consultant for all Services performed, if any, through such date.

5.4.3. To effect final termination, the Director must notify Consultant in writing. After receiving the notice, Consultant 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 6. MISCELLANEOUS

6.1. INDEPENDENT CONTRACTOR

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

6.2. FORCE MAJEURE

6.2.1. 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 Consultant. 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 Consultant, riots, 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 Consultant to any reimbursement of expenses or any other payment whatsoever.

6.2.2. This relief is not applicable unless the affected Party does the following:

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

6.2.2.2. provides the other Party with prompt written notice of the cause and its anticipated effect.

6.2.3. The Director will review claims that a Force Majeure that directly impacts the City or Consultant has occurred and render a written decision within fourteen (14) days. The decision of the Director is final.

6.2.4. 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.

6.2.5. If the Force Majeure continues for more than five days from the date performance is affected, the Director may terminate this Agreement by giving seven (7) days' written notice to Consultant. This termination is not a default or breach of this Agreement. **CONSULTANT 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.**

6.2.6. Consultant is not relieved from performing its obligations under this Agreement due to a strike or work slowdown of its employees. Consultant shall employ only fully trained and qualified personnel during a strike.

6.3. SEVERABILITY

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

6.4. ENTIRE AGREEMENT

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

6.5. WRITTEN AMENDMENT

6.5.1. Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance adopted by the City Council) and Consultant. The Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

6.6. APPLICABLE LAWS

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

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

6.7. NOTICES

6.7.1. All notices to either Party to the Agreement must be in writing and must be delivered by hand, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, Airborne Express, UPS or any other national overnight express delivery service. The notice must be addressed to the Party to whom the notice is given at its address set out in Section 1.1. 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.

6.8. CAPTIONS

6.8.1. 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.

6.9. NON-WAIVER

6.9.1. 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.

6.9.2. An approval by the Director, or by any other employee or agent of the City, of any part of Consultant'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.

6.10. INSPECTIONS AND AUDITS

6.10.1. City, State and Federal Government authorized representatives may perform, or have performed, (i) audits of Consultant's books and records, and (ii) inspections of all places where work is undertaken in connection with this Agreement. Consultant shall keep its books and records available for this purpose for at least five years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

6.11. ENFORCEMENT

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

6.12. AMBIGUITIES

6.12.1. 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.

6.13. SURVIVAL

6.13.1. Consultant 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.

6.14. PUBLICITY

6.14.1. Consultant 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.

6.15. RISK OF LOSS

6.15.1. Unless otherwise specified elsewhere in this Agreement, risk of loss or damage for each product passes from Consultant to the City upon Acceptance by the City.

6.16. PARTIES IN INTEREST

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

6.17. SUCCESSORS AND ASSIGNS

6.17.1. 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 **Section 6.18**. This Agreement does not create any personal liability on the part of any officer or agent of the City.

6.18. BUSINESS STRUCTURE AND ASSIGNMENTS

6.18.1. Consultant 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 as described in Section 9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Consultant shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

6.18.2. Consultant shall not delegate any portion of its performance under this Agreement without the Director's prior written consent which consent shall not be unreasonably withheld.

6.19. DISPUTE RESOLUTION

6.19.1. For purposes of this Section "Project Administrator" means the person the Director designates to monitor the progress of all Parties' performance under this Agreement.

6.19.2. Except as may otherwise be provided by law, a dispute that (i) does not involve a question of law; (ii) arises during the performance of this Agreement; and (iii) is not resolved between the Project Administrator and Consultant must be handled as described below:

6.19.2.1. The Project Administrator shall put its decision in writing and mail or otherwise furnish Consultant with a copy. Consultant may abide by the decision or may appeal the decision to the Director.

6.19.2.2. If Consultant desires to appeal a decision of the Project Administrator, Consultant must submit a written appeal to the Director. Consultant must file its written appeal within seven Business Days following receipt of the Project Administrator's original decision. The Director shall provide Consultant with a written response to the appeal within 14 Business Days following its receipt. The decision of the Director is final.

6.20. REMEDIES CUMULATIVE

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

6.21 CONSULTANT DEBT

6.22.1. IF CONSULTANT, 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 CONSULTANT HAS INCURRED A DEBT, CONSULTANT SHALL IMMEDIATELY BE NOTIFIED IN WRITING. IF CONSULTANT 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 CONSULTANT UNDER THIS AGREEMENT, AND CONSULTANT WAIVES ANY RECOURSE THEREFOR. CONSULTANT 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.

6.23 ANTI – BOYCOTT OF ISRAEL

Consultant certifies that Consultant 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.

6.24 FEMA REQUIREMENTS

The parties acknowledge that City intends to seek reimbursement from the Federal Emergency Management Agency ("FEMA") for costs incurred under this Agreement. The parties agree to comply with all FEMA requirements outlined in the FEMA Addendum to this Contract, attached hereto as Exhibit G (and including Exhibits G-1, G-2, and G-3) and made a part hereof.

[THE REST OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]

EXHIBIT A

SCOPE OF SERVICES

TO BE DETERMINED

EXHIBIT B

TOTAL HOURLY SALARY RATE

TO BE DETERMINED

EXHIBIT C

TITLE VI: NON-DISCRIMINATION

During the performance of this Agreement, Consultant, for itself, its assignees and successors in interest agrees as follows:

1. Compliance with Regulations - The Consultant shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation ("DOT") 49 CFR Part 21, as may be amended from time to time ("Regulations"), which are incorporated by reference and made a part of this Agreement.

2. Non-discrimination - The Consultant, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of Subcontractors, including procurement of materials and Agreements of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment - In all solicitation, either by competitive bidding or negotiation, made by the Consultant for work to be performed under a subcontract, including procurement of materials or Agreements of equipment, each potential Subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this Agreement and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.

4. Information and Reports - The Consultant shall provide all information and reports required by the regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the FAA to be pertinent to ascertain compliance with such regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance - In the event of the Consultant's noncompliance with the non-discrimination provisions of this Agreement, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including but not limited to:

    5.1. withholding of payments to the Consultant under the Agreement until the Consultant complies, and/or

    5.2. cancellation, termination, or suspension of the Agreement, in whole or in part.

6. Incorporation of Provisions - The Consultant shall include the provisions of paragraphs 1-5 above in every subcontract, including procurement of materials and Agreements of equipment, unless exempt by the regulations or directives issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. If the Consultant becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Consultant may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the Consultant may request the United States of America to enter into such litigation to protect the interests of the United States.

EXHIBIT D

DRUG POLICY COMPLIANCE AGREEMENT

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

_____ (Consultant)
(Name of Company)

have authority to bind Consultant with respect to its bid, offer or performance of any and all contracts it may enter into with City of Houston; and that by making this Contract, I affirm that Consultant 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 City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for Consultant 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 Consultants (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 City of Houston, provide confirmation of such testing and results.

4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of Consultant that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with 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 City and may result in non-award or termination of the contract by City of Houston.

_____ _____
Date Consultant Name

_____
Signature

_____
Title

EXHIBIT E

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

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

as an owner or officer of _____ have authority to bind
(Name of Company)
Consultant with respect to its bid, and hereby certify that Consultant has no employee safety impact positions, as defined in Section 5.18 of Executive Order No. 1-31, that will be involved

In performing_____.
Consultant
(Project)
agrees and covenants that it shall immediately notify City of Houston Director of Human Resources if any safety impact positions are established to provide services in performing this City Contract.

_____ _____
(Date) (Typed or Printed Name)

_____
(Signature)

_____
Title)

EXHIBIT F

DRUG POLICY COMPLIANCE DECLARATION

I, _____as an owner or officer of
(Name) (Print/Type) (Title)

_____ (Consultant - Name of Company)
have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from _____ to _____, 20__.

_____ (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 Consultants, 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 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

	RANDOM	*REASONABLE SUSPICION*	*POST ACCIDENT*	*TOTAL*
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 "G"
FEMA ADDENDUM

THIS ADDENDUM TO AGREEMENT ("Addendum") is entered into on the date signed by the Consultant ("Effective Date") between the **CITY OF HOUSTON, TEXAS** ("City"), a home-rule city of the State of Texas, and **_____** ("Consultant").

1. This Addendum is entered into in connection with the administration and implementation of a Housing Program Design and Housing Program Management Services Project ("Project") as defined in the Agreement.

2. Consultant acknowledges that the Federal Government is not a party to this Addendum and Agreement and is not subject to any obligations or liabilities to the City, Consultant, or any other party pertaining to any matter resulting from this Addendum and Agreement.

3. Consultant acknowledges that Federal Emergency Management Agency (FEMA) financial assistance will be used to fund this Addendum and Agreement.

4. Consultant acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Consultant's actions pertaining to this Addendum and Agreement.

5. Consultant shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

6. Consultant shall comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures and directives.

7. City, State and Federal Government authorized representatives may perform, or have performed, (i) audits of Consultant's books and records, and (ii) inspections of all places where work is undertaken in connection with this Addendum and Agreement. Consultant shall keep its books and records available for this purpose for at least five (5) years after the Agreement terminates. This provision does not affect the applicable statute of limitations.

   Consultant shall provide the Chief Development Officer of the City (hereinafter referred to as "Director"), the Texas Department of Emergency Management, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Consultant which are directly pertinent to this Addendum and Agreement for the purposes of making copies, audits, examinations, excerpts, and transcriptions.

   Consultant shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

   Consultant shall provide the FEMA Administrator or his authorized representatives access to work sites pertaining to the work being completed under this Addendum and Agreement.

8. Debarment and Suspension.

    a. This Addendum and Agreement is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such the Consultant is required to verify that neither the Consultant, nor any of its principals (defined at 2 C.F.R. §180.995), or its affiliates (defined at 2 C.F.R. §180.905) are excluded (defined at 2 C.F.R.§ 180.940) or disqualified (defined at 2 C.F.R. §180.935).

    b. Consultant shall comply with 2 C.F.R. Part 180, subpart C, and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

    c. This certification as set out in more detail in **Exhibit "G-1"** is a material representation of fact relied upon by the City. If it is later determined that Consultant did not comply with 2 C.F.R. Part 180, subpart C, and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to the City, the State of Texas (including an agency or division thereof) and the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

    d. Consultant shall comply with the requirements of 2 C.F.R. Part 180, subpart C, and 2 C.F.R. Part 3000, subpart C, while this offer is valid and throughout the period of any contract that may arise from this offer. Consultant further agrees to include a provision requiring such compliance in its lower tier covered transactions.

9. Byrd Anti-Lobbying Amendment.

    a. For any bid, offer, or contract exceeding $100,000, Consultant shall file with the City a Certification Regarding Lobbying substantially in the form set out in **Exhibit "G-2"**.

    b. Consultant shall comply with 31 U.S.C. §1352 and include a requirement to comply with 31 U.S.C. §1352, and any applicable implementing regulations, in any subcontractor or lower tier covered transaction it enters into. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an office or employee of any agency, member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant, or any other award covered by 31 U.S.C. §1352. Each tier shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

10. Environmental Compliance.

    a. Consultant shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. §1251 et seq.).

b. Consultant shall report all violations to the Texas Division of Emergency Management, FEMA and the regional office of the Environmental Protection Agency.

c. Consultant shall include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

11. Contract Work and Safety Standards.

a. Overtime requirements. Neither Consultant or nor any subcontractor contracting for any part of the contract work under this Agreement which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in this section, the Consultant and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Consultant and subcontractor shall be liable to the United States (for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth this section, in the sum of $25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in this section.

c. Withholding for unpaid wages and liquidated damages. FEMA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Consultant or subcontractor under any such contract or any other Federal contract with the same prime Consultant, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Consultant, such sums as may be determined to be necessary to satisfy any liabilities of the Consultant or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in this section.

d. Subcontracts. Consultant shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

12. Environmental Compliance.

a. Consultant shall comply with all applicable standards, ordered, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. §1251 et seq.).

b. Consultant shall report all violations to the FEMA and the regional office of the Environmental Protection Agency.

c. Consultant shall include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

d. Consultant shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §6201 et seq.).

13. Use of Products.

a. In the performance of this Agreement, Consultant shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired (i) competitively within a timeframe providing for compliance with the Agreement performance schedule; (ii) meeting Agreement performance requirements; or (iii) at a reasonable price.

i. Consultant shall abide by the list of EPA-designated items available on EPA's Comprehensive Procurement Guidelines web site: https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

14. Consultant shall comply with the applicable Equal Opportunity Clause required by the United States of America, including but not limited to the provisions of 41 CFR §60-1.4(b). These provisions are inclusive of any amendments which may be made to such regulations. Further, Consultant shall include the summary of the provisions of 41 CFR § 60-1.4(b), as may be amended, in subcontracts it enters into under this Addendum and Agreement. This summary is set forth in **Exhibit "G-3"**.

15. If Consultant defaults under this Addendum and Agreement, the Director may either terminate this Addendum and Agreement or allow Consultant to cure the default as provided below. The City's right to terminate this Addendum and Agreement for Consultant's default is cumulative of all rights and remedies which exist now or in the future. Default by Consultant occurs if:

a. Consultant fails to perform any of its material duties under this Addendum and Agreement;
b. Consultant becomes insolvent;
c. All or a substantial part of Consultant's assets are assigned for the benefit of its creditors; or
d. A receiver or trustee is appointed for Consultant.

16. If a default occurs, the Director may deliver a written notice to Consultant describing the default and the termination date in accordance with the provisions of Section 18.3 of the Agreement. The Director, at his sole option, may extend the termination date to a later date. If the Director allows Consultant to cure the default and Consultant does so to the Director's satisfaction before the termination date, then the termination is ineffective. If Consultant does not cure the default before the termination date, then the Director may terminate this Addendum and Agreement on the termination date and pay Consultant for work performed through such date.

17. To effect final termination, the Director must notify Consultant in writing. After receiving the notice, Consultant shall, unless the notice directs otherwise, immediately discontinue all duties under this Addendum and Agreement, and promptly cancel all orders or subcontracts chargeable to this Addendum and Agreement.

18. The Director may terminate this Addendum and Agreement for convenience at any time upon three (3) days' notice in writing to the Consultant. Upon receipt of such notice, Consultant shall discontinue all services in connection with the performance of this Addendum and Agreement. As soon as practicable after receipt of notice of termination, Consultant shall submit a statement to the Director showing in detail the amount owed under the Agreement to date of termination for which payment has not yet been paid ("Unpaid Services"). The City agrees to pay such charges only up to the maximum amount of this Agreement. TERMINATION OF THE AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED SHALL BE CONSULTANT'S ONLY REMEDY FOR TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUE A DEFAULT OR BREACH OF THIS ADDENDUM AND AGREEMENT. CONSULTANT WAIVES ANY CLAIMS IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHE RDAMAGES RESULTING FROM CITY'S TERMINATION FOR CONVENIENCE.

19. This Addendum and Agreement (with all Exhibits), along with any written specifications or work write-ups, contain all of the agreements between the parties relating to the subject matter hereof and are the full and final expression of the Agreement between the parties.

20. Within (5) five days of execution of this Addendum, Consultant shall provide the Director current certificates of insurance, endorsements and other policy documents evidencing coverage as required by the City Attorney or his or her designee. Unless the timeframe is extended in writing by the Director, Consultant's failure to provide the required certificates within of insurance, endorsements, policies and other policy documents within (5) five days of the execution of this Addendum and Agreement may constitute grounds for termination for convenience by the Director.

21. Consultant shall adhere to and comply with 2 CFR §200.321 if subcontracts are to be let under this Agreement. The Consultant, if subcontracts are to be let, is required to take the following affirmative steps to ensure that small business firms, minority business firms, women's business enterprises, and labor surplus area firms are used when possible, pursuant to 2 CFR Section §200.321. Affirmative steps must include: (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce. Consultant should clearly document the communication and outreach to the certified business. Documentation may include mail logs, phone logs, or similar records documenting the use of the above identified sources of information about MWSBE firms, the efforts to contact them, and other efforts to meet the above requirements.

22. This Addendum may be executed in multiple copies, each of which shall be an original.

IN WITNESS WHEREOF, the Parties hereto have caused this Addendum to be executed by their respective duly authorized representatives.

CONSULTANT	**CITY OF HOUSTON**
Signature: _____	Signature: _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

EXHIBIT "G-1"
CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

This Addendum and Agreement is a covered transaction for purposes of the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 3000 (Non-procurement Debarment and Suspension). As such, Consultant is required to confirm that neither the Consultant, its principals (defined at 2 C.F.R. §180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. §180.940) or disqualified (defined at 2 C.F.R. § 180.935).

INSTRUCTIONS FOR CERTIFICATION

1) By signing this Addendum, the Consultant, also sometimes referred to herein as a prospective primary participant, is providing the certification set out below.
2) The inability of a Consultant to provide the certification required below will not necessarily result in denial of participation in the covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the City's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3) The certification in this clause is a material representation of fact upon which reliance was placed when the City determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the City, the City may terminate this transaction for cause or default.
4) The prospective primary participant shall provide immediate written notice to the City if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5) The terms *covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal and voluntarily excluded*, as used in this certification, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549.
6) The prospective primary participant agrees by signing the Addendum that it shall not knowingly enter into any lower tier covered transactions with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction. If it is later determined that the prospective primary participant knowingly entered into such a transaction, in addition to other remedies available to the City, the City may terminate this transaction for cause or default.
7) The prospective primary participant further agrees by signing this Addendum that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," as available through the United States Department of Homeland Security, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-Procurement Programs.
9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

CERTIFICATION

1) The prospective primary participant certifies to the best of its knowledge and belief that it and its principals:

   (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any Federal department or agency;

   (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

   (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

   (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

_____
Consultant Company Name

_____
Name and Title

_____ _____
Signature Date

EXHIBIT "G-2"

ANTI-LOBBYING CERTIFICATION

The undersigned Consultant certifies, to the best of his or her knowledge, that:

1) No Federal appropriated funds appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any City agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 31 USC § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The undersigned Consultant, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Consultant understands and agrees that the provisions of 31 USC § 3801 *et seq.*, apply to this certification and disclosure, if any.

Consultant Name:	
President:	
Name of Authorized Official:	
Signature:	
Date:	

EXHIBIT "G-3"

EQUAL OPPORTUNITY CLAUSE

The applicant/Consultant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this Agreement, the Consultant agrees as follows:

(1) The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant legal duty to furnish information.

(4) The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other Agreement or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Consultant's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government Agreements or federally assisted construction Agreements in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Consultant will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontract or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

The applicant/Consultant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Agreement.

The applicant/Consultant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Consultant and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant/ Consultant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Consultant and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.